

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
5866 HOUSE JUDICIARY

270

INTRODUCTION OF BILLS (Senate)

SB 173 (cont'd)

been recalled cannot be appointed to fill a vacant seat in the office from which the person was recalled.

The bill takes effect 90 days after it is signed by the Governor.

Introduced February 14, 1989 and referred to Community & Regional Affairs; State Affairs; Finance.

Letters of Credit

SENATE BILL NO. 174, by Senators Sturgulewski and Pearce. Amends AS 06.05.275(a) (Alaska Banking Code. Miscellaneous and incidental banking practices) to read: "(a) A bank may issue and confirm letters of credit authorizing the principal or beneficiary to draw upon the institution or its correspondents." The section currently reads: "(a) A bank may issue and confirm letters of credit authorizing the principal or beneficiary to draw upon the institution or its correspondents. A letter of credit shall expire by its terms within one year of date of issuance, but may be renewed on written request of the principal."

The bill takes effect 90 days after it is signed by the Governor.

Introduced February 14, 1989 and referred to Labor & Commerce; Finance.

Consumption of Alcohol During Pregnancy

SENATE BILL NO. 175, by Senators Binkley, Adams, Zharoff, Pourchot, Frank and Pearce. Will require the holder of a license or permit that allows a person to sell or serve alcohol to post signs warning patrons that ". . . Drinking alcoholic beverages such as beer, wine, wine coolers, and other distilled spirits during pregnancy can cause birth defects." The signs will have to be displayed ". . . in a manner that will make them conspicuous to a person purchasing or consuming alcoholic beverages on the designated premises. . ." The Alcoholic Beverage Control Board (ABC Board) will have to determine how many signs have to be displayed, and whether they are sufficiently conspicuous after they are posted.

The ABC Board will furnish signs, and peace officers and ABC Board employees can issue citations for violations of this law. A person who is found guilty of a violation can be punished by a fine of not less than \$20 and not more than \$300. Each day a violation continues after a citation has been issued, constitutes a separate violation.

The bill takes effect 90 days after it is signed by the Governor.

Introduced February 15, 1989 and referred to Health, Education & Social Services; Finance.

Alaska Business News Summaries

Edited by Shehla A. Bradner

KeyBank Purchases Failed Alaska Statebank Assets

Key Bank of Alaska, the state's fourth largest bank, bought Alaska Statebank after its closure by state banking regulators. Statebank had \$8.8 million in negative worth, mostly due to problem loans. The bank's \$100 million in deposits and some loans were transferred to Key Bank, which will operate six Statebank branches. The transaction also includes a cash payment to Key Bank from the Federal Deposit Insurance Corporation. Key Bank Alaska assets will grow by \$100 million to \$700 million. Some 15,000 Statebank's depositors are protected by FDIC, including those with deposits above the federally insured limit of \$100,000. Key Bank will also purchase about \$67 million of Statebank's assets including \$2.6 million in small loans, not including problem loans. *Statebank President H. Derrell Smith said the bank tried to raise sufficient capital, but FDIC chose the more expensive alternative of liquidation. Smiths thinks the bank needed about \$25 million to clear up problem loans, and that FDIC will pay \$35 million or more to liquidate. FDIC has indicated it would advance Key Bank \$30 million as part of the deal.*

KEYBANK MAY BEGIN INTERNATIONAL OPERATIONS FROM ALASKA : KeyCorp, parent of Key Bank

Alaska, is examining use of its Alaska operation as a center for international banking in the Pacific Northwest. Ivan Jacques, vice president of International Banking at Key Bank of Puget Sound is impressed with the state's trade opportunity in fishing and timber. Jacques, met recently with Key Bank of Alaska officials and will submit recommendations this summer to the bank's corporate headquarters in Albany, N. Y. KeyCorp, with assets of \$15 billion, operates banks in Alaska, Oregon, Washington and Idaho. KeyCorp expanded into western states because of the potential for a big future in the Pacific Rim countries. The Alaska banks already provide some international services, including letters of credit for companies doing business overseas. Besides fish and timber, oil, minerals and tourism are also good Alaska contenders for international markets, say local Key Bank officials.

U.S. POSTAL SERVICE REVENUES INCREASE IN 1988: The U.S. Postal Service has escaped the economic downturn plaguing most of Alaska, showing increases in almost every revenue-producing service in 1988. Revenue from postage and fees was up 8 percent, from \$66,250,000 in 1987 to \$71,642,394. Express Mail rose 5 percent from \$4,227,734 in 1987 to \$4,459,219 in 1988. Volume was up for the oft-used first-class letter, the Anchorage Division processed 1 percent more first class mail in 1988. Most mail comes to Alaska by ship or plane and it cost the Postal Service \$70,825,969 in 1988 to move that mail within the state, including a \$5 million retroactive rate payment. The cost of shipping mail throughout the state is expected to rise by about \$4 million in 1989. The post office also disbursed \$84,367,477 in salaries to its 2,100 employees in Alaska.

ALASKA RAILROAD POSTS \$5.8 MILLION PROFIT: A 14 percent increase in freight revenues and a marked decline in expenses helped the Alaska Railroad show a profit of \$5.8 million in 1988. About 10 percent of the profits, or \$620,000, was distributed as bonuses to employees. The bonuses, said railroad officials, were justified because the employees had taken pay cuts of 10 percent for seven months of 1987 and deserved to share in 1988's prosperity. The profits will help the corporation reduce borrowing and finance major improvements of road beds and tracks. Railroad officials expect 1989 results to be as good as 1988. The corporation has cut \$10 million from its annual budget since its transfer to the state in 1985.

TEXAS GROUP WILL BUY LUXURY THEATRES: Act 3, a San Antonio, Texas group, will purchase Luxury Theatres, Alaska's largest chain of movie houses. Ticket prices will remain the same. But the new owners will spiff up some of the Anchorage theaters, bring first run movies quicker and perhaps even show controversial movies, such as the "Last Temptation of Christ," banned by the former owner. Act 3 is in the process of acquiring 87 movie houses nationwide.

Alaska journal of Commerce

Volume 13, Number 3, 24 Pages 1/16/89

KeyCorp picks Alaska for first

By IMRE NEMETH

Just as Alaska became its first entry on the West Coast, Key Corp has chosen the state to launch its foray into the realm of international banking.

The Albany, N.Y. based bank plans to use its Alaska locations to spearhead a plan officials hope will unlock commercial trade opportunities and profitable business ties with financially active Pacific Rim markets.

Ivan Jock, vice president of international banking at Key Bank of Puget Sound, says the Alaska is a natural site to begin the effort. With its location and current ties in the fishing and timber industries, the state is considered by bank leaders to have enormous potential, he adds.

"Certainly they've come to realize that Alaska's ties with the Pacific Rim are so large and important," Jock said from his Seattle office last week. "They are looking now at how best to approach the market and support it.

"It didn't take too much to see the potential in Alaska with the Pacific Rim."

Since the purchase of the Alaska contingent (formerly known as Alaska Pacific Bank), KeyCorp has moved into five other states in the Pacific Northwest, including Washington, Oregon and Idaho.

Jock said Alaska's importance is quite well known. To support the

See INTERNATIONAL, Page 2



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Industrial St

• International banking

Continued from Page 1

export market, which is the bank's first interest in this matter, Key Bank of Alaska plans to help facilitate the movement of goods through financing promising projects.

This doesn't mean, however, that the bank will be moving into territory already populated by the larger international financiers. Far from it. Bank officials will probably start a lot smaller and cultivate the market over time. The competitive factor will come from other banks moving into the Alaska territory.

"They would do well to come there and invest," Jock admitted.

Jock labeled immediate opportunities in the timber and fisheries sectors. He pointed to upcoming breaks due to the full utilization of the state's 200-mile territorial waters and further development in the surimi industry.

But all the focus can't remain concentrated on the United States or domestic markets. Jock says the long-term outlook must include analysis of the overseas markets and what products will sell there.

To do that U.S. vendors must provide the quality, he says.

"Success is on secondary processing," said the vice president. "There

must be movement beyond just the supplying of fresh fish and that's preparing it for the consumer."

He calls the Japanese market, for instance, quite demanding. The market has rigid standards for quality.

Eventually, KeyCorp plans to expand the international banking segment into more of its locations.

"I think (the bank's international effort) is going to all locations but there's no question in my mind that Alaska presents the biggest opportunity and biggest challenge," he said. "I think the numbers will bear out this optimism of mine."

Jock recently traveled to the state to oversee the establishing of the new international division. He said what he saw just reinforced his impressions of impending success. One reason he cited for this opinion was the low dollar and the perception in Japan and other Pacific Rim countries that American products are low cost.

Prior to its acquisition by KeyCorp, Jock's particular bank had all the international banking facilities in place. With the lines already established, Jock feels his branch will be able to easily guide the Alaska banks into operation and do it quickly.

"The key is now be able to go ahead and provide the service," he said.

* An evidence, Wescott says he has been approached by one Japanese com-

pany in an opinion saying such firms

See, I'M NO, Page 3

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STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: SB 174
PUBLISH DATE: 2/28/89

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Commerce & Econ. Dev.
Title: Relating to letters of credit
issued by banks BRU: Banking, Securities
and Corporations
Sponsor: Sturqulewski and Pearce Components: Banking
Requester: Senate Labor & Commerce

EXPENDITURES / REVENUES : (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	- FY 93	FY 94
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:

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

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Willis F. Kirkpatrick, Director Phone: 465-2521
Division: Banking, Securities and Corporations Date: 2-22-89

Approved by Commissioner: Larry Mercurieff Phone: _____
Agency: Department of Commerce & Economic Development Date: 2/24/89

Distribution (by preparer):

- Legislative Finance
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- Impacted Agency(ies)

page _____ of _____

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175

HOUSE COMMITTEE REPORT

(7)

Date Referred: April 18, 1989

FURTHER REFERRALS: FINANCE

Date of Committee Action: 5/3/89

The JUDICIARY Committee considered:

CSSB 175(FIN)

CS FOR SENATE BILL NO. 175 (Finance)

[WARNING SIGNS ON LIQUOR PREMISES]

"An Act requiring the holder of a license or permit related to selling or serving alcohol to post signs warning patrons that consumption of alcohol during pregnancy can cause birth defects."

RECOMMENDATIONS:

- be replaced with HCSCSSB 175 (JUD) the same title a new title
- have attached amendment(s)
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact _____
- zero fiscal note _____
- zero with analysis _____

- fiscal note(s) 4/5/89 Revenue
- zero fiscal note(s) _____
- zero fn/analysis _____

SIGNING DO PASS:

Peter Joe
Mr. [Signature]
[Signature]
[Signature]
[Signature]

SIGNING:

(Check approp. column)

Do Not
Pass
No Rec
Amend

	Do Not Pass	No Rec	Amend

[Signature] Peter Joe
 Chairman's Signature

(7)

Date Referred: April 10, 1989

FURTHER REFERRALS: JUDICIARY
FINANCE

Date of Committee Action: 4/17/89

The HESS Committee considered:

QSSB 175(FIN)

CS FOR SENATE BILL NO. 175 (Finance)

[WARNING SIGNS ON LIQUOR PREMISES]

"An Act requiring the holder of a license or permit related to selling or serving alcohol to post signs warning patrons that consumption of alcohol during pregnancy can cause birth defects."

RECOMMENDATIONS:

- be replaced with HCS CS SB 175 (HESS) the same title
- have attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: Senate Finance letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact _____
- zero fiscal note _____
- zero with analysis _____

- fiscal note(s) 4/5/89 Revenue
- zero fiscal note(s) _____
- zero fn/analysis _____

SIGNING DO PASS:

J. Ellis
Bob Krennberg
W. H. ...
J. ...
Chris Davis
Gene ...
M. Boyer

SIGNING:

(Check approp. column)

Do Not Pass
 No Rec
 Amend

	Do Not Pass	No Rec	Amend

J. Ellis
 Chairman's Signature



Official Business

Alaska State Legislature

Senate

Committee on Finance

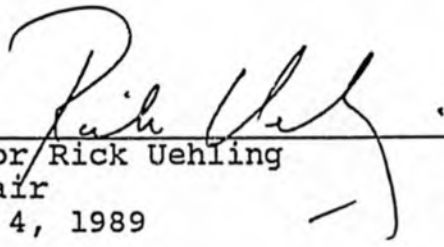
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State Capitol
Juneau, Alaska 99811

LETTER OF INTENT

FOR

CS FOR SENATE BILL NO. 175 (FINANCE)

With the passage of this legislation, it is the intent of the Legislature that the Alaska Women's Commission include, in their next general mailing to Alaska women, literature explaining the effects of fetal alcohol syndrome, such as that prepared by the March of Dimes Birth Defects Foundation.



Senator/Rick Uehling
Co-chair
April 4, 1989

Senate adopted 4/7

Seattle Post Intelligence
April 28, 1989

Alcohol and birth defects: State plans publicity campaign

By Joni H. Blackman
P-I Reporter

WASHINGTON
Campaign

An aggressive campaign to warn pregnant women of the risks that drinking alcohol poses to their unborn children will soon begin in Washington, a governor's task force said yesterday.

The campaign will include cautionary signs wherever alcohol is sold.

The announcement comes during a landmark trial in U.S. District Court in Seattle pitting an alcoholic mother against the company that makes the bourbon she drank during pregnancy. Candance Thorp blames the J.A. B. Beam Co. of Kentucky for her son Michael's birth defects, saying the firm should have put warning labels on its products.

The task force convened last September and drew its conclusions by the end of 1988. Attorney David Soukup, task force chairman, said the group waited this long to release its report only to give state agencies time to consider how they would be affected.

But Gov. Booth Gardner admitted the timing was "fortuitous" because the trial is bringing visibility to this issue and hopefully driving home the point of what can occur when a pregnant woman drinks alcohol.

Alcohol consumption by pregnant women is the leading known cause of mental retardation in the United States and the only one that is completely preventable.

But every year more than 40,000 American babies are born with fetal damage from alcohol, and the medical costs amount to about \$2 billion a year, University of Washington researchers say.

Other alcohol-related consequences, according to the task force report, include spontaneous abortions, stillbirths, premature births, low birth weight, impaired

intellect, learning disabilities, cerebral palsy, lack of coordination, visual impairments, hearing difficulties and cardiac problems.

Aggressive public education about fetal alcohol syndrome is the fastest and least expensive way to avert the problem, the task force decided.

A yearlong media campaign to increase public awareness of the syndrome is expected to begin within three months.

Graphic messages warning of the danger of birth defects and mental retardation if beer, wine, wine coolers or mixed drinks are consumed during pregnancy will be featured at every place in the state where liquor is sold. This includes bars and restaurants.

The signs will reinforce warnings that will appear on all liquor bottles by the end of 1989.

Other task force recommendations:

- Graphic pamphlets should be displayed in health facilities that reach women before pregnancy and in state institutions that are in contact with high-risk populations.

- Materials should be selected to include in primary, secondary and higher education classes throughout the state.

- All obstetricians/gynecologists and clinics should complete an alcohol assessment on all pregnant patients.

- Treatment services should be developed for alcohol- and drug-dependent pregnant women.

- All alcohol producers who sell in Washington should be informed of the knowledge about fetal harm caused by alcohol.

The public awareness and educational programs will be paid for with money already in state liquor and public instruction budgets. Treatment programs will be planned and budgeted for next year, Gardner said.

warning signs

Alaska State Legislature

Senate Advisory Council



P.O. Box V
State Capitol
Juneau, Alaska 99811
Phone: (907) 465-3114

MEMORANDUM

TO: Senator John Binkley
Alaska State Senate

FROM: Maureen Weeks MWJ
Senate Advisory Council

DATE: February 17, 1989

SUBJECT: Economic impact of Fetal Alcohol Syndrome; IR # 89-100015

An estimated 29 babies with Fetal Alcohol Syndrome (FAS) are born in Alaska annually; of these 26 survive the first year. Two to 15 times this many babies are born with a lesser set of symptoms known as Fetal Alcohol Effects (FAE). Babies exposed to alcohol before birth may be too small when they are born. Just ten years ago almost all low birthweight babies died at birth. Today, increasingly expensive medical technology saves the lives of four out of five but cannot correct many defects already caused by alcohol. Fifty-eight percent of both FAS and FAE patients have IQ's below 70 (classified as Developmentally Disabled). Conservatively estimated, the lifetime cost per Alaska FAS birth is \$1.4 million. Lifetime cost for Alaska FAS babies born each year is \$39.8 million.

These are selected medical and social costs only; they do not include, among other things, costs of welfare, the justice system, mild physical problems, mild learning disabilities or loss of a useful member of society.¹

A table of costs associated with FAS and FAE follows page 18 of this report.

I. BACKGROUND.

Fetal Alcohol Syndrome (FAS) is caused when the alcohol which a pregnant woman drinks damages the brain and body of the fetus as it develops. Until 1973, alcohol was not suspected as toxic to an unborn baby. Respected medical authorities told pregnant women that the placenta protected their fetuses from harmful substances. Today we know these authorities were wrong. Babies who are exposed to alcohol before they are born can be irreversibly harmed for the rest of their lives.

The damage done by alcohol has profound implications for the victim and society. The harmful effects of alcohol on the fetus last a lifetime. A common problem is mental retardation. The average IQ of FAS patients is 66. Almost every child

¹ Harwood and Napolitano estimate direct average lifetime costs at \$405,000 per person and indirect costs at \$191,000, in 1980 dollars. Adjustment for inflation and cost of living differences (3 percent per year and 30 percent) yields direct costs of \$528,000 and indirect costs of \$249,000, for a total of \$1,010,000/person, Alaska 1989. Total costs for 29 Alaska FAS births would be \$29,290,000. (A 30 percent increase is conservative; the Bureau of Labor Statistics reports that medical services increased by 83.5 percent in Anchorage between 1980 and 1988.) It should be noted that some costs in the Harwood study are much less than Alaska costs. For example, intensive care hospitalization is estimated nationwide at \$2,500 per infant v. \$120,000/year per infant in Alaska; institutionalization is estimated at \$25,000/year nationwide v. \$109,000 in Alaska.

Senator Johne Binkley
February 17, 1989
Page 3

or adult with FAS needs lifelong care, supervision or support from family and society. Those most severely affected may spend their lives in institutions. Some suffer physical anomalies such as heart problems, cleft palate, kidney problems, blindness and deafness.

Few, if any, families can pay the enormous costs of supporting an FAS child or adult. Babies born with FAS may need intensive hospital care at birth at an average cost of \$2,400 a day. One in eight children born with FAS have cleft palates, requiring surgeries costing up to \$75,000 and long term speech therapy twice or three times a week at \$96 an hour. Fifty-eight percent of patients with FAS have IQ's below 70 and as such are classified as developmentally disabled. Cost of special education for a severely retarded child is \$20,000 a year. Average annual cost for each FAS patient in an institution is \$109,000.

Two national studies of the economic impact of Fetal Alcohol Syndrome have been published since the syndrome was discovered in 1973. Harwood and Napolitano in 1985 found the U.S. spends up to \$108.8 million a year on FAS births; Abel and Sokol in 1986 found annual costs of \$321 million a year. This report adapts the more conservative Harwood and Napolitano study to Alaska.

II. INCIDENCE OF FAS AND FAE

An estimated 29 Alaska babies are born a year with FAS. Experts believe between two and 15 times that many FAE babies are born annually.

A diagnosis of FAS requires signs in three areas:

- (1) Pre and/or post natal growth retardation (weight, length, and/or head circumference below the tenth percentile).
- (2) Central nervous system problems (neurological abnormality, developmental delay, or intellectual impairment).
- (3) Characteristic facial features (including small eyes, crossed eyes, short nose, or abnormalities of the mouth such as cleft palate).

FAS may be difficult to identify, especially among newborns. The identifying facial features may not be easily recognized and mental retardation may not be identified until years after birth.

U.S. researchers speculate that some racial groups, such as certain American Indian tribes, may be at greater risk for FAS than the population as a whole. A 1982-83 study of Indians on 26 reservations in New Mexico, Colorado, Utah and Arizona showed a wide variation in prevalence of FAS among cultural groups. For example, among Navajo Indians, the incidence was 1.4 FAS cases per 1,000 births; among Pueblo Indians it was 2 per 1,000 births and among Plains Indians it was 9.8 per 1,000 births.

Dr. James Berner of the Native Health Service, and Vicki Hild, FAS Coordinator for the Alaska Native Health Board, report statewide incidence of FAS between

Senator John Binkley
February 17, 1989
Page 5

1981 and 1988 at 4.2 per 1,000 live births. At an average of 2,700 deliveries annually, this would be about 12 FAS Native births a year.

The estimate comes from an Alaska Area Native Health Service survey of Alaska Native children born between 1981 and 1988. The study shows that the highest recorded FAS rate among any population in the world is in the Copper River area of Alaska: 250 FAS cases per 1,000 births (or one in every four births). Estimated incidence among Alaska Natives in other areas:

Sitka region:	2.1 FAS cases per 1,000 births
Bethel region:	3.5 FAS cases per 1,000 births
Anchorage:	3.8 FAS cases per 1,000 births
Nome region:	4.0 FAS cases per 1,000 births
Tanana Chiefs:	5.9 FAS cases per 1,000 births

It would be a mistake to ignore FAS among non-Native Alaskans. Data shows, for example, that one non-Native woman in Southcentral Alaska has produced seven children with FAS. No one has studied the incidence of FAS among non-Native Alaskans. Indeed, relatively few studies of the incidence of FAS among the general population have been done in the U.S. The literature commonly estimates overall FAS prevalence at from 1 to 3 cases per 1,000 live births (see Sixth Special Report to the U.S. Congress on Alcohol and Health, January 1987). Estimates in U.S. cities show:

Cleveland (1973-79)	.4 FAS cases per 1,000
Cleveland (1979-82)	3.0 FAS cases per 1,000
Seattle (1978)	1.3 FAS cases per 1,000
Boston (1977)	3.1 FAS cases per 1,000
Boston (1983)	2.1 FAS cases per 1,000

Estimates from Europe include:

Sweden (1979)	1.6 FAS cases per 1,000 births
	1.4 cases per 1,000 births
France (1977-79)	1.3 cases per 1,000 births
	2.9 cases per 1,000 births.

Abel and Sokol added together all FAS births reported worldwide in text or by personal communication and found a worldwide incidence of 1.9 FAS cases per 1,000 live births. Rates were higher in North America (2.2 cases per 1,000 live births) than in Europe and other countries (1.8 cases per 1,000 live births). They believe site, economic class and culture affect the reported FAS rate. Hild and Berner place national incidence at 1.7 per 1,000 live births. This study will use that conservative estimate. At an average of 10,000 deliveries annually, this would be about 17 non-Native babies born with FAS in Alaska a year. Added to the estimated 12 Native births, this brings the total Alaska FAS births per year to 29 babies. Of these, 26 babies survive their first year. See Table 1.

In the 16 years since U.S. doctors recognized that alcohol harms the fetus, researchers have concentrated on the more serious illness, FAS. However, patients with FAE have an average IQ of 73 and researchers now believe that in addition to lowered IQ, FAE causes hyperactivity, learning disorders, speech and hearing problems, perceptual problems and short attention span, among other problems. In some cases, these signs may not become evident until the child has trouble in school. Educators faced with a "difficult" child may not associate school problems with prenatal exposure to alcohol.

Researchers disagree on the incidence of FAE. Ann Streissguth of the University of Washington Medical School, an associate of the U.S. discoverers of FAS, estimates that FAE occurs twice as often as FAS. The National Institute on

Table 1
Incidence of FAS births in Alaska, 1988

Native births:	
Deliveries (a)	2,736
Incidence of FAS births (b)	4.2/1000
Number of FAS births (2736 x .0042 = 11.5)	12
Non-Native births:	
Deliveries (a)	10,163
Incidence of FAS births (b)	1.7/1000
Number of FAS births (10163 x .0017 = 17.3)	17
Total FAS births:	29
First-year survivors:	
Neonatal mortality rate, Alaska: (c)	5.1%
Neonatal survivors:	28
Postneonatal mortality rate: (c)	5.9%
FAS first-year survivors	26

(a) Alaska Vital Statistics 1985, Department of Health and Social Services, Juneau, 1988.

(b) J.E. Berner, "Update: Incidence of Fetal Alcohol Syndrome (FAS) In Alaska Natives", February 3, 1989.

(c) Alaska Vital Statistics 1985, p. 7.

Alcohol Abuse and Alcoholism reports a ten times increase and Sokol estimates much as a 15 times increase. Hild believes the incidence of FAE in Alaska is ten times that of FAS, or higher. In an effort to be conservative, this report will use the lowest estimate (twice FAS). At this rate, 58 Alaska FAE babies are born a year.

Table 2 shows the number of FAE births per year at each estimate.

Table 2
Incidence of FAE, Alaska 1985 (a)

Estimate of times increase over FAS	Number of FAE born/year (FAS = 29/yr)
2	58
10	290
15	435

(a) Three estimates of the frequency of FAE are quoted in the literature:

- * 2 times FAS: Ann P. Streissguth, Ph.d, of the University of Washington Medical School. (Manual on Indian Adolescents and Adults with Fetal Alcohol Syndrome, July, 1986, p. 4)
- * 10 times FAS: National Clearinghouse for Alcohol Information at Rockville Maryland. (Fact Sheet, December 1985). V. Hild, FAS coordinator for the Alaska Native Health Board, estimates the FAE incidence in Alaska exceeds 10 times that of FAS.
- * 15 times FAS: R.J. Sokol. ("Alcohol Abuse During Pregnancy: An Epidemiologic Study", Alcoholism: Clinical and Experimental Research, April 1980, p. 135-145.

B. Medical costs associated with FAS and FAE.

FAS patients commonly require medical care for cleft palate, heart defects, kidney defects, visual and hearing defects, dental problems and skeletal and postural problems. When estimates of the prevalence of these anomalies are available, this report relies on Abel and Sokol, Harwood and Napolitano and Hild for accurate statistics. Unfortunately, the prevalence for the majority of physical problems has not been established and these costs are not included in this report. Table 6 shows costs of selected physical disorders. Hospital costs are explained below.

Alcohol can lower birthweight even in babies who do not have FAS. Ruth Little reports that when a pregnant woman drinks one ounce of alcohol a day, birthweight can fall by 160 grams. Alcohol also lowers birthweight in the majority of FAS births. Low birthweight babies are at risk to need intensive care. Just ten years ago almost all low birthweight babies died at birth. Today, newborn intensive care saves the lives of four out of five. This intense early care is increasingly expensive and cannot correct the lifelong and expensive defects already caused by prenatal exposure to alcohol. In some cases, the desperate effort to save a too-small baby's life adds to the irreversible burden of harm the child will carry with it for the rest of its life.

Abel and Sokol report that 79.8 percent of FAS babies are low birthweight (see Table 3). Of 29 Alaska babies born annually with FAS, 23 babies would be low birthweight. Alaska vital statistics records show that 4.6 percent of babies are born low birthweight despite their prenatal care. Thus, one Alaska baby would be low birthweight despite the best prenatal care, leaving 22 Alaska babies whose low birthweight is due to FAS. Abel and Sokol report that 74.3 percent of FAS low birthweight babies are moderately low birthweight, weighing between 1500 and 2500 grams. At this rate, 16 Alaska FAS babies would be

moderately low birthweight. The rest (six babies) are very low birthweight, weighing less than 1500 grams.

The National Institute of Medicine reports that 32.8 percent of moderately low birthweight babies need intensive care (see Table 4). Of the 16 moderately low birthweight Alaska babies, five would need intensive care. All of the very low birthweight babies (six babies) would need intensive care. The total number of FAS low birthweight babies needing intensive care is 11 per year. This estimate is corroborated by Dr. Jack Jacob, Providence Hospital neonatologist, who reports between ten and 15 FAS infants are treated in the intensive care unit each year.

Providence Hospital records show that in 1987, the average length of stay in intensive care for an FAS baby was 27 days and in 1988, it was 65 days.² Average FAS hospital costs in 1987-88 were \$99,740 per FAS child; average neonatal physician fees for FAS infants were \$11,065. These costs include all hospital costs except transport, other physicians and anesthesiology. Total average cost of intensive care for one FAS baby is \$110,805 per year. For 11 low birthweight babies, it is \$1,218,855 per year.

The Institute of Medicine estimates that 19 percent of all moderately low birthweight babies and 38.3 percent of very low birthweight babies must be rehospitalized during their first year. Streissguth of the University of Washington reports that it is "usual" for FAS babies to be rehospitalized for pneumonia and problems such as hip dysplasia; applying statistics for all low birthweight babies to FAS births may result in conservative estimates.

² To compare, average length of stay for all low birthweight babies in the intensive care unit at Providence was 19.7 days in 1987 and 23.7 days in 1988.

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Using the Institute of Medicine averages for all low birthweight babies, one FAS moderately low birthweight baby would be rehospitalized for 12.5 days and two very low birthweight babies would be rehospitalized for 16.2 days. Hospitalization for children not in intensive care was about \$900 a day at Providence Hospital in Anchorage in 1988. Rehospitalization for one baby for 12.5 days is \$11,250 and for two babies at 16.2 days it is \$29,160. Total cost of rehospitalization for low birthweight FAS babies: \$40,410. This does not include physicians, surgery, special procedures or transportation. See Table 5.

Table 3
Low birthweight of FAS births,
Alaska 1985

Alaska Low Birthweight Births (under 2500 grams) due to FAS.

FAS births which are Low Birthweight:

Total FAS births:	29
% FAS births which are under 2500 grams (a)	79.8%
LBW babies in 29 FAS births: (29 x .798 = 22.9)	23

Low Birthweight births not due to FAS:

% Alaska LBW births under 2500 grams not due to FAS (b)	4.6%
4.6% x 23 = 1 LBW birth not due to FAS	
LBW births due to FAS: (23 x .046 = 1.1)	22

Weight distribution of Alaska FAS Low Birthweight births:

1500-2500 grams (MLBW):	
% FAS births between 1500-2500 grams (a)	74.3%
FAS MLBW babies: (22 x .743 = 16.4)	16

Under 1500 grams (VLBW):	
All other LBW babies are VLBW (under 1500 grams)	6

(a) Abel and Sokol, "Incidence of Fetal Alcohol Syndrome and Economic Impact of FAS-Related Anomalies", Elsevier Scientific Publishers, Ireland, August, 1986, p. 58.

(b) If FAS were eliminated from Alaska, 4.6 percent of all births would still be low birthweight. Although they would still need treatment, the costs of their treatment should not be attributed to FAS. This number is the solution to the following equation: $4.8\% \times 12,900 \text{ births} = 79.8\% \times 24.6 \text{ FAS births} + p \times 12,869 \text{ non-FAS births}$, where 4.8% is low birthweight rate in Alaska; 12,900 is number of Alaska births in 1985; 79.8% is U.S. LBW rate for FAS births; 24.6 is FAS births in Alaska in 1985. Formula devised by J.W. Senner, Oregon State Health Division, "Revised Annual National Cost Estimates" (Portland), p. 2.

Table 4
 Costs of intensive care hospitalization for FAS LBW babies
 Alaska 1985

Moderately LBW (1500-2500 grams) Intensive Care hospitalization:

% MLBW babies requiring intensive care (a)	32.8%
MLBW FAS babies requiring intensive care (16 x .328 = 5.4)	5

Very LBW (under 1500 grams) Intensive Care hospitalization:

% VLBW babies requiring intensive care (a)	100%
VLBW FAS babies requiring intensive care	6

Total	11 babies
-------	-----------

Hospital cost for 11 babies at \$99,740 (b)	\$1,097,140
Physician cost for 11 babies at \$11,065 (b)	\$ 121,715

(a) The Institute of Medicine reports that 32.8% of LBW infants and 100% of VLBW infants require newborn intensive care. Preventing Low Birthweight, Institute of Medicine, (Washington, D.C.), 1985. This may be an underestimate for FAS babies who show a longer average length of stay in intensive care, an indication that they may be sicker than other low birthweight babies. Providence Hospital reports the following average lengths of stay in the newborn intensive care unit in 1987 and 1988.

	<u>1987</u>	<u>1988</u>
Low Birthweight	19.7 days	23.7 days
FAS Low Birthweight	27 days	65 days

(b) Costs do not include transportation, other physician or anesthesiology fees. Neonatologist Dr. Jack Jacob estimates between 10 and 15 FAS infants a year enter the unit (Lisa Wolf, pers. comm.).

Table 5
Cost of first-year rehospitalization for FAS LBW babies
Alaska 1985

LBW rehospitalization:	
FAS MLBW babies in intensive care	5
Neonatal mortality rate (a)	5.1%
FAS MLBW babies who survive intensive care ($5 \times .051 = .25$)	5
Percent LBW babies rehospitalized (b)	19%
Number of LBW babies rehospitalized ($5 \times .19 = .95$)	1
Cost of rehospitalization: 1 x \$11,250 (c)	\$11,250
VLBW rehospitalization:	
FAS VLBW babies in intensive care	6
Neonatal mortality rate (a)	5.9%
FAS VLBW babies who survive intensive care ($6 \times .059 = .35$)	6 babies
Percent VLBW babies rehospitalized (b)	38.3%
Number of VLBW babies rehospitalized ($6 \times .383 = 2.3$)	2
Cost of rehospitalization: 2 x \$14,580 (c)	\$29,160
Total cost of first-year rehospitalization:	\$40,410

(a) Alaska 1985 Vital Statistics, Department of Health and Social Services, (Juneau), p. 7.

(b) The National Institute of Medicine reports that 19% of 2500-1500 gram babies are rehospitalized during the first year, as are 32.8% of babies under 1500 grams. Preventing Low Birthweight, National Institute of Medicine, (Washington, D.C.), 1985. This may be an under-estimate for FAS births. Streissguth reports that it is "usual" for FAS babies to be rehospitalized during the first few months of life for pneumonia, failure to thrive, hip dysplasia and other problems. A Manual on Indian Adolescents and Adults with Fetal Alcohol Syndrome, University of Washington Medical School, July 1, 1986.

(c) Providence Hospital charges for pediatric admission, 1988: \$900/day (MLBW average length of stay, 12.5 days; VLBW stay, 16.2 days).

C. Costs associated with mental retardation.

Streissguth in a 1986 study of 61 FAS/FAE diagnosed patients between the ages of 12 and 40 shows that more than half (58 percent) of both FAS and FAE patients were developmentally disabled (IQ's below 70). Hild finds the 58 percent estimate likely in Alaska. This report will rely on that estimate. At this rate, 15 FAS first-year survivors and 34 FAE patients have IQ's below 70. (Note that computing the incidence of FAE at 10 times that of FAS, the percentage used by Alaska experts, there would be 336 developmentally disabled FAE patients born every year.) Social service costs for the average moderately to mildly retarded child are \$25,000 a year (not including education). For adults, these costs are as high as \$45,000 a year (including vocational rehabilitation). About five FAS children currently are part of the Alaska Youth Initiative program for severely troubled youth at an average cost of \$90,000 a year each.

If 58 percent of FAS and FAE patients are developmentally disabled, an estimated 42 percent have minimal brain dysfunction. In this report, costs for this portion of patients are estimated at \$4,000 each, the additional cost of special education for mildly disabled persons (above regular education operating costs). State officials caution that FAS/FAE patients with IQ's between 70 and 100 may actually be more expensive than those with lower IQ's because of added counselling, legal and corrections costs. This is not reflected in this report.

Streissguth's study of 61 FAS/FAE patients from the Southwest U.S., Seattle and Vancouver, B.C. showed the following patient characteristics:

- (1) IQ's ranged from a score of 20 to 105. Average IQ of patients with FAS was 66 and of patients with FAE, 73. No patient with FAS showed

an IQ above 90. Streissguth concludes it is impossible to predict from a diagnosis alone how handicapped an individual patient with FAS/FAE will be as an adolescent or adult.

- (2) 58 percent of both FAS and FAE patients had IQ's below 70, (generally classified as developmentally disabled).
- (3) The average reading, spelling and arithmetic level of these patients (ages 12 to 40) was 4th grade, 3rd grade and 2nd grade, respectively.
- (4) Average level of general adaptive functioning was 7 years 5 months. (Median age of those tested was 16 years 5 months.)
- (5) There was no indication of general improvement in IQ, achievement or adaptive living scores as patients got older.
- (6) None of the patients were able to live independently.

Vicki Hild of the Alaska Native Health Board has tabulated living situations for 118 Alaska Natives with FAS. She found that 20 percent had been adopted and 10 percent had died. The remaining children shuttled back and forth between their biological parents and state custody. It is state policy to keep children with their biological parents if possible; children move in and out of state custody as a parent's condition improves or worsens. Among biological parents of the 118 children in the Hild study, only three mothers appeared "reasonably" stable.

Hild cites as an example of "ping-ponging" custody, the case of one Alaska FAS child who had lived in seven foster homes by the time she was three.³

D. Costs not included in this estimate.

Medical researchers have not yet determined a reliable rate of incidence for the majority of physical defects common to FAS victims and these costs have not been included in this estimate. These physical anomalies include visual problems, kidney and genital tract problems, and dental and skeletal defects (more frequently found in adolescents and adults), including club foot and scoliosis and neurotube defects such as spina bifida. Also not included are on-going lifelong medical costs associated with the ill health of patients with these problems. (Despite their illnesses, however, FAS patients are expected to live a normal life span.) Transportation, anesthesiology and some physician costs for first-year hospitalization and costs of FAE babies with physical damage are also not included.

Many social costs are also not included in this estimate. FAS children and adults are at high risk for physical and sexual abuse. They may exhibit signs of depression; some may be suicidal; a few may become violent. As they grow into adulthood, some may exhibit increasingly inappropriate sexual behavior.

³ Streissguth believes stability is important to the well-being of FAS patients. "We usually find great improvement in emotional development and social functioning when children with both full and partial FAS have stable and supportive living arrangements. Improved behavior which often occurs, even in the absence of changes in IQ, should not be ignored simply because it is more difficult to measure and quantify." "Psychological and Behavioral Effects in Children Prenatally Exposed to Alcohol", Alcohol Health and Research World, Fall 1988, p. 10.

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Many of the costs of welfare, child abuse, sexual abuse, psychiatric care, incarceration, stress on the care-giver and loss of a useful member of society are not included in this report. Hild has stated that "without early intervention, all FAS and most FAE patients will be on welfare." In addition, this report does not consider what may be the enormous, but still unrecognized, costs of learning disabilities suffered by children afflicted with FAE.

TABLE I

LIFETIME COST ESTIMATES OF SPECIFIC BIRTH DEFECTS IN FAS BIRTHS -- ALASKA

Birth Defect	Annual Cost per Patient	Number of Times or Years	Lifetime Cost per Patient	Prevalence	Number Per Yr (% x 26)	Lifetime Cost: All Born 1988
ANNUAL FAS BIRTHS (29 BIRTHS; 26 SURVIVORS)						
1 Neonatal Unit/Providence	99,740	1	99,740		11	1,097,140
2 Neonatal Physician	11,065	1	11,065		11	121,715
3 First Year Rehospitalization	13,470	1	13,470		3	40,410
4 Initial Audio Screening	100	1	100	52%	15	1,500
5 Audio Check-up	100	4	400	100%	26	10,400
6 Otitis Media Surgery	1,224	1	1,224	56%	15	18,360
7 Hearing Aid	1,260	14	17,640	33%	9	158,760
8 Hearing Aid Mold	50	65	3,250	33%	9	29,250
9 Heart Surgery	75,000	1	75,000	5%	1	75,000
10 Cleft Palate Surgery	65,000	1	65,000	12%	3	195,000
11 Infant Learning Program (HSS)	2,513	3	7,539	100%	26	196,014
12 H/C Child: phys defect (HSS)	8,700	18	156,600		7	1,096,200
H/C Child: devel delay (HSS)	8,700	3	26,100	58%	15	391,500
13 Minimal Special Educatn (DOE)	4,000	15	60,000	42%	11	660,000
14 Child Mental Retardation (DOE)	20,000	15	300,000	58%	15	4,500,000
15 DD Child (HSS)	25,000	18	450,000	58%	15	6,750,000
16 Alaska Youth Initiative (HSS)	90,000	12	1,080,000		1/2	540,000
17 DD Adult Initial Training(HSS)	45,000	3	135,000	58%	15	2,025,000
18 DD Adult Supervised Work (HSS)	22,500	44	990,000	58%	15	14,850,000
19 Institution	109,000	65	7,085,000	3%	1	7,085,000
Lifetime Costs for FAS Births: 1988						39,841,249
Lifetime Costs per FAS Birth			1,373,836			
ANNUAL FAE BIRTHS AT TWICE FAS RATE (58)						
20 Infant Learning Program (HSS)	2,513	3	7,539	58%	34	256,326
22 DD Child (HSS)	25,000	18	450,000	58%	34	15,300,000
23 Child Mental Retardation (DOE)	20,000	15	300,000	58%	34	10,200,000
24 DD Adult Initial Training(HSS)	45,000	3	135,000	58%	34	4,590,000
25 DD Adult Supervised Work (HSS)	22,500	44	990,000	58%	34	33,660,000
Lifetime Costs for FAE Births: 1988						64,006,326
Total FAS/FAE Births						103,847,575

NOTES TO FAS COST TABLE

Numbers refer to line numbers on the table.

1. Neonatal Unit. Charges per FAS patient in the Providence Hospital Neonatal Intensive Care Unit were \$68,910 in 1987 and \$130,570 in 1988, for an average of \$99,740. Average length of stay of FAS infants in the Neonatal Intensive Care Unit more than doubled between 1987 and 1988. It was 27 days in 1987 and 65 days in 1988 (v. 19.7 and 23.7 days for all low birthweight babies in the unit). Statistics provided by Lisa Wolf of Providence Hospital.
2. Neonatal Physician. Physician costs per FAS child were \$6,130 in 1987 and \$16,000 in 1988, for an average of \$11,065. Estimates by Sharon Lee of Alaska Neonatal-Perinatal Associates.
3. First-year rehospitalization. Cost estimate is based on 1988 Providence Hospital pediatric charges of \$900/day. The number of infants and average length of stay (12.5 days for moderately low birthweight infants and 16.2 days for very low birthweight babies) are from the National Institute of Medicine and are for all low birthweight infants. Applied to FAS births, these may be underestimates. Streissguth reports "equal" for FAS babies to be rehospitalized in the first few months of life.
4. Initial Audio Screening. The state audiologist, Communicative Disorders Program, Anchorage, reports all FAS children need a workup. This report estimates that 11 infants receive a workup in intensive care; the 15 remaining surviving infants are counted in this entry.

5. Audio Check-up. FAS children need three to four follow up checks. The \$100 charge is from the Alaska Treatment Center in Anchorage; the check-up estimate is from the state audiologist.
6. Otitis Media Surgery. Estimate is from the Geneva Woods Ear Nose and Throat Associates. Source of 56% prevalence is Harwood and Napolitano. These costs do not include less severe ear problems common to 93 percent of FAS patients (Alaska Treatment Center). Twenty-nine percent of FAS patients have permanent hearing loss.
7. Hearing Aid. A hearing aid for a baby costs \$1,260; it is replaced once every five years for life at this cost. Cost estimate from Alaska Treatment Center.
8. Hearing Aid Mold. A \$50 ear mold must be replaced annually. Estimate from Alaska Treatment Center.
9. Heart Surgery. Up to 70 percent of FAS patients have heart problems (Streissguth reports the portion at 30-40 percent; Hild reports 70 percent). Harwood and Napolitano report 10 percent require heart surgery, but reduce the estimate to 5 percent to reflect cases actually having surgery. Cost estimates from Vicki Hild, Alaska Native Health Board FAS coordinator.
10. Cleft Palate. Costs include an average of four surgeries, dental and orthodontics work. They do not include long term speech therapy at \$96/session twice or three times a week. Estimates from Vicki Hild. The 12% estimate is average of Abel and Sokol (11.5%) and Harwood and Napolitano (12.5%).

11. Infant Learning Program. Mary Diven of the state division of Maternal and Child Health reports these figures are "deceptively low", under estimating the true cost of rural service. Infant Learning Program costs as much as \$6,000/year in some rural areas.
12. Handicapped Children's Program. Cost estimates include averages for children with heart problems, cleft palate and developmental delay. Children with physical problems can be on the program for 21 years; children with developmental delays may be on the program for as few as three years. Cost estimates by Kathy Robinson, Maternal and Child Health, Alaska Department of Education. This report estimates that one child per year has heart problems (a low estimate in view of the 30 to 70 percent with heart problems); three have cleft palates; and three more have other physical problems such as spina bifida, progressive scoliosis, or severe visual and hearing loss.
13. Minimal Special Education. Costs cover only \$4,000/year for additional special education for learning disabled children, above normal operating and capital education costs (Tom Buckner, Department of Education). Christine Hagmeier of the Department of Health and Social Services cautions that patients with IQ's above 70 and below 100 "may well be more expensive than those with lower IQ's" because they can become involved in counselling, corrections and the law. These costs are not reflected in this report. The 42 percent prevalence estimate is from Streissguth.
14. Child Mental Retardation. Cost of special education for severely retarded children is \$20,000 - \$23,000/year, in addition to normal operating and capital education costs. Estimates from Tom Buckner, Department of Education.

15. Developmentally Disabled Child (HSS). Cost estimate by Christine Hagmeier of the Department of Health and Social Services. Costs can include foster care, in-home care, shared care, respite care, in-home training, advocacy and family support. Hagmeier reports that severely disabled children can cost between \$35,000 and \$85,000 with average cost of \$55,000.
16. Alaska Youth Initiative. Cost estimate from John Van Den Berg, Department of Health and Social Services. This is a program for 52 severely troubled youths. The average age is 15.8 years; the average number of failed housing placements is 16. Currently five FAS youths are in the program. This report estimates children remain on the program an average of 12 years (based on Van Den Berg's report that "absolute minimum lifetime costs per child are \$1 million".) It further assumes that one FAS child would enter this program every two years. Streissguth reports that aggressive behavior may be a problem for about 40% of the boys. Those from a less structured and protected environment may be "quick to anger when crossed and quick to strike out impulsively".
17. Developmentally Disabled Adult Initial Training. Costs include \$25,000 residential care (example: foster care and independent living) plus initial vocational rehabilitation costs of \$20,000, for a total of \$45,000. Initial vocational rehabilitation costs average between two and five years. Estimate by Christine Hagmeier.
18. Developmentally Disabled Adult Supervised Work. After initial rehabilitation costs (see #17 above), costs can "fade" to between \$10,000 and \$25,000 for lifetime residential care plus \$5,000 lifetime vocational rehabilitation care (Hagmeier). The average of this \$15,000 to \$30,000 range is \$22,500.

19. Institution. Estimate by Ellen Ganley, Governor's Council for the Handicapped and Gifted.

20. FAE Births. Annual FAE births are calculated in this report at twice that of FAS births. This is a conservative estimate. Hild believes the actual number of FAE births annually is ten times the FAS births (or 290 FAE births and 168 developmentally disabled FAE persons.) In this report, cost estimates for FAE births are limited to mental retardation. They do not include costs associated with mild learning disabilities, physical anomalies, child abuse, sexual abuse or the justice system.

21. See #11.
22. See #15.
23. See # 14.
24. See # 17.
25. See # 18.

SOURCES

- Ernest L. Abel and Robert J. Sokol, "Incidence of Fetal Alcohol Syndrome and Economic Impact of FAS-Related Anomalies", Department of Obstetrics and Gynecology, Wayne State University, Drug and Alcohol Dependence, Vol. 19, 1987, pp. 51-70.
- James Berner, M.D., Letter to George Brenneman, M.D., February 10, 1988 and Letter to Chief, Area Community Health Services Branch, Alaska Area Native Health Service, February 3, 1988.
- Henrick J. Harwood and Diane M. Napolitano, "Economic Implications of the Fetal Alcohol Syndrome", Alcohol World Health & Research, National Institute on Alcohol Abuse and Alcoholism, Fall 1985.
- Ruth Little, "Moderate Alcohol Use During Pregnancy and Decreasing Infant Birthweights", American Journal of Public Health, Vol. 67, 1977.
- Ann P. Streissguth, A Manual on Indian Adolescents and Adults with Fetal Alcohol Syndrome, University of Washington Medical School, July 1, 1986.

PERSONS CONSULTED

- James Berner, M.D., Chief, Area Community Health Services Branch, Alaska Area Native Health Service.
- Tom Buckner, Special Education, Alaska Department of Education.
- Mary Diven, Infant Learning Program, Alaska Department of Health and Social Services.
- Ellen Ganley, Governor's Council for the Handicapped and Gifted.
- Robert Gregovich, formerly with Mental Health and Developmental Disabilities, Alaska Department of Health and Social Services.
- Christine Hagmeier, Mental Health and Developmental Disabilities, Alaska Department of Health and Social Services.
- Henrick Harwood, National Institute of Medicine, Rockville, Md. (202-334-3017)

Senator Johne Binkley
February 17, 1989
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Vicki Hild, FAS Coordinator, Alaska Native Health Board.

Kathy Robinson, Handicapped Children's Program, Alaska Department of Health and Social Services.

Sandra Randalls, R.N., University of Washington Medical School, Seattle (Ann Streissguth was out of town).

John Van Den Berg, Mental Health and Social Services, Alaska Department of Health and Social Services.

Lisa Wolf, Providence Hospital.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Warning signs on liquor premises
Sponsor: Senator Binkley et al.
Requestor: Senate HESS Committee

Agency Affected: Department of Revenue
BRU: Alcoholic Beverage Control Board
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	4.3	1.6	1.6	1.6	1.6	1.6
SUPPLIES	.3	.2	.2	.2	.2	.2
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	4.6	1.8	1.8	1.8	1.8	1.8
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	4.6	1.8	1.8	1.8	1.8	1.8
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	4.6	1.8	1.8	1.8	1.8	1.8

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 for analysis.

Prepared By: Patrick L. Sharrock, Director
Division: Alcoholic Beverage Control Board

Phone: 277-8638
Date: March 24, 1989

Approved by Commissioner: Hugh Malone
Agency: Department of Revenue

Date: 3/24/89

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

SFC: 4/4/89

Initial Issue

beverage dispensary	689
restaurant or eating place	319
club license	87
brewery	2
package store	471
common carrier	158
recreational site	19
pub license	1
winery	0
caterer's permit	663
special events permit	110
community license	3
club caterer's permit	50 est.
theatre site license	2 est.
restaurant caterer's permit	<u>14</u>
	2,588
assume 2 signs per premises (avg.)	<u>x 2</u>
	5,176

Annual Issue

caterer's permits	675
special events permits	120
club caterer's permit	50
restaurant caterer's permit	25
wear and tear	<u>500</u>
approximately 50%	1,370

	<u>Initial</u>	<u>Annual</u>
Approx. \$300 per thousand (per PIF)		
Initial: \$300 x 5,176	1,553	
Annual: \$300 x 1,370		411
Postage		
Initial: 1.05 for 2 signs x 2,588	2,717	
Annual: .85 for 1 sign x 1,370		1,164
Envelopes		
Initial: 2,588 x .12	311	
Annual: 1,370 x .12		164
Letters	<u>26</u>	<u>-</u>
	4,607	1,739

S B

202

HOUSE COMMITTEE REPORT

(7)

Date Referred: April 6, 1989

FURTHER REFERRALS:

Date of Committee Action: 1-17-90

The JUDICIARY Committee considered:

CSSB 202 (Jud)

CS FOR SENATE BILL NO. 202 (Judiciary)

[SENTENCE ENHANCEMENT IF MINOR IS INVOLVED]

"An Act relating to factors in aggravation of the presumptive term of a criminal sentence."

RECOMMENDATIONS:

- be replaced with HCS CSSB 202 (JUD) the same title a new title
- have attached amendment(s)
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact _____
- zero fiscal note LAW, CORRECTIONS COURT SYSTEM
- zero with analysis _____
- fiscal note(s) _____
- zero fiscal note(s) _____
- zero fn/analysis _____

SIGNING DO PASS:

[Signature]
[Signature]
[Signature]

SIGNING:

(Check approp. column)

	Do Not Pass	No Rec	Amend
<u>[Signature]</u>		✓	
<u>Mike Miller</u>		✓	
<u>Terry Martin</u>	✓		without amendment
<u>[Signature]</u>			

[Signature]
Chairman's Signature

FISCAL NOTE

RECEIVED JAN 12 1990

REQUEST:

Revision Date: _____
Title: "An Act relating to factors in
aggravation... presumptive sentence."
Sponsor: Senate Judiciary
Requestor: House Judiciary

Agency Affected: Department of Law
BRU: Prosecution
Components: All

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

This bill amends sentencing provisions in AS 12.55. Because this is a procedure that takes place after conviction, the bill will not have a fiscal impact on the Department of Law.

Prepared by: Richard I. Pegues, Director Phone: 465-3672
Division: Administrative Services Date: January 11, 1990
Approved by Commissioner: Douglas B. Baily, Attorney General Date: January 11, 1990
Agency: Department of Law

Distribution (by preparer):

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

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Alaska Court System
 Title: An Act relating to factors in aggravation...presumptive...sentence BRU: Trial Courts
 Sponsor: Binkley, Sturgulewski, Fischer... Components: _____
 Requestor: House Judiciary

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

* CAPITAL *						
--------------------	--	--	--	--	--	--

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

FUNDING: (Thousands of Dollars)

General Funds	0.0	0.0	0.0	0.0	0.0	0.0
Federal Funds						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: Jan Strandberg, General Counsel

Phone: 284-8228

Division: Alaska Court System

Date: 01/12/90

Approved by: Arthur H. Snowden, II, Administrative Director

Date: 01/12/90

Agency: Alaska Court System

Distribution (by preparer):

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

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: "An Act relating to factor in
 aggravation."
 Sponsor: Senator Binkley
 Requestor: _____

Agency Affected: Department of Corrections
 BRU: _____
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
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:

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

ANALYSIS : (Attach a separate page if necessary)

This legislation would have minimal, if any, impact on the Department of Corrections.

Susan E. Knighton

Prepared by: Susan E. Knighton, Director
 Division: Administrative Services

Phone: 465-3376
 Date: 1-12-90

Approved by Commissioner: [Signature]
 Agency: Department of Corrections

Date: 1-12-90

Distribution (by preparer):

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

Original sponsor(s): SEN. BINKLEY, Sturgulewski, Fischer, Coghill, Faiks, Halford, Frank, Kelly, Szymanski, Uehling

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 202 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to factors in aggravation of the
7 presumptive term of a criminal sentence."

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

9 * Section 1. AS 12.55.155(c) is amended by adding a new paragraph to
10 read:

11 (27) the defendant, being 18 years of age or older,

12 (A) is legally accountable under AS 11.16.110(2) for
13 the conduct of a person who, at the time the offense was com-
14 mitted, was under 18 years of age and at least three years
15 younger than the defendant; or

16 (B) is aided or abetted in planning or committing the
17 offense by a person who, at the time the offense was committed,
18 was under 18 years of age and at least three years younger than
19 the defendant.

Senator Johne Binkley

Senate Finance Committee
P.O. Box V • Juneau, Alaska 99811 • (907) 465-4985



Finance Committee
Co-Chairman

MEMORANDUM

March 15, 1989

TO: Senator Jan Faiks, Chairman
Senate Judiciary Committee

FROM: Senator Johne Binkley 

RE: SB 202/Factors in Aggravation

Thank you for so promptly scheduling the above-referenced bill. It is very short, having one section only which would add a new aggravating factor to the list of 26 factors in current law. Aggravating factors serve to increase the term of imprisonment for felony convictions. If the felony is a Class A felony, aggravating factors are considered on the first offense. For Class B and C felonies, they are considered on the second and subsequent convictions.

SB 202 states that if a defendant in a felony criminal trial was found to have knowingly induced, caused or permitted a person under 18 years of age to participate in the crime, he could be sentenced to jail for the full presumptive term set out in statute (AS 12.55.125).

Your joining me as a co-sponsor on this legislation shows you also believe adding to the presumptive term for those people who use minors in felony criminal activities should be penalized accordingly. I am looking forward to appearing before your committee on Thursday, March 16 to urge prompt and favorable consideration of SB 202.

YUKON KUSKOKWIM DELTA MAYOR'S CONFERENCE



BETHEL, ALASKA
November 9, 10, 11, 1988

RESOLUTION 88-02

A RESOLUTION OF THE 1988 YUKON-KUSKOKWIM DELTA MAYOR'S CONFERENCE, SECOND SESSION, CALLING ON THE ALASKA STATE LEGISLATURE TO LEGISLATE FELONY PENALTIES FOR THE EMPLOYMENT OF MINORS IN CRIMINAL ACTIVITIES, PARTICULARLY BOOTLEGGING AND DRUG DEALING.

WHEREAS, the 1988 Legislature made Bootlegging a Felony; and

WHEREAS, to protect themselves from arrest many bootleggers and drug dealers in Bethel and other Western Alaska communities use minor children as "runners" to deliver illegal liquor sales and drugs; and

WHEREAS, this use of children for carrying out illegal activities constitutes child exploitation and, in a sense, child abuse, and also contributes to delinquency; and

WHEREAS, our children represent a priceless resource.

NOW THEREFORE BE IT RESOLVED THAT the Yukon-Kuskokwim Delta Mayor's Conference, Second Session, hereby calls upon the Alaska State Legislature to enact Felony penalties for the employment of Minors in Criminal Activities, particularly Bootlegging and Drug Dealing.

PASSED and APPROVED BY THE TENTH ANNUAL YUKON-KUSKOKWIM DELTA MAYOR'S CONFERENCE this 11th day of November, 1988.

Thomas Chambers
President

Clara Kees
Secretary

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) if the offense is a first felony conviction, and the defendant knowingly directed the conduct constituting the offense at a uni-

formed or otherwise clearly identified peace officer, fire fighter, correctional officer, emergency medical technician, paramedic, ambulance attendant, or other emergency responder who was engaged in the performance of official duties at the time of the offense, one year.

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

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

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

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

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

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

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

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

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

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

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

(2) if the offense is a first felony conviction, and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, 10 years;

(3) if the offense is a second felony conviction, 15 years;

(4) if the offense is a third felony conviction, 25 years. (§ 12 ch 166 SLA 1978; am § 18 ch 45 SLA 1982; am §§ 28-30 ch 143 SLA 1982; am § 8 ch 78 SLA 1983; am §§ 1-3 ch 92 SLA 1983; am § 5 ch 59 SLA 1988)

Effect of amendments. — The 1988 amendment inserted "attempted murder in the first degree" in subsection (b).

NOTES TO DECISIONS

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

consider the previous conviction a felony even though the defendant was sentenced under an Oregon statute providing for the reduction of certain felonies to misdemeanors. *Wells v. State*, Ct. App. Op. No. 401 (File Nos. 7479, 7663), 687 P.2d 917 (1984) (decided prior to the 1982 amendment).

Prior conviction out of state.

A 1983 Oklahoma conviction for a felony escape while on work release from a Department of Corrections treatment facility was a prior conviction for purposes of presumptive sentencing. for the Oklahoma escape statute had elements "substantially similar" to AS 11.56.310, a

class B felony. *Martin v. State*, Ct. App. Op. No. 508 (File No. A-722), 704 P.2d 1341 (1985).

Sufficient evidence of prior conviction. — An authenticated copy of a foreign docket abstract constituted sufficient evidence of a prior conviction. *Gant v. State*, Ct. App. Op. No. 576 (File No. A-1059), 712 P.2d 906 (1986).

Quoted in *Ortherg v. State*, Ct. App. Op. No. 792 (File No. A-1863), 751 P.2d 1368 (1988).

Cited in *McCombs v. State*, Ct. App. Op. No. 812 (File No. A-2306), P.2d (1988).

Sec. 12.55.155. Factors in aggravation and mitigation. (a) If a defendant is convicted of an offense and is subject to sentencing under AS 12.55.125(c), (d)(1), (d)(2), (e)(1), (e)(2), or (i) and

(1) the presumptive term is four years or less, the court may decrease the presumptive term by an amount as great as the presumptive term for factors in mitigation or may increase the presumptive term up to the maximum term of imprisonment for factors in aggravation;

(2) the presumptive term of imprisonment is more than four years, the court may decrease the presumptive term by an amount as great as 50 percent of the presumptive term for factors in mitigation or may increase the presumptive term up to the maximum term of imprisonment for factors in aggravation.

(b) Sentence increments and decrements under this section shall be based on the totality of the aggravating and mitigating factors set out in (c) and (d) of this section.

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

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

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

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

(4) the defendant employed a dangerous instrument in furtherance of the offense;

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

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

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

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

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

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

(11) the defendant committed the offense pursuant to an agreement that the defendant either pay or be paid for the commission of the offense, and the pecuniary incentive was beyond that inherent in the offense itself;

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

(13) the defendant knowingly directed the conduct constituting the offense at an active officer of the court or at an active or former judicial officer, prosecuting attorney, law enforcement officer, correctional employee, fire fighter, emergency medical technician, paramedic, ambulance attendant, or other emergency responder during or because of the exercise of official duties;

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

(15) the defendant has three or more prior felony convictions;

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

(17) the offense was one of a continuing series of criminal offenses committed in furtherance of illegal business activities from which the defendant derives a major portion of the defendant's income;

(18) the offense was a crime

(A) specified in AS 11.41 and was committed against a spouse, a former spouse, or a member of the social unit comprised of those living together in the same dwelling as the defendant; or

(B) specified in AS 11.41.410 — 11.41.460 and was committed against a minor, and the defendant has engaged in the same or similar conduct involving the same or another victim who was a minor;

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

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

(21) the defendant has a criminal history of repeated instances of conduct violative of criminal laws, whether punishable as felonies or

misdemeanors, similar in nature to the offense for which the defendant is being sentenced under this section;

(22) the defendant knowingly directed the conduct constituting the offense at a victim because of that person's race, sex, color, creed, physical or mental disability, ancestry, or national origin;

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

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

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

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

(d) The following factors shall be considered by the sentencing court and may mitigate the presumptive terms set out in AS 12.55.125:

(1) the offense was principally accomplished by another person, and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim;

(2) the defendant, although an accomplice, played only a minor role in the commission of the offense;

(3) the defendant committed the offense under some degree of duress, coercion, threat, or compulsion insufficient to constitute a complete defense, but which significantly affected the defendant's conduct;

(4) the conduct of a youthful defendant was substantially influenced by another person more mature than the defendant;

(5) the conduct of an aged defendant was substantially a product of physical or mental infirmities resulting from the defendant's age;

(6) in a conviction for assault under AS 11.41.200 — 11.41.230, the defendant acted with serious provocation from the victim;

(7) except in the case of a crime defined by AS 11.41.410 — 11.41.470, the victim provoked the crime to a significant degree;

(8) *[Repealed, § 42 ch 143 SLA 1982.]*

(9) the conduct constituting the offense was among the least serious conduct included in the definition of the offense;

(10) before the defendant knew that the criminal conduct had been discovered, the defendant fully compensated or made a good faith effort to fully compensate the victim of the defendant's criminal conduct for any damage or injury sustained;

(11) the defendant was motivated to commit the offense solely by an overwhelming compulsion to provide for emergency necessities for the defendant's immediate family;

(12) the defendant assisted authorities to detect, apprehend, or prosecute other persons who committed an offense;

(13) the facts surrounding the commission of the offense and any previous offenses by the defendant establish that the harm caused by the defendant's conduct is consistently minor and inconsistent with the imposition of a substantial period of imprisonment;

(14) the defendant is convicted of an offense specified in AS 11.71 and the offense involved small quantities of a controlled substance;

(15) the defendant is convicted of an offense specified in AS 11.71 and the offense involved the distribution of a controlled substance, other than a schedule IA controlled substance, to a personal acquaintance who is 19 years of age or older for no profit;

(16) the defendant is convicted of an offense specified in AS 11.71 and the offense involved the possession of a small amount of a controlled substance for personal use in the defendant's home.

(e) If a factor in aggravation is a necessary element of the present offense, or requires the imposition of a presumptive term under AS 12.55.125(c)(2), (d)(3) or (e)(3), that factor may not be used to aggravate the presumptive term. If a factor in mitigation is raised at trial as a defense reducing the offense charged to a lesser included offense, that factor may not be used to mitigate the presumptive term.

(f) If the state seeks to establish a factor in aggravation at sentencing or if the defendant seeks to establish a factor in mitigation at sentencing, written notice must be served on the opposing party and filed with the court not later than 10 days before the date set for imposition of sentence. Factors in aggravation and factors in mitigation must be established by clear and convincing evidence before the court sitting without a jury. All findings must be set out with specificity.

(g) Voluntary alcohol or other drug intoxication or chronic alcoholism or other drug addiction may not be considered an aggravating or mitigating factor.

(h) In this section, "serious provocation" has the meaning given in AS 11.41.115(f). (§ 12 ch 166 SLA 1978; am §§ 39-41 ch 102 SLA 1980; am §§ 19, 20 ch 45 SLA 1982; am §§ 36, 38, 39, 42 ch 143 SLA 1982; am §§ 6, 7 ch 92 SLA 1983; am § 1 ch 37 SLA 1987; am § 4 ch 69 SLA 1987; am § 1 ch 83 SLA 1987; am § 7 ch 66 SLA 1988)

Effect of amendments. — The first 1987 amendment in subsection (c)(22) inserted "physical or mental disability."

The second 1987 amendment substituted the present language of subsection (d)(12) for "the defendant assisted authorities to detect or apprehend other persons who committed the offense with the defendant."

The 1988 amendment, effective May 28,

1988, in subsection (c)(18), divided the formerly undivided language into an introductory paragraph and subparagraph (A), added "or" at the end of subparagraph (A), and added subparagraph (B).

Legislative history reports. — For House letter of intent on ch. 66, SLA 1988 (CSHB 237 G.L.D.), which amended this section, see 1988 House Journal 2330-2337.

Criminal responsibility of one who furnishes instrumentality of a kind ordinarily used for legitimate purposes, with knowledge that it is to be used by another for criminal purposes, 108 ALR 331.

Coercion, compulsion or duress as defense to criminal prosecution, 40 ALR2d 903.

Accessory before fact in manslaughter, 95 ALR2d 175.

Woman upon whom abortion is committed or attempted as accomplice for purposes of rule requiring corroboration of accomplice testimony, 34 ALR3d 858.

Criminal responsibility under 18 USCS § 2(b) of one who lacks capacity to commit an offense but causes another to do so, 52 ALR Fed. 769.

Sec. 11.16.100. Legal accountability based upon conduct. A person is guilty of an offense if it is committed by the person's own conduct or by the conduct of another for which the person is legally accountable under AS 11.16.110, or by both. (§ 1 ch 166 SLA 1978)

NOTES TO DECISIONS

Former law construed. — See *Tarner v. State*, Sup. Ct. Op. No. 911 (File No. 1486), 512 P.2d 923 (1973), decided under former AS 11.10.010.

*

Sec. 11.16.110. Legal accountability based upon the conduct of another: Complicity. A person is legally accountable for the conduct of another constituting an offense if

(1) the person is made legally accountable by a provision of law defining the offense;

(2) with intent to promote or facilitate the commission of the offense, the person

(A) solicits the other to commit the offense; or

(B) aids or abets the other in planning or committing the offense; or

(3) acting with the culpable mental state that is sufficient for the commission of the offense, the person causes an innocent person or a person who lacks criminal responsibility to engage in the proscribed conduct. (§ 1 ch 166 SLA 1978)

Cross references. — For solicitation, see AS 11.31.110.

NOTES TO DECISIONS

Distinction between principals and accessories abrogated. — Former AS 12.15.010 abrogated the distinction between principals and accessories, *Tarner v. State*, Sup. Ct. Op. No. 758 (File No. 1297), 492 P.2d 109 (1971).

By former AS 12.15.010, Alaska abolished the common-law distinction between accessories and principals to a crime. *Rice*

v. State, Sup. Ct. Op. No. 1785 (File No. 3531), 589 P.2d 419 (1979).

Abrogation did not apply only to punishment. — The abrogation of the distinction between accessories and principals mandated by former AS 12.15.010 did not apply only to punishment. *Scharver v. State*, Sup. Ct. Op. No. 1397 (File No. 2526), 561 P.2d 300 (1977).

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: "An Act relating to factors in
 aggravation...presumptive...sentence."
 Sponsor: Sen. Binkley
 Requestor: Senate Judiciary

Agency Affected: Department of Law
 BRU: Prosecution
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see the attached analysis.

Richard I. Pegues

Prepared by: Richard I. Pegues, Director
 Division: Administrative Services

Phone: 465-3672
 Date: March 16, 1989

Approved by Commissioner: Douglas B. Bailey, Attorney Gen.
 Agency: Department of Law

Date: March 16, 1989

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 202

This bill amends AS 12.55.155(c) by changing the factors in aggravation to the state's presumptive sentencing policy, to add a new factor that the defendant knowingly included, caused, or permitted a person under 18 years of age to participate in the conduct constituting the offense. This is a sentencing procedure that takes place after conviction and, therefore, it will not have a fiscal impact on the Department of Law.

6-0906J
Chenoweth
1/16/90

Original sponsor(s): SEN. BINKLEY, Sturgulewski, Fischer, Cogh. ll, Faiks,
Halford, Frank, Kelly, Szymanski, Uehling

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 202 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to factors in aggravation of the
7 presumptive term of a criminal sentence."

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

9 * Section 1. AS 12.55.155(c) is amended by adding a new paragraph to
10 read:

11 (27) the defendant, being 18 years of age or older,

12 (A) is legally accountable under AS 11.16.110(2) for
13 the conduct of a person who, at the time the offense was com-
14 mitted, was under 18 years of age and at least three years
15 younger than the defendant; or

16 (B) is aided or abetted in planning or committing the
17 offense by a person who, at the time the offense was committed,
18 was under 18 years of age and at least three years younger than
19 the defendant.

Original sponsors: Binkley, Sturgulewski,
Fischer, et al.

RECEIVED JAN 14 1990

1 IN THE SENATE BY THE JUDICIARY COMMITTEE
2 HOUSE CS FOR CS FOR SENATE BILL NO. 202 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - FIRST SESSION
5 A BILL

6 For an Act entitled: "An Act relating to factors in aggravation of the
7 presumptive term of a criminal sentence."

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

9 * Section 1. AS 12.55.155(c) is amended by adding a new paragraph to
10 read:

11 (27) the defendant, being 18 years of age or older, know-
12 ingly induced, caused, or permitted a person who at the time the
13 offense was committed was under 18 years of age and at least three
14 years younger than the defendant to participate in planning or commit-
15 ting the offense.

SB

204

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 4, 1989

SUBJECT: HCS CSSB 204(Jud)
(W.O. 6-0953H)

TO: Representative Peter Goll

FROM: Theresa L. Bannister^{TB}
Legislative Counsel

This memo accompanies the draft of HCS CSSB 204(Jud) that you requested. The bill contains certain provisions that provide unique treatment for native corporations, specifically sec. 10.06.960(g) - (h) and sec. 62 (a) - (b). If the situations addressed by these provisions also occur in corporations that are not native corporations it is possible that the provisions could be challenged as violating the state or federal equal protection clauses unless sufficient rationale exists to justify the limitation under the particular equal protection clause being used for the challenge. Although it may exist, I am not aware of a rationale that would justify limiting the provisions to native corporations (except where sec. 10.06.960(g) refers to provisions of the Alaska Native Claims Settlement Act).

If I may be of further assistance, please advise.

TB:gc
WKG10/049

Enclosure

Original sponsor: Rules/Legislative Council

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 204 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to corporations; and providing for
7 an effective date."

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

9 * Section 1. AS 10.06.010 is amended to read:

10 Sec. 10.06.010. GENERAL POWERS. Subject to the limitations in
11 its articles of incorporation, the provisions of this chapter and
12 other applicable law, a corporation has all the powers of a natural
13 person in carrying out its business activities, including, without
14 limitation, the power to

15 (1) have perpetual succession by its corporate name;

16 (2) sue and be sued in its corporate name;

17 (3) adopt a corporate seal and alter it, and use it by
18 having it or a facsimile of it impressed, affixed, or reproduced;

19 (4) buy, take, receive, lease, or otherwise acquire, own,
20 hold, improve, use, and otherwise deal in, real or personal property
21 or an interest in the property, wherever situated;

22 (5) sell, convey, mortgage, pledge, lease, exchange, trans-
23 fer, and otherwise dispose of all or a part of its property and as-
24 sets;

25 (6) lend money, if properly approved, to its employees,
26 [AND, IF PROPERLY APPROVED, TO ITS] officers, and directors, and
27 otherwise assist its employees, officers, and directors;

28 (7) buy, take, receive, subscribe for, or otherwise ac-
29 quire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or

1 otherwise dispose of, and otherwise use and deal in shares or other
2 interests in, or obligations of, other domestic or foreign corpora-
3 tions, associations, partnerships, or individuals, or direct or indi-
4 rect obligations of the United States or of any other government,
5 state, territory, governmental district or municipality or an instru-
6 mentality of these;

7 (8) make contracts and guarantees, incur liabilities,
8 borrow money at the rates of interest the corporation determines,
9 issue notes, bonds, and other obligations, and secure its obligations
10 by mortgage or pledge of all or any of its property, franchise and
11 income;

12 (9) lend money for its corporate purposes, invest and
13 reinvest its money, and take and hold real and personal property as
14 security for the payment of money loaned or invested;

15 (10) conduct business, carry on operations, and have offices
16 and exercise the powers granted by this chapter in a state, territory,
17 district, or possession of the United States, or in a foreign country;

18 (11) elect or appoint officers and agents of the corporation
19 and define their duties and fix their compensation;

20 (12) make and alter bylaws not inconsistent with its arti-
21 cles of incorporation or with state law, for the administration and
22 regulation of the affairs of the corporation;

23 (13) donate for the public welfare or for charitable, scien-
24 tific or educational purposes, and in time of war donate in aid of war
25 activities;

26 (14) transact lawful business in time of war in aid of the
27 United States in the prosecution of the war;

28 (15) pay pensions and establish pension plans, pension
29 trusts, profit-sharing plans, stock bonus plans, stock option plans

1 and other incentive plans for its directors, officers, and employees;

2 (16) cease its corporate activities and surrender its corpo-
3 rate franchise;

4 (17) have and exercise the powers of a limited or general
5 partner [PARTNERSHIP] or a joint venturer [ADVENTURER] in association
6 with one or more persons, corporations, partnerships, or associations;

7 (18) have and exercise all powers necessary or convenient to
8 carry out the purposes for which the corporation is organized.

9 * Sec. 2. AS 10.06.020 is amended to read:

10 Sec. 10.06.020. LIMITATIONS ON AUTHORITY OF CORPORATE AGENTS. A
11 limitation upon the powers of the shareholders, officers, or direc-
12 tors, or the manner of exercise of their powers, contained in or
13 implied by the [ARTICLES OF INCORPORATION,] bylaws, by [OR] action of
14 the board, [OR] by AS 10.06.605 - 10.06.678, [OR] 10.06.705 - 10.06.-
15 788, or by a shareholders' agreement may not be asserted as between
16 the corporation or a shareholder and a third person, except in a
17 proceeding

18 (1) by a shareholder or the state to enjoin the doing or
19 continuance of unauthorized business by the corporation or its offi-
20 cers, or both, in a case where a third party has not acquired rights
21 under AS 10.06.025(a);

22 (2) to dissolve the corporation; or

23 (3) by the corporation or by a shareholder suing in a
24 representative suit against the officers or directors of the corpo-
25 ration for violation of their duty.

26 * Sec. 3. AS 10.06.025(a) is amended to read:

27 (a) A contract or conveyance made in the name of the corporation
28 that is authorized or ratified by the board, or is done within the
29 scope of the authority, actual or apparent, conferred by the board or

1 within the agency power of the officers executing it, except as the
2 board's authority is limited by law [OTHER THAN THIS CHAPTER], binds
3 the corporation, and the corporation acquires rights under the con-
4 tract, whether the contract is executed or is wholly or in part execu-
5 tory.

6 * Sec. 4. AS 10.06.105(c) is amended to read:

7 (c) A person may not adopt a name that contains the word "corpo-
8 ration", "incorporated", or "limited", or an abbreviation of one of
9 these words, unless the person has been issued a certificate of incor-
10 poration, or, in the case of a foreign corporation, a certificate of
11 authority, by the commissioner. This subsection does not prohibit a
12 limited partnership from using the word "limited" or an abbreviation
13 of "limited" in its name.

14 * Sec. 5. AS 10.06.130 is amended to read:

15 Sec. 10.06.130. USE OF SAME OR DECEPTIVELY SIMILAR NAME. Incor-
16 poration, obtaining a certificate of authority by a foreign corpora-
17 tion, or registration [REGISTRATION] of a corporate name gives the
18 exclusive right to the use of the name. The person who has incorpo-
19 rated, received a certificate of authority, or registered the corpo-
20 rate name under this chapter may enjoin the use of the same or decep-
21 tively similar name and has a cause of action for damages against a
22 person who uses the same or deceptively similar name.

23 * Sec. 6. AS 10.06.230(a) is amended to read:

24 (a) Unless a provision is contained in the articles, the bylaws
25 shall state the number of directors of the corporation or state that
26 the number of directors may not be less than a stated number or more
27 than a stated number, with the exact number of the directors to be
28 fixed, within the limits specified, by approval of the board or the
29 shareholders in the manner provided in the bylaws. [THE STATED

1 MAXIMUM NUMBER OF DIRECTORS MAY NOT BE GREATER THAN TWO TIMES THE
2 STATED MINIMUM NUMBER MINUS ONE AND THE NUMBER OF MINIMUM NUMBER OF
3 DIRECTORS MAY NOT BE LESS THAN THREE.] If the articles provide for
4 the number of directors, the number of directors may only be changed
5 by an amendment to the articles.

6 * Sec. 7. AS 10.06.343 is amended to read:

7 Sec. 10.06.343. STOCK RIGHTS AND OPTIONS. Subject to a pro-
8 vision in its articles, a corporation may create and issue, whether or
9 not in connection with the issuance and sale of any of its shares or
10 other securities, rights or options entitling the holders of the
11 rights or options [SHARES] to purchase from the corporation shares of
12 any class or classes. These rights or options shall be evidenced in
13 the manner the board approves and, subject to the provisions of the
14 articles, must [SHALL] set out the terms upon which, the time within
15 which, and the price at which the shares may be purchased from the
16 corporation upon the exercise of the right or option. If the rights
17 or options are to be issued to directors, officers, or employees of
18 the corporation or of a subsidiary of the corporation and not to the
19 shareholders generally, their issuance shall be authorized by the
20 approval of the outstanding shares or must [SHALL] be consistent with
21 a plan so approved or ratified. In the absence of fraud in the trans-
22 action, the judgment of the board as to the adequacy of the considera-
23 tion received for the rights or options is conclusive.

24 * Sec. 8. AS 10.06.348 is amended to read:

25 Sec. 10.06.348. CERTIFICATES REPRESENTING SHARES. Except as
26 otherwise provided under AS 10.06.349. the [THE] shares of a corpo-
27 ration shall be represented by certificates signed by the president or
28 vice-president and the secretary or an assistant secretary of the
29 corporation, and may be sealed with the seal of the corporation or a

1 facsimile of the seal. The signatures of the president or vice-
2 president and the secretary or assistant secretary upon a certificate
3 may be facsimiles if the certificate is countersigned by a transfer
4 agent or registered by a registrar, other than the corporation itself
5 or an employee of the corporation. If an officer who has signed or
6 whose facsimile signature has been placed on the certificate ceases to
7 be an officer before the certificate is issued, the certificate may be
8 issued by the corporation with the same effect as if the officer were
9 an officer at the date of its issue.

10 * Sec. 9. AS 10.06 is amended by adding a new section to read:

11 Sec. 10.06.349. SHARES WITHOUT CERTIFICATES. (a) Unless the
12 articles or bylaws provide otherwise, the board of directors may
13 authorize the issuance without certificates of some or all of the
14 corporation's classes or series of shares. The authorization does not
15 affect shares that are already represented by certificates until the
16 certificates are surrendered to the corporation.

17 (b) Within a reasonable time after the issuance or transfer of
18 shares without certificates, the corporation shall send the share-
19 holder a written statement giving the information required by AS 10.-
20 06.350 to be on certificates, and, if applicable, the information
21 required by AS 10.06.424(c) to be disclosed to the shareholder when
22 there is no certificate.

23 * Sec. 10. AS 10.06.353 is amended to read:

24 Sec. 10.06.353. FULL PAYMENT REQUIRED FOR CERTIFICATE. A share
25 with or without a certificate may not be issued [FOR A SHARE] until
26 the share is fully paid.

27 * Sec. 11. AS 10.06.355 is amended to read:

28 Sec. 10.06.355. ISSUANCE OF FRACTIONAL SHARES OR SCRIP. (a) A
29 corporation may issue a [CERTIFICATE FOR A] fractional share, and, by

1 action of its board, may issue, instead of a fractional certificate,
2 scrip in registered or bearer form that entitles the holder to receive
3 a [CERTIFICATE FOR A] full share upon the surrender of the scrip
4 aggregating a full share.

5 (b) A [CERTIFICATE FOR A] fractional share entitles the holder
6 to exercise voting rights, to receive dividends, and to participate in
7 the assets of the corporation in the event of liquidation. Unless
8 otherwise provided in the scrip, scrip does not entitle the holder to
9 exercise voting rights, to receive dividends, or to participate in the
10 assets of the corporation in the event of liquidation.

11 (c) The board may issue scrip subject to the condition that it
12 is void if not exchanged for [CERTIFICATES REPRESENTING] full shares
13 before a specified date, or subject to the condition that the shares
14 for which the scrip is exchangeable may be sold by the corporation and
15 the proceeds distributed to the holders of that scrip, or subject to
16 other conditions that [WHICH] the board considers advisable.

17 * Sec. 12. AS 10.06 is amended by adding a new section to read:

18 Sec. 10.06.356. SHARES HELD BY NOMINEES. (a) A corporation may
19 establish a procedure by which the beneficial owner of shares that are
20 registered in the name of a nominee is recognized by the corporation
21 as the shareholder.

22 (b) The procedure may set out

23 (1) the types of nominees to whom it applies;

24 (2) the rights or privileges that the corporation recog-
25 nizes in a beneficial owner;

26 (3) the manner in which the procedure is selected by the
27 nominee;

28 (4) the information that must be provided when the proce-
29 dure is selected;

1 (5) the period when selection of the procedure is effec-
2 tive; and

3 (6) other aspects of the rights and duties created.

4 * Sec. 13. AS 10.06.358(c) is amended to read:

5 (c) For the purposes of this chapter, the amount of a distribu-
6 tion payable in property shall be determined on the basis of the value
7 at which the property is carried on the corporation's financial state-
8 ments in accordance with this section [GENERALLY ACCEPTED ACCOUNTING
9 PRINCIPLES].

10 * Sec. 14. AS 10.06.358(d) is amended to read:

11 (d) Only a corporation that classifies its assets as current
12 assets and fixed assets in accordance with this section [UNDER GEN-
13 ERALLY ACCEPTED ACCOUNTING PRINCIPLES] is governed by (a)(2)(B) of
14 this section.

15 * Sec. 15. AS 10.06.358 is amended by adding new subsections to read:

16 (e) For the purposes of this section, the board of directors may
17 base a determination that a distribution is not prohibited either on
18 financial statements prepared in accordance with generally accepted
19 accounting principles or on the basis of accounting practices and
20 principles that are fair and reasonable in the circumstances.

21 (f) Financial statements and determinations prepared or arrived
22 at in accordance with generally accepted accounting principles are
23 fair and reasonable. The fair and reasonable quality of statements
24 and determinations prepared under other practices and principles shall
25 be proved by the corporation.

26 * Sec. 16. AS 10.06.360 is amended to read:

27 Sec. 10.06.360.~ PROHIBITED DISTRIBUTION; INABILITY TO MEET
28 MATURING DEBTS AND LIABILITIES. A corporation or subsidiary of a
29 corporation may not make a distribution to the corporation's

1 shareholders if the corporation or the subsidiary making the distri-
2 bution is, or as a result of the distribution would be, [LIKELY TO BE]
3 unable to meet its liabilities as they mature.

4 * Sec. 17. AS 10.06.385(b) is amended to read:

5 (b) Subject to any provisions in its articles [OF INCORPORATION]
6 with respect to the notice required for redemption of shares, the
7 corporation may give notice of the redemption of any or all shares
8 subject to redemption by publishing a notice of redemption in a news-
9 paper of general circulation in the judicial district in which the
10 principal executive office of the corporation is located at least once
11 a week for two successive weeks, beginning not earlier than 60 nor
12 later than 20 days before the date fixed for redemption. The notice of
13 redemption shall set out the following:

14 (1) the class or series of shares or part of any class of
15 series of shares to be redeemed;

16 (2) the date fixed for redemption;

17 (3) the redemption price; and

18 (4) the place at which the shareholders may obtain payment
19 of the redemption price upon surrender of their share certificates or
20 certificateless shares.

21 * Sec. 18. AS 10.06.385(d) is amended to read:

22 (d) On or before the date fixed for redemption of redeemable
23 shares, a corporation may deposit with a bank or trust company in this
24 state as a trust fund a sum sufficient to redeem the shares called on
25 the date fixed for redemption, with irrevocable instructions to the
26 bank or trust company to publish a notice of redemption, or to com-
27 plete the publication if begun, and to pay, on and after or before the
28 date fixed for redemption, the redemption price of the shares to
29 holders of the shares upon the surrender of their share certificates

1 or certificateless shares. From and after the date of the deposit
2 with the bank or trust company, although before the date fixed for
3 redemption, the shares called for redemption are redeemed and divi-
4 dends on those shares cease to accrue after the date fixed for redemp-
5 tion. The deposit constitutes full payment of the shares to their
6 holders and from and after the date of the deposit the shares are no
7 longer outstanding and the holders of the shares cease to be share-
8 holders with respect to the shares and have no rights with respect to
9 the shares except the right to receive from the bank or trust company
10 payment of the redemption price of the shares without interest, upon
11 surrender of the certificates for the shares or the certificateless
12 shares, and any right to convert the shares that may exist and con-
13 tinue for a period fixed by the terms of the shares.

14 * Sec. 19. AS 10.06.405 is amended by adding a new subsection to read:

15 (d) The failure of a corporation to hold an annual meeting at
16 the time stated in or fixed under its bylaws does not cause the corpo-
17 ration to forfeit its status, does not cause a dissolution of the
18 corporation, and does not affect the validity of corporate action.

19 * Sec. 20. AS 10.06.410 is amended to read:

20 Sec. 10.06.410. NOTICE OF SHAREHOLDERS' MEETINGS. Written or
21 printed notice stating the place, day, and hour of the meeting and, in
22 the case of a special meeting, the purpose for which the meeting is
23 called, shall be delivered not less than 10 [20] or more than 60 days
24 before the date of the meeting, either personally or by mail, by or at
25 the direction of the president, the secretary, the officer, or persons
26 calling the meeting, to each shareholder of record entitled to vote at
27 the meeting. If mailed, the notice is considered delivered when
28 deposited with postage prepaid in the United States mail addressed to
29 the shareholder at the address of the shareholder as it appears on the

1 stock transfer books of the corporation, or, if the shareholder has
2 filed with the secretary of the corporation a written request that
3 notice be mailed to a different address, addressed to the shareholder
4 at [THE CORPORATION SHALL MAIL THE NOTICE TO] the new address. An
5 affidavit of the secretary or other person giving the notice or of a
6 transfer agent of the corporation that the notice required by this
7 section has been given, is prima facie evidence of the facts stated in
8 the affidavit.

9 * Sec. 21. AS 10.06.413(a) is amended to read:

10 (a) At least 10 [20] days before each meeting of shareholders,
11 the officer or agent having charge of the stock transfer books for
12 shares of a corporation shall make a list of the shareholders entitled
13 to vote at the meeting or an adjournment of the meeting arranged in
14 alphabetical order, with the address of and the number of shares held
15 by each shareholder. The list shall be kept on file at the registered
16 office of the corporation and is subject to inspection by a share-
17 holder or the agent or attorney of a shareholder at any time during
18 usual business hours for a period of 10 [20] days before the meeting.
19 The list shall also be produced and kept open at the time and place of
20 the meeting and shall be subject to the inspection of a shareholder
21 during the meeting. The original stock transfer books are prima facie
22 evidence as to the shareholders who are entitled to examine the list
23 or transfer books or to vote at a meeting of shareholders.

24 * Sec. 22. AS 10.06.413(c) is amended to read:

25 (c) An officer or agent having charge of the stock transfer
26 books who fails to prepare the list of shareholders, keep it on file
27 for a period of 10 [20] days, or produce and keep it open for inspec-
28 tion at the meeting, as provided in this section, is liable for a
29 penalty of \$5,000 and shall pay this sum to a shareholder who makes a

1 written request for performance of the duties imposed by this section.

2 * Sec. 23. AS 10.06.418(b) is amended to read:

3 (b) A proxy is not valid after the expiration of 11 months from
4 the date of the proxy unless it qualifies as an irrevocable proxy
5 under (e) of this section. A proxy continues in full force and effect
6 until revoked by the person executing it, except as provided in this
7 section. A person may revoke a proxy by a writing delivered to the
8 corporation stating that the proxy is revoked, by a subsequent proxy
9 executed by the person executing the prior proxy and delivered [PRE-
10 SENTED] to the corporation [MEETING], or by attendance at the meeting
11 and voting in person by the person executing the proxy. The dates
12 contained on the forms of proxy presumptively determine the order of
13 execution, regardless of the postmark dates on the envelopes in which
14 the proxies are mailed.

15 * Sec. 24. AS 10.06.418(e) is amended to read:

16 (e) Notwithstanding (c) of this section, a proxy that states
17 that it is irrevocable is irrevocable for the period specified in the
18 proxy when it is held by the following or a nominee of the following:

19 (1) a person to whom the shares are pledged for the perfor-
20 mance of an obligation or the payment of a debt [PLEDGEE];

21 (2) a person who has purchased, agreed to purchase, or
22 holds an option to purchase the shares or a person who has sold a
23 portion of the shares of the person in the corporation to the maker of
24 the proxy;

25 (3) a person who has contracted to perform services as an
26 employee of the corporation, if a proxy is required by the contract of
27 employment and if the proxy states that it was given in consideration
28 of the contract of employment, the name of the employee, and the
29 period of employment contracted for;

1 (4) a person designated by or under an agreement under
2 AS 10.06.425 [AS 10.06.425(b)]; or

3 (5) a beneficiary of a trust with respect to shares held by
4 the trust.

5 * Sec. 25. AS 10.06.418(f) is amended to read:

6 (f) Notwithstanding the period of irrevocability specified in a
7 proxy, the proxy becomes revocable when the pledge is redeemed, the
8 option or agreement to purchase is terminated or the seller no longer
9 owns any shares of the corporation or dies, the period of employment
10 provided for in the contract of employment has terminated, the agree-
11 ment under AS 10.06.425 [AS 10.06.425(b)] has terminated, or the
12 person ceases to be a beneficiary of the trust. In addition, a proxy
13 may be made irrevocable if it is given to secure the performance of a
14 duty or to protect a title, either legal or equitable, until the
15 happening of events that, by its terms, discharge the obligations
16 secured by it.

17 * Sec. 26. AS 10.06.418(g) is repealed and reenacted to read:

18 (g) Notwithstanding a provision in a proxy that makes the proxy
19 irrevocable, a proxy is revoked when the shares are transferred unless
20 the transferee knows about the provision or the proxy, or the irrevocability or notice of the proxy appears on a certificate representing
21 the shares.

22 * Sec. 27. AS 10.06.420(e) is repealed and reenacted to read:

23 (e) Except as prohibited in this subsection, shares standing in
24 the name of another corporation may be voted by the officer, agent, or
25 proxy as the bylaws of the other corporation may prescribe, or, in the
26 absence of a provision, as the board of the other corporation may
27 determine. The shares of a corporation may not be voted if they are
28 owned, directly or indirectly, by a second corporation, domestic or
29

1 foreign, and the first corporation owns, directly or indirectly, a
2 majority of the shares entitled to vote for the directors of the
3 second corporation.

4 * Sec. 28. AS 10.06.420(i) is amended to read:

5 (i) Beginning on the date on which written notice of redemption
6 of redeemable shares has been mailed to the holders of the shares and
7 a sum sufficient to redeem the shares has been deposited with a bank
8 or trust company with irrevocable instruction and authority to pay the
9 redemption price to the holders of the shares upon surrender of the
10 certificates for the shares or the certificateless shares, the shares
11 may not vote on any matter and are not considered to be outstanding
12 shares.

13 * Sec. 29. AS 10.06 is amended by adding a new section to read:

14 Sec. 10.06.421. CORPORATION'S ACCEPTANCE OF CERTAIN DOCUMENTS.

15 (a) If the name signed on a vote, consent, waiver, or proxy appoint-
16 ment corresponds to the name of a shareholder, the corporation, if
17 acting in good faith, is entitled to accept the document and give it
18 effect as the act of the shareholder.

19 (b) If the name signed on a document does not correspond to the
20 name of its shareholder, the corporation, if acting in good faith, is
21 nevertheless entitled to accept the document and give it effect as the
22 act of the shareholder if

23 (1) the shareholder is an entity and the name signed pur-
24 ports to be that of an officer or agent of the entity;

25 (2) the name signed purports to be that of an administra-
26 tor, executor, guardian, or conservator representing the shareholder
27 and, if the corporation requests, evidence of fiduciary status accept-
28 able to the corporation has been presented with respect to the docu-
29 ment;

1 (3) the name signed purports to be that of a receiver or
2 trustee in bankruptcy of the shareholder and, if the corporation
3 requests, evidence of this status acceptable to the corporation has
4 been presented with respect to the document;

5 (4) the name signed purports to be that of a pledgee,
6 beneficial owner, or attorney-in-fact of the shareholder and, if the
7 corporation requests, evidence acceptable to the corporation or the
8 signatory's authority to sign for the shareholder has been presented
9 with respect to the document;

10 (5) two or more persons are the shareholder as cotenants or
11 fiduciaries, the name signed purports to be the name of at least one
12 of the coowners, and the person signing appears to be acting on behalf
13 of all the coowners.

14 (c) The corporation is entitled to reject a document if the
15 secretary or other officer or agent authorized to tabulate votes,
16 acting in good faith, has a reasonable basis to doubt the validity of
17 the signature on the document or the signatory's authority to sign for
18 the shareholder.

19 (d) The corporation and its officer or agent who accepts or
20 rejects a document in good faith and in accordance with the standards
21 of this section are not liable in damages to the shareholder for the
22 consequences of the acceptance or rejection.

23 (e) Corporate action based on the acceptance or rejection of a
24 document under this section is valid unless a court of competent
25 jurisdiction determines otherwise.

26 (f) In this section, "document" means vote, consent, waiver, or
27 proxy appointment.

28 * Sec. 30. AS 10.06 is amended by adding a new section to read:

29 Sec. 10.06.424. SHAREHOLDER AGREEMENTS. (a) The shareholders

1 of a corporation may enter into an agreement among all the sharehold-
2 ers to impose restrictions on the transfer or registration of shares
3 of the corporation to

4 (1) maintain the corporation's status, including election
5 of S corporation status under 26 U.S.C. (Internal Revenue Code), when
6 the status depends on the number or identity of its shareholders; in
7 this paragraph, "S corporation" has the meaning given in 26 U.S.C.
8 1361;

9 (2) preserve exemptions under federal or state securities
10 laws;

11 (3) ensure that shareholders will be able to control who
12 may participate in the corporation's business;

13 (4) ensure that shareholders who wish to retire will be
14 able to liquidate their investments without disrupting corporate af-
15 fairs;

16 (5) ensure that estates of deceased shareholders will be
17 able to liquidate the decedents' shares in the corporation;

18 (6) obligate the shareholder first to offer to the corpo-
19 ration or other persons, separately, consecutively, or simultaneously,
20 an opportunity to acquire the restricted shares;

21 (7) obligate the corporation or other persons, separately,
22 consecutively, or simultaneously, to acquire the restricted shares;

23 (8) require the corporation, the holder of any class of its
24 shares, or another person, to approve the transfer of restricted
25 shares, if the requirement is not manifestly unreasonable; and

26 (9) accomplish another reasonable purpose.

27 (b) The shareholders of a corporation may enter into an agree-
28 ment among all of the shareholders to provide for the selection of
29 directors and officers.

1 (c) The existence of a shareholders' agreement that is consis-
2 tent with this section shall be noted conspicuously on the front or
3 back of each stock certificate together with a statement indicating
4 that the agreement, or a copy of the agreement, is on file at the
5 principal office of the corporation and that the corporation will
6 allow inspection of the agreement or furnish a copy of the agreement
7 without charge. If the share has been issued under AS 10.06.349
8 without a certificate, a statement that discloses the existence of the
9 shareholders' agreement shall be sent within a reasonable time to the
10 shareholder.

11 (d) Shares issued before compliance with (c) this section, if
12 acquired by a person without knowledge of the shareholders' agreement,
13 are not subject to the shareholders' agreement.

14 (e) A shareholders' agreement may not alter or waive AS 10.06.-
15 350, 10.06.358, 10.06.360, 10.06.430, 10.06.438, 10.06.544, 10.06.570,
16 10.06.633, 10.06.648, or 10.06.653.

17 (f) In this section, "shares" includes a security that is con-
18 vertible into shares or that carries a right to subscribe for or
19 acquire shares.

20 * Sec. 31. AS 10.06.425(a) is amended to read:

21 (a) Any number of shareholders of a corporation may create a
22 voting trust for the purpose of conferring upon a trustee or trustees
23 the right to vote or otherwise represent their shares, for a period
24 not to exceed 10 years, by entering into a written voting trust agree-
25 ment specifying the terms and conditions of the voting trust, by
26 depositing a copy of the agreement with the corporation at its regis-
27 tered office, and by transferring their shares to the trustee or
28 trustees for the purpose of the agreement. The trustee or trustees
29 shall keep a record of the holders of voting trust certificates

1 evidencing a beneficial interest in the voting trust, giving the names
2 and addresses of all the holders and the number and class of the
3 shares for which the voting trust certificates are issued, and shall
4 deposit a copy of the record with the corporation at its registered
5 office. The copies of the voting trust agreement and the record
6 deposited with the corporation are subject to the same right of ex-
7 amination by a shareholder of the corporation, in person or by agent
8 or attorney, as are the books and records of the corporation under
9 AS 10.06.430, and the copies of the agreement and the record are
10 subject to examination by a holder of record of voting trust certifi-
11 cates, either in person or by agent or attorney, at a reasonable time
12 for a proper purpose. This subsection does not invalidate an irrevocable proxy complying with AS 10.06.418(e).

13
14 * Sec. 32. AS 10.06.425(b) is repealed and reenacted to read:

15 (b) Shareholders may enter into a voting agreement or any other
16 agreement if the agreement is consistent with this chapter.

17 * Sec. 33. AS 10.06.430(a) is amended to read:

18 (a) A corporation organized under this chapter shall keep cor-
19 rect and complete books and records of account, minutes of proceedings
20 of its shareholders, board, and committees of the board, and a record
21 of its shareholders, containing the names and addresses of all share-
22 holders and the number and class of the shares held by each. The
23 books and [,] records of account, [AND] minutes, and the record of
24 shareholders may be in written form or in any other form capable of
25 being converted into written form within a reasonable time.

26 * Sec. 34. AS 10.06.430(b) is amended to read:

27 (b) A corporation organized under this chapter shall make its
28 books and records of account, or certified copies of them, reasonably
29 available for inspection and copying at the registered office or

1 principal place of business in the state [BY THE DEPARTMENT OR] by a
2 shareholder of the corporation. Shareholder inspection shall be upon
3 written demand stating with reasonable particularity the purpose of
4 the inspection. The inspection may be in person or by agent or attor-
5 ney, at a reasonable time and for a proper purpose. Only books and
6 records of account, minutes, and the record of shareholders directly
7 connected [RELEVANT] to the stated purpose of the inspection may be
8 inspected or copied.

9 * Sec. 35. AS 10.06.430(c) is amended to read:

10 (c) An officer or agent who, or a corporation that, refuses to
11 allow a shareholder, or the agent or attorney of the shareholder, to
12 examine and make copies from its books and records [RECORD] of ac-
13 count, minutes, and record of shareholders, for a proper purpose, is
14 liable to the shareholder for a penalty in the amount of 10 percent of
15 the value of the shares owned by the shareholder or \$5,000, whichever
16 is greater, in addition to other damages or remedy given the share-
17 holder by law. It is a defense to an action for penalties under this
18 section that the person suing has within two years sold or offered for
19 sale a list of shareholders of the corporation or any other corpo-
20 ration or has aided or abetted a person in procuring a list of share-
21 holders for this purpose, or has improperly used information secured
22 through a prior examination of the books and records of account, [OR]
23 minutes, or record of shareholders of the corporation or any other
24 corporation, or was not acting in good faith or for a proper purpose
25 in making the person's demand.

26 * Sec. 36. AS 10.06.433(a) is amended to read:

27 (a) The board shall send an annual report to the shareholders
28 not later than 180 days after the close of the fiscal year or the date
29 on which notice of the annual meeting in the next fiscal year is sent

1 under AS 10.06.410, whichever is first. A [, UNLESS IN THE CASE OF A]
2 corporation with less than 100 holders of record of its shares, as
3 determined under AS 10.06.408, is exempt from this annual requirement
4 unless its articles or bylaws impose the requirement [IS EXPRESSLY
5 WAIVED IN THE ARTICLES OF INCORPORATION]. The annual report must
6 [SHALL] contain a balance sheet as of the end of the fiscal year and
7 an income statement and statement of changes in financial position for
8 the fiscal year, accompanied by a report on the fiscal year by inde-
9 pendent accountants or, if there is no such report, the certificate of
10 an authorized officer of the corporation that the statements were pre-
11 pared without audit from the books and records of the corporation.

12 * Sec. 37. AS 10.06.435(a) is amended to read:

13 (a) An action may be brought in the right of a domestic or
14 foreign corporation to procure a judgment in its favor by a holder of
15 shares of the corporation or voting trust certificates of the corpo-
16 ration, or of a beneficial interest in shares [OR CERTIFICATES] of the
17 corporation.

18 * Sec. 38. AS 10.06.450(c) is repealed and reenacted to read:

19 (c) A director is not acting in good faith if the director has
20 knowledge concerning the matter in question that makes reliance other-
21 wise permitted by (b) of this section unwarranted.

22 * Sec. 39. AS 10.06.450 is amended by adding a new subsection to read:

23 (f) A director who makes a business judgment in good faith
24 fulfills the duty of care under this section if the director

25 (1) is not interested in the subject of the business judg-
26 ment;

27 (2) is informed about the subject of the business judgment
28 to the extent the director reasonably believes to be appropriate under
29 the circumstances; and

1 (3) rationally believes that the business judgment is in
2 the best interest of the corporation.

3 * Sec. 40. AS 10.06.453(a) is repealed and reenacted to read:

4 (a) The board of directors shall consist of one or more members.
5 The number of directors shall be fixed by, or in the manner provided
6 in, the bylaws, unless the articles fix the number of directors, in
7 which case a change in the number of directors shall be made only by
8 amendment of the articles. If the number of directors is not other-
9 wise set, the number of directors is three.

10 * Sec. 41. AS 10.06.453(b) is amended to read:

11 (b) Except as otherwise provided in AS 10.06.230 and this sec-
12 tion, the [THE] number of directors may be increased or decreased by
13 amendment of the articles or the bylaws or by action of the board or
14 the shareholders under the specific provisions of an article or a
15 bylaw adopted by approval of the outstanding shares. A change in the
16 number of directors, including by amendment of the articles, is [,]
17 subject to the following limitations:

18 (1) if [IF] the board is authorized by the articles or the
19 bylaws to change the number of directors, whether by amending the
20 bylaws or by taking action under the specific provision of an article
21 or a bylaw adopted by approval of the outstanding shares, the amend-
22 ment or action shall require the vote of a majority of the entire
23 board; [.]

24 (2) a [A] decrease in the number of directors may not
25 shorten the term of an incumbent director.

26 * Sec. 42. AS 10.06.465(d) is amended to read:

27 (d) Notwithstanding AS 10.06.453(e), a [A] director may resign
28 effective upon giving written notice to the chairman of the board, the
29 president, the secretary, or the board of directors of the

1 corporation, unless the notice specifies a later time for the effec-
2 tiveness of the resignation. [NOTWITHSTANDING THE EFFECTIVENESS OF
3 THE RESIGNATION, UNDER AS 10.06.453(d) A DIRECTOR HOLDS OFFICE UNTIL A
4 SUCCESSOR HAS BEEN ELECTED AND QUALIFIED.] If the resignation is
5 effective at a future time, a successor may be elected to take office
6 when the resignation becomes effective.

7 * Sec. 43. AS 10.06.470(a) is amended to read:

8 (a) A regular or special meeting of the board or a committee of
9 the board may be called by the chairman of the board, the president, a
10 vice-president, the secretary, or a director [TWO DIRECTORS] and may
11 be held at any place inside or outside this state.

12 * Sec. 44. AS 10.06.470(b) is amended to read:

13 (b) A regular meeting of the board or a committee designated by
14 the board may be held without notice if the time and place of the
15 meeting is fixed by the bylaws or the board. A special meeting of the
16 board or a committee designated by the board shall be held as provided
17 in the bylaws or, in the absence of bylaw provision, after [UPON]
18 either notice in writing sent 10 [20] days before the meeting or
19 notice by electronic means, personal messenger, or comparable person-
20 to-person communication given at least 24 [72] hours before the meet-
21 ing. Unless otherwise provided in the bylaws [IN THE CASE OF A SPE-
22 CIAL MEETING] the notice of a special meeting shall include disclosure
23 of the business to be transacted and the purpose of the meeting.

24 * Sec. 45. AS 10.06.483(d) is amended to read:

25 (d) Subject to the provisions of AS 10.06.020 [AS 10.06.020(a)],
26 a note, mortgage, evidence of indebtedness, contract, [SHARE CERTIFI-
27 CATE,] conveyance, or other instrument in writing, and an assignment
28 or endorsement of these, executed or entered into between the corpora-
29 tion and another person, if signed by two individuals, one of whom is

1 the chairman of the board, the president, or a vice-president and the
2 other of whom is the secretary, an assistant secretary, the treasurer,
3 or an assistant treasurer of the corporation, is not invalidated as to
4 the corporation by a lack of authority of the signing officers in the
5 absence of actual knowledge on the part of the other person that the
6 signing officers had no authority to execute the instrument.

7 * Sec. 46. AS 10.06.483(e) is amended to read:

8 (e) An officer shall perform the duties of the office [AN OFFI-
9 CER] in good faith and with that degree of care, including reasonable
10 inquiry, that an ordinarily prudent person in a like position would
11 use under similar circumstances. Except as provided in (f) of this
12 section, an officer is entitled to rely on information, opinions,
13 reports or statements, including financial statements and other finan-
14 cial data in each case prepared or presented by legal counsel or
15 public accountants.

16 * Sec. 47. AS 10.06.483 is amended by adding new subsections to read:

17 (f) An officer is not acting in good faith if the officer has
18 knowledge concerning the matter in question that makes reliance other-
19 wise permitted by (e) of this section unwarranted.

20 (g) An officer who makes a business judgment in good faith
21 fulfills the duty of care under this section if the officer

22 (1) is not interested in the subject of the business judg-
23 ment;

24 (2) is informed about the subject of the business judgment
25 to the extent the officer reasonably believes to be appropriate under
26 the circumstances; and

27 (3) rationally believes that the business judgment is in
28 the best interest of the corporation.

29 * Sec. 48. AS 10.06.576(f) is amended to read:

1 (f) At the time of filing the notice of election to dissent, or
2 within 30 days after the shareholder has filed the notice, the share-
3 holder shall submit to the corporation, or to its transfer agent, the
4 certificates representing the shares for which payment is claimed, if
5 certificates have been issued. The corporation or its transfer agent
6 shall note conspicuously on the certificates, or on a separate docu-
7 ment if certificates have not been issued for the shares, that a
8 notice of election has been filed, and shall return the certificates
9 or the separate document to the shareholder or to the person who
10 submitted them on the shareholder's behalf. Unless a court, for good
11 cause shown, otherwise directs, a shareholder who fails to comply with
12 this subsection loses the right to dissent granted by this chapter, if
13 the corporation gives written notice that the right to dissent will be
14 lost to the shareholder within 45 days from the date that the share-
15 holder filed the notice of election to dissent. If the corporation
16 fails to exercise this notice option in a timely manner, the share-
17 holder retains the right to dissent granted by this chapter.

18 * Sec. 49. AS 10.06.576(g) is repealed and reenacted to read:

19 (g) When a share of a dissenting shareholder under (f) of this
20 section is transferred, the new certificate must bear a notation
21 similar to that made under (f) of this section and state the name of
22 the original dissenting holder of the shares, or, if the share is a
23 certificateless share, the corporation must give the transferee a
24 written notice stating that a notice of election to dissent has been
25 filed and giving the name of the original dissenting holder. A trans-
26 feree acquires only the rights in the corporation that the original
27 dissenting shareholder had at the time of transfer.

28 * Sec. 50. AS 10.06.578(c) is amended to read:

29 (c) If the corporate action has been completed the offer

1 required by (a) of this section shall also be accompanied by

2 (1) advance payment to each shareholder who submitted the
3 share certificates to the corporation, or to whom notice was sent if
4 the shares were certificateless, as provided in AS 10.06.576(f), of
5 the amount offered under (a) of this section; or

6 (2) a statement to a shareholder who has not submitted the
7 share certificates, if certificates were issued for the shares, that
8 advance payment of the amount offered under (a) of this section will
9 be made by the corporation promptly upon submission of the certifi-
10 cates.

11 * Sec. 51. AS 10.06.580(f) is amended to read:

12 (f) Unless prohibited by AS 10.06.578(g), within 60 days after
13 the final determination of the proceeding, the corporation shall pay
14 to each dissenting shareholder who is a party the amount determined
15 under (e) of this section in exchange for the surrender of the certifi-
16 cate representing the dissenter's shares or the dissenter's shares if
17 the shares are certificateless. Upon payment of the judgment, the
18 dissenting shareholder ceases to have an interest in the shares.

19 * Sec. 52. AS 10.06.605(b) is amended to read:

20 (b) A corporation [THE FOLLOWING CORPORATIONS] may elect by
21 approval of the board to wind up and dissolve if the [A] corporation
22 [THAT] has:

23 (1) been adjudicated bankrupt;

24 (2) disposed of all of its assets and has not conducted any
25 business for a period of five years immediately preceding the adoption
26 of the resolution to dissolve the corporation; or [AND]

27 (3) issued no shares.

28 * Sec. 53. AS 10.06.628(d) is amended to read:

29 (d) For purposes of this section, "shareholder" includes a

beneficial owner of shares who has entered into an agreement under AS 10.06.425(a) [AS 10.06.425].

* Sec. 54. AS 10.06.630(e) is amended to read:

(e) For the purposes of this section, "shareholder" includes a beneficial owner of shares who has entered into an agreement under AS 10.06.425(a) [AS 10.06.425].

* Sec. 55. AS 10.06.633(a) is amended to read:

(a) A corporation may be dissolved involuntarily by the commissioner if

(1) the corporation is delinquent six months in filing its biennial report or in paying its biennial corporation tax [A LICENSE FILING FEE] or a penalty;

(2) the corporation has failed for 30 days to appoint and maintain a registered agent in the state;

(3) the corporation has failed for 30 days after change of its registered office or registered agent to file in the office of the commissioner a statement of the change;

(4) the corporation has failed for two years to complete dissolution under a certificate of election under AS 10.06.608 to dissolve;

(5) a vacancy on the board of the corporation is not filled within six months or the next annual meeting, whichever occurs first;

(6) a misrepresentation of material facts has been made in the application, report, affidavit, or other document submitted under this chapter; or

(7) the corporation is 90 days delinquent in filing notice of change of an officer, director, alien affiliate, or five percent shareholder, as required by this chapter [; OR

(8) THE CORPORATION IS CONTROLLED BY A PERSON WHO WILFULLY