

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
6624 SENATE STATE AFFAIRS 1028

1 DEALERS UNDER THIS SECTION,) in the amount of \$3,000. Instead of a
2 corporate surety bond the commissioner may [, IN THE COMMISSIONER'S
3 SOLE DISCRETION,) accept a bond in the same amount with at least two
4 individual sureties, that is secured [EACH JUSTIFYING] with real prop-
5 erty in twice the amount of the bond. The commissioner shall investi-
6 gate [MAKE THE INVESTIGATION NECESSARY] to determine the actual finan-
7 cial responsibility of the individual sureties. The [CONDITION OF
8 THE] bond must require [SHALL BE] that the applicant [WILL] conduct
9 dealer business under [IN ACCORDANCE WITH] this chapter and agree not
10 to [WILL NOT] commit fraud or make fraudulent representations in the
11 course of business.

12 (b) The bond shall be filed in the office of the commissioner [OF
13 PUBLIC SAFETY]. A surety may cancel the bond upon 30 days advance
14 notice in writing filed with the commissioner. However, cancellation
15 does not relieve a surety of liability arising on the bond from a sale
16 made by the bonded dealer before cancellation or a liability that
17 [WHICH] has accrued upon the bond before cancellation. The commis-
18 sioner shall retain the cancelled bond on file [AND MAY NOT RELIEVE A
19 SURETY OF A LIABILITY ARISING BEFORE CANCELLATION].

20 * Sec. 6. AS 08.66.090 is amended to read:

21 Sec. 08.66.090. DEFINITIONS [DEALER DEFINED]. In this chapter

22 (1) "commissioner" means the commissioner of commerce and
23 economic development;

24 (2) "dealer" means a person, or an agent, broker or sales-
25 man of a person, who is engaged in buying, selling or dealing in new
26 or used motor vehicles, trailers, or semi-trailers in the state;

27 (3) "department" means the Department of Commerce and
28 Economic Development.

29 * Sec. 7. AS 18.65 is amended by adding a new section to article 3

read:

1 Sec. 18.65.320. CANCELLATION OF IDENTIFICATION CARD. (a) The
2 department shall cancel an identification card if the person receiving
3 the card fails to give the required or correct information in the
4 person's application. Nothing in this section prohibits reapplication
5 by the person or reissuance of the identification card.

6 (b) A person whose identification card has been cancelled shall
7 return the card to the department. Failure to return a cancelled card
8 within 10 days after receiving notice of the cancellation is a vio-
9 lation punishable by a fine of up to \$100.

10 * Sec. 8. AS 28.10.051 is amended to read:

11 Sec. 28.10.051. DEPARTMENT MAY SUSPEND OR REVOKE REGISTRATION.
12 The department may suspend or revoke the registration of a vehicle,
13 the certificate of registration or registration plates for a vehicle,
14 or a special permit when

15 (1) the department determines that the registration or
16 certificate, plate or permit was fraudulently procured or erroneously
17 issued;

18 (2) the department determines that a registered vehicle is
19 mechanically unsafe to be driven or moved on a highway, vehicular way
20 or area, or other public property in this state and the vehicle has
21 been seized or impounded under AS 28.05.091;

22 (3) a registered vehicle has been scrapped, dismantled or
23 destroyed beyond repair;

24 (4) the department determines that a required fee or tax
25 has not been paid and the fee or tax is not paid upon reasonable
26 notice and demand;

27 (5) a registration plate, permit, or certificate is know-
28 ingly displayed upon a vehicle other than the vehicle for which
29

issued;

(6) the department determines that the owner of a vehicle has committed an offense under this chapter involving the registration or the certificate, plate, or permit to be suspended or revoked;

(7) the vehicle has been reported to the department as stolen or unlawfully converted; [OR]

(8) the department is otherwise required to do so under the laws of this state; or

(9) the department determines that the vehicle owner has violated the requirements of AS 28.10.146 or 28.10.147.

* Sec. 9. AS 28.10.108(b) is amended to read:

(b) Subject to the provisions of (f) of this section, a vehicle subject to registration

(1) under AS 28.10.011 and 28.10.421(b)(3) and (4) and (c)(1)- (4) shall have its initial registration, and may have its annual registration, renewed during the month of December;

(2) under AS 28.10.181, 28.10.411 and 28.10.421(d)(3) [, (6)] and (9) shall have its initial registration, and may have its annual registration, renewed during the month of January.

* Sec. 10. AS 28.10 is amended by adding new sections to read:

Sec. 28.10.146. REGISTRATION OF INTERSTATE RENTAL TRUCKS. (a) Notwithstanding any other registration requirement of this chapter, a fleet rental truck owner or authorized representative shall register a percentage of the total fleet as determined under this subsection, and shall pay the fees and taxes required by this chapter. The percentage of fleet rental trucks required to be registered is equal to the total number of miles that all trucks in the rental fleet were driven in this state during a calendar year or other period established by the department by regulation, divided by the total number of miles that

1 all trucks in the rental fleet were driven in all states and the
2 District of Columbia during that period.

3 (b) When applying for registration under (a) of this section,
4 the fleet rental owner or authorized representative shall file with
5 the department a certified report containing verifiable data, report-
6 ing

7 (1) the total number of miles operated by all of the trucks
8 in the rental fleet in all states and the District of Columbia during
9 the preceding calendar year or other period specified by the depart-
10 ment;

11 (2) the total number of miles operated in this state by all
12 of the trucks in the rental fleet during the preceding calendar year
13 or other period specified by the department; and

14 (3) other fleet rental truck registration information that
15 the department may require.

16 (c) A fleet rental owner or authorized representative whose
17 application for registration under this section has been accepted by
18 the department shall preserve records of the period on which the
19 application was based for four years. Upon request of the department,
20 the fleet rental owner or authorized representative shall

21 (1) provide records preserved under this subsection to the
22 department for audit; or

23 (2) pay the cost of an audit conducted by a representative
24 of the department at the office of the owner.

25 (d) After compliance with this section, all trucks identified as
26 part of the rental fleet, and currently registered in any state or in
27 the District of Columbia, may operate in this state.

28 (e) If the department determines that the fleet rental owner or
29 authorized representative has not registered fleet rental trucks as

1 required by this section, the department may suspend or revoke a
2 registration previously issued, and may deny future fleet rental
3 registration under (a) of this section, until the owner or authorized
4 representative has complied with this section. If registration under
5 (a) of this section has been suspended, revoked, or denied, all the
6 owner's fleet rental trucks present in the state must be registered
7 under applicable state law.

8 (f) A fee or tax paid as a result of registration required under
9 this section does not satisfy or offset other fees or taxes levied by
10 the state or a political subdivision in connection with the ownership
11 or operation of fleet rental trucks.

12 (g) In this section, "fleet" means a fleet of 10 or more rental
13 trucks that are rented or offered for rent without a driver.

14 Sec. 28.10.147. REGISTRATION OF INTERSTATE RENTAL TRAILERS. (a)
15 Notwithstanding any other registration requirement of this chapter, a
16 fleet rental trailer owner or authorized representative shall register
17 the average number of trailers present in this state as calculated
18 under this subsection, and shall pay the fees and taxes required by
19 this chapter. The average number of trailers is equal to the total
20 number of trailers in the fleet that were present at any time in the
21 state during a calendar year or other period established by the
22 department by regulation, divided by the number of calendar months in
23 the period.

24 (b) When applying for registration of trailers as required under
25 (a) of this section, the fleet rental owner or authorized representa-
26 tive shall file with the department a certified report containing
27 verifiable data as to the average number of trailers that were present
28 at any time in the state for the previous calendar year or other
29 period specified by the department.

1 (c) A fleet rental owner or authorized representative whose
2 application for registration under this section has been accepted by
3 the department shall preserve records of the period on which the
4 application was based for four years. Upon request of the department,
5 the fleet rental owner or authorized representative shall

6 (1) provide records preserved under this subsection, to the
7 department at its office for audit; or

8 (2) pay the cost of an audit conducted by a representative
9 of the department at the office of the owner.

10 (d) After compliance with this section, all trailers identified
11 as part of the rental fleet, and currently registered in any state or
12 in the District of Columbia, may operate in this state.

13 (e) If the department determines that the fleet rental owner or
14 authorized representative has not registered fleet rental trailers as
15 required by this section, the department may suspend or revoke a
16 registration previously issued, and may deny future registration under
17 (a) of this section, until the owner has complied with this section.
18 If registration under (a) of this section has been suspended, revoked,
19 or denied, all the owner's fleet rental trailers present in the state
20 must be registered under applicable state law.

21 (f) A fee or tax paid as a result of registration required under
22 this section does not satisfy or offset other fees or taxes levied by
23 the state or a political subdivision in connection with the ownership
24 or operation of fleet rental trailers.

25 (g) In this section, "fleet" means a fleet of 10 or more rental
26 trailers that are rented or offered for rent for personal use, not for
27 the transportation of persons or property for hire or other commercial
28 use, and includes a boat trailer, baggage trailer, box trailer, utili-
29 ty trailer, house trailer, or travel trailer.

* Sec. 11. AS 28.10.381 is repealed and reenacted to read:

Sec. 28.10.381. FILING A LIEN OR ENCUMBRANCE. (a) A lien or other encumbrance on a vehicle may be filed by delivering to the department

(1) a manufacturer's certificate of origin or an existing certificate of title;

(2) an application for a new certificate of title, signed by the registered owner and containing the name and address of any lienholder and the date of the lienholder's interest;

(3) applicable filing fees required by law; and

(4) other documents or information required by the department.

(b) Upon approval of the application, the department shall send to the person holding a lien or other encumbrance a new certificate of title which displays the name of the owner and indicates the existence of the lien or other encumbrance.

* Sec. 12. AS 28.10.421(b) is amended to read:

(b) The annual registration fees under this subsection are imposed within the following classifications for:

(1) a passenger vehicle or motor home not used or maintained for the transportation of persons or property for hire or for other commercial use..... (was 30) \$35;

(2) a pick-up truck or a van not exceeding 6,000 pounds unladen weight and not used or maintained for the transportation of persons or property for hire or for other commercial use..... (was 35) \$40;

(3) a taxicab.....\$70;

(4) a motor bus with a seating capacity for 20 or more persons and used exclusively for commercial purposes in the transporting of visitors or tourists.....\$85;

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(5) a motorcycle or a motor-driven cycle.....\$20;

(6) a [TWO- OR FOUR-WHEELED] trailer not used or maintained for the transportation of persons or property for hire or for other commercial use, including, but not limited to, a boat trailer, baggage trailer, box trailer, utility trailer, [OR] house trailer, travel trailer, or a trailer rented or offered for rent.....\$ 5.

* Sec. 13. AS 28.10.495(a) is amended to read:

(a) Upon application by a disabled or medically handicapped person, or by an organization that transports disabled or medically handicapped persons, the department shall issue to the applicant, without charge, a special permit bearing the control number of the applicant. The permit issued under this section, when displayed in the front windshield of a parked or standing vehicle, shall provide for special consideration by the public with respect to the parking or standing in designated spaces of a vehicle that [WHICH] is being used for the transportation of a [THE] disabled or medically handicapped person.

* Sec. 14. AS 28.10.495(b) is amended to read:

(b) A person is not entitled to use the special permit provided for in (a) of this section except when providing transportation for a [THE] disabled or handicapped person [WITH RESPECT TO WHOM THE PERMIT WAS ISSUED]. Upon the death of a [THE] disabled or handicapped person to whom a special permit has been issued, the special permit shall be returned to the department. If an organization to which a special permit has been issued ceases transporting disabled or handicapped persons, or ceases operating, it shall return the special permit to the department.

* Sec. 15. AS 44.33.020 is amended by adding a new paragraph to read:

(C1) administer state laws relating to registration of

dealers in motor vehicles, trailers, or semi-trailers.

1
2 * Sec. 16. AS 28.05.011(10), AS 28.10.181(g) and 28.10.421(d)(6) are
repealed. *added*

3 * Sec. 17. This Act takes effect January 1, 1990.
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Alaska State Legislature

Sen. Pat Pourchot, Chairman

Sen. Jan Falke, Vice Chairman
Sen. Al Adams
Sen. Tim Kelly
Sen. Rick Uehling



P.O. Box V
State Capitol
Juneau, Alaska 99811

907-465-3712

Senate State Affairs Committee

MEMORANDUM

TO: Senate State Affairs Committee Members
FROM: Senator Pat Pourchot, Chairman
RE: February 8 Committee Hearing
DATE: February 7, 1989

On Wednesday, February 8 at 1:30 p.m. in the Beltz Room the Senate State Affairs Committee will hear the following bills:

SB 59, An Act relating to mandatory use of safety devices in motor vehicles.

SB 59 is scheduled for committee action. The bill would make failure to wear a seatbelt an infraction carrying a fine of up to \$15, and would remove the current exemption of rural areas from the child safety device requirements. A draft committee substitute that sets a maximum \$50 fine for violation of the child safety requirements is attached. Under current statute a violation could carry a fine of up to \$300; the court system's current bail schedule sets the fine at \$50.

SB 32, An Act relating to registration of vehicles owned by charitable organizations.

SB 32 would increase the annual registration fee for vehicles owned by charitable organizations. Current statute establishes a special \$5 fee for vehicles owned by municipalities or charitable organizations. SB 32 would remove charitable organizations from this category, requiring them to pay the standard registration fees.

In 1987 there were 2,481 vehicles registered by charitable organizations. Of these, 906 were passenger cars, 2 were motorcycles, 245 were non-commercial trailers, 1124 were trucks or vans, and 195 were buses. The standard fees for these classes of vehicles are \$35 for a car, \$20 for a motorcycle, \$5 for a non-commercial trailer, \$40 for a truck or van, and \$50-220 for a bus depending on its weight.

The Department of Public Safety estimates a \$82,140 increase in revenues through passage of SB 32.

SB 92, An Act relating to motor vehicles and related functions of the Department of Public Safety and Department of Commerce and Economic Development.

SB 92 would make a variety of improvements to the motor vehicle registration law. In brief, it transfers the licensing authority for motor vehicle dealers from the Department of Public Safety to the Department of Commerce, establishes a procedure for registration of interstate rental trucks and trailers, broadens the non-commercial trailer registration requirements, allows for cancellation of fraudulently obtained identification cards, eliminates the requirement that lien documents be filed with the division of motor vehicles, allows for issuance of handicap parking permits to organizations, and repeals the foreign consul license plate provisions. The Governor's transmittal letter and a sectional analysis, both of which are attached, provide information on each of these provisions.

A draft committee substitute has been prepared to correct three errors identified in the original bill. Page 9, lines 13 and 16 incorrectly indicated the current registration fees; the repeal of AS 28.10.181(g) on page 10, line 24 necessitates the repeal of AS 28.10.421(d)(6).

SB 117, An Act relating to special request university license plates.

SB 117 would authorize the Department of Public Safety to issue license plates representing the state university campuses with the letters "UAA", "UAF", or "UAS". The fee for such plates would be \$50, payable at first issuance and upon replacement. Fees would be separately accounted for and could be appropriated by the legislature for the support of programs at each campus.

In addition to "vanity" plates (\$30), current statute provides for special license plates for Pearl Harbor survivors and former prisoners of war (\$0), members of the Alaska National Guard (\$30), motor vehicle dealers (\$45), elected state officials (\$0), disabled veterans and other handicapped persons (\$0), historic vehicles (\$10), consular officers of foreign governments (\$35), amateur mobile radio station vehicles (\$0), ranchers and farmers (\$35), and Winter Olympics commemoration (\$70).

SB 137, An Act relating to commercial vehicle driver licensing.

SB 137 would bring Alaska into compliance with the Federal Commercial Motor Vehicle Safety Act (CMVSA) of 1986. The CMVSA requires that all states have a licensing system for drivers of commercial vehicles. The system must include written

and road tests for the size vehicle being operated and all drivers must be licensed by April 1, 1992. The penalty for noncompliance is the withholding of 10% of federal highway funding.

SB 137 defines "commercial vehicle" by adopting the federal standards (gross weight rating of 26,001 or more pounds, designed to transport more than 15 passengers, or transporting placarded amounts of hazardous materials) while continuing the state's tradition of less strict regulation of vehicles on roads not connected to the main highway system or to heavily-traveled roads. In addition, the definition specifically excludes farmers and firefighters, as allowed by federal law.

With passage of SB 137, the Department of Public Safety plans to begin issuing commercial vehicle operating licenses by January 1, 1991. SB 137 has a zero fiscal note. According to DPS, total implementation costs cannot be estimated at this time. Federal grant monies will be forthcoming; if supplemental state funds are needed, they will likely appear as an increment in the department's FY 91 operating budget.

Alaska State Legislature

Sen. Pat Pourchot, Chairman

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Sen. Al Adams
Sen. Tim Kelly
Sen. Rick Uehling



P.O. Box V
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Juneau, Alaska 99811

907-465-3712

Senate State Affairs Committee

MEMORANDUM

TO: Senate State Affairs Committee Members
FROM: Senator Pat Pourchot, Chairman
RE: March 8 Committee Hearing
DATE: March 7, 1989

On Wednesday, March 8 at 1:30 p.m. in the Beltz Room the Senate State Affairs Committee will hear the following bills:

SB 5, An Act amending and making effective an annuity program and amendments to the longevity bonus program and the permanent fund dividend program.

State agencies and interest groups presented testimony on SB 5 to the committee January 30; a statewide teleconference was held February 18. Wednesday's hearing will focus on a comparison of annuity programs available through the private sector with the state annuity program proposed in SB 5. Tax ramifications will also be discussed.

Representatives of several insurance companies and an accounting firm will participate by teleconference.

SB 92, An Act relating to motor vehicles and related functions of the Department of Public Safety and Department of Commerce and Economic Development.

SB 92 was heard by the committee on February 8. No particular concerns were raised at that time.

In brief, the bill makes a variety of improvements to the motor vehicle registration law. A sectional analysis and the Governor's transmittal letter, both of which are attached, provide information on each provision in the bill. A revised fiscal note indicating the transfer of funds from DPS to DCED for the motor vehicle dealer license program is also attached.

SECTIONAL ANALYSIS
SB 92 RELATING TO MOTOR VEHICLES

Sec. 1 Adds to DCED's licensing authority the regulation of motor vehicle dealers.

Sec. 2-6 Transfer the registration requirement for motor vehicle dealers from the Department of Public Safety to DCED.

Sec. 7 Authorizes DPS to cancel identification cards if it is determined they were fraudulently obtained. Provides for a possible \$100 fine for failure to return the canceled card.

Sec. 8 Authorizes DPS to suspend or revoke vehicle registration for failure to register interstate rental trucks and trailers (see sec. 9).

Sec. 9 Requires registration of interstate rental trucks and trailers. Provision applies to fleets of 10 or more vehicles. Fees would be based on the amount of time the vehicles are used in Alaska as compared to other states.

Sec. 10 Eliminates the requirement that motor vehicle lien documents be filed with the division of motor vehicles. The lienholder's name and address on the title application will serve as evidence of the lien.

Sec. 11 Broadens the non-commercial trailer registration requirement by removing the reference to "two- or four-wheeled trailers".

Sec. 12 Allows the issuance of handicap parking permits to organizations. Current law applies to individuals only.

Sec. 13 Adds to DCED's duties the administration of state laws relating to registration of motor vehicle dealers.

Sec. 14 Repealers:

AS 28.05.011(10) DPS registration of motor vehicle dealers.

AS 28.10.181(g) and AS 28.10.421(d)(6) Foreign consul license plates. The U.S. Department of State has taken over this responsibility.

Sec. 15 Effective date January 1, 1990 to allow time for the departments to get needed procedures and forms into place and to provide employee training.

FISCAL NOTE

REQUEST:

Revision Date: 03/09/89
Title: An Act relating to motor vehicles...
Sponsor: Senate Rules
Requestor: Senate State Affairs

Agency Affected: Public Safety
BRU: Motor Vehicles
Component: Vehicle Services

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	-0-	(1.5)	(3.0)	(3.0)	(3.0)	(3.0)
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	(1.5)	(3.0)	(3.0)	(3.0)	(3.0)

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	(1.5)	(3.0)	(3.0)	(3.0)	(3.0)
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	(1.5)	(3.0)	(3.0)	(3.0)	(3.0)

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

This bill contains several provisions that will improve public service and streamline procedures of DMV. Part of the bill includes the transfer of the motor vehicle dealer license program from DMV to Division of Occupational Licensing in the Department of Commerce & Economic Development. A Motor Vehicle Rep III, Range 10, currently spends approximately 3.5 hours per week on this program. 3.5 hours per week equals 1.12 months per year. $1.12 \times 2,640$ (monthly salary) = \$2,957. With the effective date of January 1, 1990, one-half year funds of what it cost DMV to administer the program are transferred in FY90, and full year funding thereafter.

Prepared by: Bill Brown
Division: Motor Vehicles

Phone: 465-4335
Date: 03/09/89

Approved by Commissioner: J.A. English
Agency: Department of Public Safety

Date: 3-9-89

FISCAL NOTE

REQUEST:

Revision Date: 02/17/89 Agency Affected: Public Safety
Title: An Act relating to motor BRU: Motor Vehicles
vehicles...
Sponsor: Senate Rules Component: Vehicle Services
Requestor: Senate State Affairs

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	-0-	(1.5)	(3.0)	(3.0)	(3.0)	(3.0)
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	(1.5)	(3.0)	(3.0)	(3.0)	(3.0)

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	(1.5)	(3.0)	(3.0)	(3.0)	(3.0)
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	(1.5)	(3.0)	(3.0)	(3.0)	(3.0)

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

This bill contains several provisions that will improve public service and streamline procedures of DMV. Part of the bill includes the transfer of motor vehicle dealer license program from DMV to Division of Occupational Licensing in the Department of Commerce & Economic Development. A Motor Vehicle Rep III, Range 10, currently spends approximately 3.5 hours per week on this program. 3.5 hours per week equals 1.12 months per year. $1.12 \times 2,640$ (monthly salary) = \$2,957. with the effective date of January 1, 1990, one-half year funds of what it cost DMV to administer the program are transferred in FY90, and full year funding thereafter.

Prepared by: Bill Brown
Division: Motor Vehicles

Phone: 465-4335
Date: 02/17/89

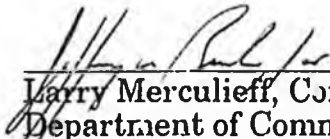
Approved by Commissioner: J. H. English
Agency: Department of Public Safety

Date: 2-17-89

SB 92: An Act relating to motor vehicles and related functions of the Department of Public Safety and Department of Commerce and Economic Development; and providing for an effective date.

The bill transfers the licensing program for dealers in motor vehicles, trailers and semitrailers from the Department of Public Safety to Centralized Licensing, AS 08.01, within the Department of Commerce and Economic Development. Sections 1-6, and 15, apply specifically to this department.

Although the program responsibilities are being transferred, no personnel support and minimal funds (\$3.0) accompany the transfer. The department supports the transfer of this licensing function. We must note, however, based on approximately 265 licensees, that the program does not support its costs through licensing fees and therefore must be supplemented by a general fund appropriation. We recommend that the fees be increased in order that the program can become self-supporting and not a drain on the general fund.


Larry Mercurieff, Commissioner
Department of Commerce and
Economic Development

Date: 3/7/89

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Commerce & Econ. Dev.
 Title: An Act relating to motor vehicles and functions of the Dept. of Public Safety. BRU: Occupational Licensing
 Sponsor: Rules Committee Components: Administration
 Requester: Governor

EXPENDITURES / REVENUES : (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	0	7.0	13.9	13.9	13.9	13.9
TRAVEL	0	.3	.6	.6	.6	.6
CONTRACTUAL	0	2.0	4.1	4.1	4.1	4.1
SUPPLIES	0	.2	.3	.3	.3	.3
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	9.5	18.9	18.9	18.9	18.9

CAPITAL	0	0	0	0	0	0
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REVENUE	0	2.5	5.4	13.3	0	13.3
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FUNDING: (Thousands of dollars)

GENERAL FUND	0	7.0	13.5	5.6	18.9	5.6
FEDERAL FUNDS						
OTHER (GF/PR)	0	2.5	5.4	13.3	0	13.3
TOTAL	0	9.5	18.9	18.9	18.9	18.9

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

See attached for explanation.

*Revenues are based on numbers provided by the Division of Motor Vehicles.

Prepared by: Jennifer Strickler, Administrative Officer Phone: 465-2144
 Division: Occupational Licensing Date: March 7, 1989

Approved by Commissioner: Larry Mercurieff, Commissioner Phone: 465-2500
 Agency: Dept. of Commerce & Economic Development Date: 3/7/89

Distribution (by preparer):

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

ANALYSIS:

*Expenditures: The transfer of the motor vehicle dealer license program to the Division of Occupational Licensing is being made without the transfer of any personnel from the Division of Motor Vehicles, Department of Public Safety, to support the transfer and therefore requires this fiscal note. The Division of Motor Vehicles is apparently transferring \$3.0 in personal services to assist in the defrayment of the cost of running the dealership licensing program.

This fiscal note is based on the assumption that once the program is placed in Occupational Licensing, the program will be responsible for a portion of the administrative costs of the division. Information obtained regarding the motor vehicle dealer license program indicates that there are approximately 650 licensees; however, many are inactive. This fiscal note is therefore based on 265 current licensees, as provided by the Division of Motor Vehicles. Based on 265 licensees, motor vehicle dealers will be responsible to cover .097% of the division's administrative costs in FY 90. The .097% is derived by dividing the anticipated number of licensees (265) by the total number of licensees (27,210), not including business licensing. Only half of the anticipated costs are shown for FY 90 since transfer of the motor vehicle dealer license program is not expected to occur until January 1, 1990.

*Revenues: In FY 90, approximately 50 motor vehicle dealer licensees are anticipated to renew their biennial license. Based on a biennial license/renewal fee of \$50, revenues collected will total \$2.5 (50 x \$50) in the first year. This will require \$7.0 to be supplemented by general funds.

In FY 91, the division will renew the remaining 215 licensees for a one year period only, in order to place all motor vehicle dealer renewals on the same biennial cycle, to parallel the biennial renewal scheme followed by all other licensing areas administered by the division. Therefore, 215 licensees are expected to be renewed for one year (215 x \$25), totaling \$5.4. FY 91 will require a general fund supplemental of \$13.5.

Effective in FY 92, all licensees will be placed on the same biennial renewal cycle. The 265 licensees to be renewed in FY 92 is anticipated to generate \$13.3 in licensing fees (265 x \$50). This year will require a general fund supplemental of \$5.6.

During the nonrenewal years, the program must be supplemented entirely by general funds.

Licensing fees will have to be reassessed for possible increase in order for the program to be supported by its fees. An increase in the licensing fee to \$100 every two years will cover the expense of the program and not require a general fund appropriation.



592

STATE OF ALASKA
| OFFICE OF THE GOVERNOR
JUNEAU

January 9, 1989

The Honorable Tim Kelly
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Kelly:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to motor vehicles and related functions of the Department of Public Safety (DPS) and the Department of Commerce and Economic Development (DCEd), which makes a number of needed changes in state law.

The bill contains several provisions that the division of motor vehicles, in DPS, believes will improve its service to the public or streamline its procedures. A section-by-section description of the bill follows.

Sections 1 -- 6 and 13 of the bill would require motor vehicle dealers to register with DCEd rather than with DPS. Existing law (AS 08.66.010 -- 08.66.090) requires a dealer in motor vehicles, trailers, or semi-trailers to register with DPS. The dealer is required to pay fees and post a bond. However, the licensing of a business, even one dealing with motor vehicles, is a more appropriate function of DCEd. That department has the staff and expertise to provide appropriate clerical and administrative support, in addition to enforcement and compliance personnel. The division of motor vehicles, in DPS, has no enforcement or compliance personnel in this area, and provides only limited clerical support for this program. Transfer of the registration requirement would also be more convenient for the dealers, who already are required to obtain a business license from the Department of Commerce and Economic Development. Transfer of this function would also free up motor vehicles personnel to perform other tasks more directly related to vehicle and operator licensing functions.

Section 7 of the bill provides for the cancellation of identification cards issued under AS 18.65.310. The present law does not authorize DPS to cancel the card if it is later determined that it should not have been issued due to fraud or for some other reason. Identification cards are becoming more and more popular, and fraudulently obtained cards are becoming more common. The department needs statutory authority to cancel those cards under appropriate circumstances. This section also provides for a possible \$100 fine for failure to return a cancelled card to DPS.

Sections 8 and 9 provide for the registration of interstate rental trucks and trailers. Alaska statutes do not address the issue of registration of trucks or trailers involved in an interstate rental business. Before 1984, there was no need for this type of legislation because no company offered this type of service to Alaska. However, in the past five years two major companies have started rental operations in the state. These companies typically offer one-way rentals of both trucks and trailers, and during a typical year the vehicles might operate in a number of different states. The entire rental fleet is very mobile and the vehicles are not based in any one state. The time or miles spent in any state by any particular vehicle would be difficult to calculate, as these vehicles are used in uncontrolled private applications.

Unlike most other states, Alaska does not have a statute that allows registration of this type of vehicle other than on a full commercial vehicle basis. Paying full fees each time a new vehicle comes into the state for a short period would be overly burdensome and could possibly eliminate a valuable commercial service. To avoid this result, the division of motor vehicles has entered into agreements with interstate rental companies to register and pay fees on a fair share of their total fleet. There is no clearly defined authority for these agreements, however, and they are entirely voluntary.

The statutory scheme in this bill is similar to that used in most other states, and would allow a firm engaged in interstate vehicle rental business to register and pay fees in Alaska on a fair proportion of its vehicle fleet.

Section 10 eliminates the requirement that motor vehicle lien documents be filed with the division of motor vehicles. When a person applies for a vehicle title in Alaska, current AS 28.10.381 requires that a copy of the document creating or evidencing a lien be filed with DPS. This requirement serves no useful purpose for the state or the public, and should be eliminated. There is no standard or legal requirement for the format of a lien document, so each one must be reviewed carefully as the vehicle title is processed; this delays processing. The additional document also increases

microfilm costs. If the requirement to submit the lien document were eliminated, the same amount of protection could be afforded to both the public and lienholders by having the lienholder's name and address on the title application serve as evidence of the lien. Applicants are acknowledging the lien by signing the application under penalty of perjury. Most other states are successfully using this system. Adoption of this amendment would free up staff time that could be devoted to other areas.

The amendments in sec. 11 allow for registration of a broader range of non-commercial trailers. Current AS 28.10.421(b) allows only two- and four-wheeled trailers to be registered in the non-commercial category. Travel trailers with six wheels are becoming increasingly common. One-wheel trailers are also still marketed. A common-sense policy dictates that these non-commercial one- and six- (or more) wheeled trailers be registered on the same basis as the two- and four-wheeled trailers.

Section 12 allows the issuance of handicap parking permits to organizations. Current AS 28.10.495 allows issuance of a special permit to a disabled or medically handicapped person. The permit, when displayed in the front windshield of a motor vehicle, allows the use of designated parking spaces. The permit is intended for those handicapped individuals who are transported by others in vehicles that do not have a handicap license plate.

As currently written, the statute only allows issuance of the permit to an individual; however, there are many organizations that transport disabled or handicapped persons. The amendments in sec. 12 authorize the issuance of permits to these organizations, allowing them to use special parking spaces.

Section 14 provides two needed repeals. The first is of AS 28.05.011(10), which relates to DPS registration of motor vehicle, trailer, and semi-trailer dealers. That function is transferred to the Department of Commerce and Economic Development by secs. 1 -- 6 of the bill.

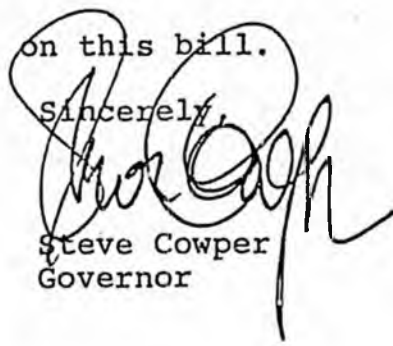
In addition, sec. 14 repeals the current law creating "foreign consul" license plates. AS 28.10.181(g) allows the state to issue special license plates for vehicles owned by a consular office of a foreign government. In Alaska only two consular offices are truly official foreign missions: the Japanese and Korean missions. There are several other "honorary" consuls in the state, however, and consular plates have been issued to them in the past.

The United States Department of State, Office of Foreign Missions, through the Diplomatic Motor Vehicle Office, is now responsible for issuing drivers' licenses, motor vehicle registrations, and license plates to qualified, accredited foreign mission personnel and their family members throughout the country. The State Department has asked Alaska to stop issuing consular plates to "honorary consuls." With the State Department issuing all required driver and motor vehicle licenses for official consular officers, AS 28.10.-181(g) is unnecessary, and should be repealed.

Finally, sec. 15 provides for an effective date of January 1, 1990. Because this bill relates to a large number of functions of the Department of Public Safety, the most convenient effective date is the beginning of the calendar year. This will allow the department time to get needed procedures and forms into place, and to train personnel around the state.

I urge your favorable action on this bill.

Sincerely,



Steve Cowper
Governor

OLDMV.TXT

Pat,

You asked how any of these bills relate to your vehicle registration bill passed in 1987. That bill did 3 things:

- 1) Shorten length of time nonresident, noncommercial vehicle is exempt from state registration requirements
- 2) Eliminate distinction between resident and nonresident commercial vehicles for purposes of registration
- 3) Limit the exemption from normal registration to short-term, one-way unladen commercial vehicles

It doesn't appear that anything in the bills we're considering addresses or affects any of these issues.

Sandra

SB 92 RELATING TO MOTOR VEHICLES AND RELATED FUNCTIONS OF
DEPT. PUBLIC SAFETY AND DEPT. OF COMMERCE

NOTIFIED

BILL BROWN, DIV. MOTOR VEHICLES

Linda Wild , DEPT. COMMERCE

F.Y.I.

STATE AFFAIRS C.S. CORRECTS 3 DRAFTING ERRORS POINTED OUT BY THE DEPT. THE VERSION OF THE STATUTE THAT MIKE FORD USED IN DRAFTING THE BILL HAD ACTUALLY BEEN PRINTED INCORRECTLY. THE STATUTE HAS NOW BEEN CORRECTED; C.S. MAKES THE CORRESPONDING CHANGES:

PAGE 9, LINES 21 AND 25

PAGE 11, LINE 2

WE HEARD FEB. 8. QUESTIONS WERE ASKED ABOUT HANDICAP PERMITS TO ORGANIZATIONS AND LICENSING OF INTERSTATE TRAILERS (I.E. U-HAUL) -- BOTH SEEMED SATISFACTORILY ANSWERED.

QUESTION ALSO WAS ASKED ABOUT TRANSFER OF MOTOR VEHICLE DEALER LICENSING FROM D.M.V. TO D.C.E.D. -- IS TO IMPROVE SERVICE SINCE DEALERS ALREADY GO TO D.C.E.D. FOR THEIR BUSINESS LICENSE.

NEW FISCAL NOTE HAS BEEN PREPARED THAT INDICATES A TRANSFER OF \$3,000 FROM D.M.V. TO D.C.E.D. FOR THE PROGRAM. THIS REFLECTS D.M.V.'S COST FOR THE PROGRAM (A RANGE 10 SPENDS 3.5 HOURS A WEEK). HOWEVER, UNDER DIV. OCCUPATIONAL LICENSING'S SCHEME OF LICENSE FEES PAYING ADMINISTRATIVE COSTS, THEY CALCULATE THE PROGRAM COST TO BE \$18,900/YR.

CURRENT LICENSE FEE OF \$50 BIENNIALLY (AS 08.66.020) WILL NOT GENERATE ENOUGH MONEY (BASED ON 265 LICENSEES). OCCUPATIONAL LICENSING PLANS TO REASSESS FEES FOR POSSIBLE INCREASE TO \$100 BIENNIALLY.

→ DEED will bring amendment today
(they thought fee was in regulation, as is typical for licensing fees just realized that increasing it would require statute change)

Amendment options:

- statutory increase to \$100

- specify fee will be set in regulation

SB 92, RELATING TO MOTOR VEHICLES AND RELATED FUNCTIONS OF THE
DEPT. OF PUBLIC SAFETY AND DEPT. OF COMMERCE

TO TESTIFY:

BILL BROWN, DEPT. PUBLIC SAFETY (GAIL HORETSKI)

OTHERS (SEE WITNESS LIST)

F.Y.I.

C.S. REQUESTED BY D.P.S. TO MAKE 3 CORRECTIONS. THIS GAVE OUR
LEGAL DIVISION (MIKE FORD) THE EXCUSE TO MAKE MANY REVISIONS
NECESSARY FOR THE BILL TO CONFORM TO LEGISLATIVE LEGAL'S DRAFTING
STYLE VS. THE A.G.'S DRAFTING STYLE. WE ARE STILL WAITING FOR
THE C.S....

OH OH -- THE OLD "WE'LL FIX IT IN FINANCE COMMITTEE" APPROACH.
D.C.E.D. FISCAL NOTE NEEDS REVISION. UNDER THE BILL, THE
FUNCTION OF LICENSING MOTOR VEHICLE DEALERS IS TRANSFERRED FROM
D.P.S. TO D.C.E.D. THE FISCAL NOTE WE HAVE ASSUMES THAT NO STAFF
OR FUNDS WILL BE TRANSFERRED. NEGOTIATIONS BETWEEN THE TWO
AGENCIES ON THE TRANSFER OF STAFF/FUNDS HAVE JUST BEEN COMPLETED,
AND WILL ALLOW FOR A REDUCED FISCAL NOTE. LINDA WILD (D.C.E.D.)
SAYS THEY DON'T HAVE TIME TO CORRECT THE FISCAL NOTE IN TIME FOR
OUR MEETING, BUT WILL TAKE CARE OF IT WHEN THE BILL GETS TO
FINANCE. D.C.E.D. WILL NOT BE PRESENT AT OUR MEETING -- D.P.S.
IS TO HANDLE THIS BILL FOR THE ADMINISTRATION. (AN ADDITIONAL
REDUCTION IN THE FISCAL NOTE WILL BE MADE BECAUSE OF A MORE
ACCURATE ESTIMATE OF THE NUMBER OF MOTOR VEHICLE DEALERS.)

STATE OF ALASKA

DEPARTMENT OF PUBLIC SAFETY

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

P.O. BOX N
JUNEAU, ALASKA 99811-1200
PHONE: 465-4322

February 1, 1989

The Honorable Pat Pourchot
Chair, State Affairs Committee
Alaska State Senate
P.O. Box V
Juneau, AK 99811

has

Draft CS
with these changes
has been prepared.

Re: SB 92
Motor Vehicle Laws

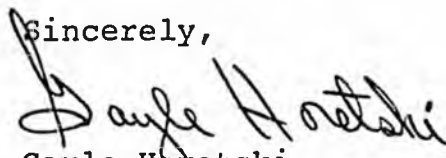
Dear Senator Pourchot:

A review of SB 92, an act relating to motor vehicles, has revealed a couple of drafting errors which should be corrected. On page 9, line 13, the present fee should be shown as \$35 instead of \$30, and on line 16, the fee should be \$40 instead of \$35. If this change is not made, the bill would reduce the present registration fee for passenger cars and non-commercial pickups and vans by \$5. This would result in an annual revenue loss to the State of over one and one-half million dollars, which was definitely not the intent of this bill.

The fees described above, along with other registration fees, were increased by \$5 each in Chapter 60, SLA 1986. However, when The Michie Company printed the cumulative supplement to the Alaska Statutes the fees for these two classes of vehicles were not changed. Thus, when SB 92 was drafted, the drafter was working with an incorrect version of the statute. The Michie Company has recently published an addendum to correct the error in the statute books.

We apologize for our failure to catch this error during our review of the draft bill, and hope that the oversight can be corrected during your committee's consideration of the bill. Please let me know if any further information is needed.

Sincerely,



Gayle Horetzki
Deputy Commissioner

cc: Shari Kochman
Legislative Staff Assistant
Office of the Governor

SCHEDULING REQUESTED 1-9-89

Introduced: 1/9/89
Referred: State Affairs, Labor and Commerce
and Finance

go00289s

Dept. calls this "streamlining" + "clean up" In brief:

- 1) transfers registration of motor vehicle dealers from DPS to DCED
- 2) allows DPS to cancel ID cards in case of fraud (ID card looks like driver's license but is stamped ID only)
- 3) authorizes registration of interstate rental trucks (DPS currently enters into agreements with rental companies, but has no statutory authority to do so + agreements are voluntary)
- 4) allows for registration of broader range of non-commercial trailers (currently 2 + 4-wheel trailers only; there are also 1 and 6-wheels) BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR
- 5) allows handicapped parking permits to be issued to organizations (current law is to individuals only) SENATE BILL NO. 92
- 6) eliminates requirement that "lienholder documents" be filed with DPS - will simply state lienholder's name on title (which is signed under penalty of perjury) IN THE LEGISLATURE OF THE STATE OF ALASKA SIXTEENTH LEGISLATURE - FIRST SESSION
- 7) repeals authority to issue "foreign consul" license plates (at request of Fed. gov't, who has assumed this task) A BILL

6 For an Act entitled: "An Act relating to motor vehicles and related
7 functions of the Department of Public Safety and
8 Department of Commerce and Economic Development; and
9 providing for an effective date."

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

11 * Section 1. AS 08.01.010 is amended by adding a new paragraph to read:

12 (31) regulation of motor vehicle dealers under AS 08.66.

13 * Sec. 2. AS 08.66.010 is amended to read:

14 Sec. 08.66.010. DEALERS TO REGISTER. A dealer in motor vehi-
15 cles, trailers, or semi-trailers shall, as a condition to engaging in
16 business in the state, register biennially with the department [DE-
17 PARTMENT OF PUBLIC SAFETY].

18 * Sec. 3. AS 08.66.030 is amended to read:

19 Sec. 08.66.030. FORM OF APPLICATION. The department [DEPARTMENT
20 OF PUBLIC SAFETY] shall prescribe and furnish the form of application
21 for dealer registration. The application shall contain

- 22 (1) the name under which the business is conducted;
- 23 (2) the location of business;
- 24 (3) the name and address of all persons having an interest
- 25 in the business, and in the case of a corporation the application
- 26 shall contain the name and address of the two principal officers;
- 27 (4) the name and make of all vehicles handled;
- 28 (5) whether or not used vehicles are handled;
- 29 (6) a statement that the applicant is a bona fide dealer in

1 motor vehicles, trailers, or semi-trailers with an established busi-
2 ness at the location given;

3 (7) other information the department [DEPARTMENT OF PUBLIC
4 SAFETY] requires to administer this chapter.

5 * Sec. 4. AS 08.66.040 is amended to read:

6 Sec. 08.66.040. FILING APPLICATION FOR REGISTRATION. The appli-
7 cation shall be filed with the department [DEPARTMENT OF PUBLIC SAFE-
8 TY]. Upon receipt of the application the department shall examine it
9 and may make an investigation of the information in it. If the de-
10 partment is satisfied that the dealer is entitled to registration, and
11 the fees have been paid and a bond filed, the department shall assign
12 a distinctive registration number to the dealer and file the dealer's
13 application and index it alphabetically and numerically. A dealer is
14 registered when the department assigns a registration number.

15 * Sec. 5. AS 08.66.060 is amended to read:

16 Sec. 08.66.060. BOND. (a) Every applicant for dealer registra-
17 tion or for renewal of dealer registration shall file with the appli-
18 cation or request for renewal, and shall maintain in force while
19 registered, a bond in favor of the state, executed by an authorized
20 corporate surety approved by the commissioner [OF PUBLIC SAFETY], in
21 the amount of \$10,000, except that a dealer who sells only motorcycles
22 shall maintain in force while registered a bond in favor of the state,
23 executed and approved in the same manner as bonds required of other
24 dealers under this section, in the amount of \$3,000. Instead of a
25 corporate surety bond the commissioner may, in the commissioner's sole
26 discretion, accept a bond in the same amount with at least two indi-
27 vidual sureties, each justifying with real property in twice the
28 amount of the bond. The commissioner shall make the investigation
29 necessary to determine the actual financial responsibility of the

1 individual sureties. The condition of the bond shall be that the
2 applicant will conduct business in accordance with this chapter and
3 will not commit fraud or make fraudulent representations in the course
4 of business.

5 (b) The bond shall be filed in the office of the commissioner
6 [OF PUBLIC SAFETY]. A surety may cancel the bond upon 30 days advance
7 notice in writing filed with the commissioner. However, cancellation
8 does not relieve a surety of liability arising on the bond from a sale
9 made by the bonded dealer before cancellation or a liability which has
10 accrued upon the bond before cancellation. The commissioner shall
11 retain the cancelled bond on file and may not relieve a surety of a
12 liability arising before cancellation.

13 * Sec. 6. AS 08.66.090 is amended to read:

14 Sec. 08.66.090. DEFINITIONS [DEALER DEFINED]. In this chapter

15 (1) "commissioner" means the commissioner of commerce and
16 economic development;

17 (2) "dealer" means a person or an agent, broker or sales-
18 man or a person who is engaged in, selling or dealing in new or
19 used motor vehicles, trailers, or semi-trailers in the state; and

20 (3) "department" means the Department of Commerce and
21 Economic Development.

22 * Sec. 7. AS 18.65 is amended by adding a new section to article 3
23 read:

24 Sec. 18.65.320. CANCELLATION OF IDENTIFICATION CARD. (a) The
25 department shall cancel an identification card if the person to whom
26 the card was issued failed to give the required or correct information
27 in the person's application. Nothing in this section prohibits reap-
28 plication by the person or reissuance of the identification card.

29 (b) A person whose identification card has been cancelled shall

1 return the card to the department. Failure to return a cancelled card
2 within 10 days after receiving notice of the cancellation is a vio-
3 lation punishable by a fine of up to \$100.

4 * Sec. 8. AS 28.10.051 is amended to read:

5 Sec. 28.10.051. DEPARTMENT MAY SUSPEND OR REVOKE REGISTRATION.

6 The department may suspend or revoke the registration of a vehicle,
7 the certificate of registration or registration plates for a vehicle,
8 or a special permit when

9 (1) the department determines that the registration or
10 certificate, plate or permit was fraudulently procured or erroneously
11 issued;

12 (2) the department determines that a registered vehicle is
13 mechanically unsafe to be driven or moved on a highway, vehicular way
14 or area, or other public property in this state and the vehicle has
15 been seized or impounded under (AS 28.05.091;)

16 (3) a registered vehicle has been scrapped, dismantled or
17 destroyed beyond repair;

18 (4) the department determines that a required fee or tax
19 has not been paid and the fee or tax is not paid upon reasonable
20 notice and demand;

21 (5) a registration plate, permit, or certificate is know-
22 ingly displayed upon a vehicle other than the vehicle for which is-
23 sued;

24 (6) the department determines that the owner of a vehicle
25 has committed an offense under this chapter involving the registration
26 or the certificate, plate, or permit to be suspended or revoked;

27 (7) the vehicle has been reported to the department as
28 stolen or unlawfully converted; [OR]

29 (8) the department is otherwise required to do so under the

1 laws of this state; or

2 (9) the department determines that the owner of a vehicle
3 has violated the requirements of AS 28.10.146 or 28.10.147.

4 * Sec. 9. AS 28.10 is amended by adding new sections to read:

5 Sec. 28.10.146. REGISTRATION OF INTERSTATE RENTAL TRUCKS. (a)

6 Notwithstanding any other registration requirement of this chapter,
7 the owner or authorized representative of a fleet of 10 or more rental
8 trucks shall register that number of trucks which represents a certain
9 proportion of the total fleet in this state, and shall pay the fees
10 and taxes required by this chapter. The proportion required to be
11 registered is determined by dividing the total number of miles that
12 all trucks in the rental fleet operated in this state, during a calen-
13 dar year or other period established by the department by regulation,
14 by the total number of miles that all trucks in the rental fleet
15 operated in all states and the District of Columbia during that peri-
16 od.

17 (b) When applying for registration of trucks as required in (a)
18 of this section, the owner or authorized representative of the rental
19 fleet shall file with the department a certified report containing
20 verifiable data, reporting

21 (1) the total number of miles operated by all of the trucks
22 in the rental fleet in all jurisdictions during the preceding calendar
23 year or other period specified by the department;

24 (2) the total number of miles operated in this state by all
25 of the trucks in the rental fleet during the preceding calendar year
26 or other period specified by the department; and

27 (3) other information pertinent to vehicle registration as
28 the department may require.

29 (c) An owner or authorized representative whose application for

*Same
sys*

1 registration under this section has been accepted by the department
2 shall preserve the records on which the application was based for a
3 period of four years following the period upon which the application
4 was based. Upon request of the department, the owner or authorized
5 representative shall

6 (1) provide these records to the department for audit as to
7 the accuracy of reported information and the correct computation and
8 payment of fees and taxes; or

9 (2) pay the cost of such an audit by a representative of
10 the department at the place where the records are kept by the owner.

11 (d) After registration of, and payment of fees and taxes for,
12 the number of trucks required to be registered under (a) of this
13 section, all trucks identified as part of the rental fleet, and cur-
14 rently registered in any state or in the District of Columbia, may
15 operate in this state.

16 (e) If the department determines that the owner or authorized
17 representative of the fleet should have registered more trucks in this
18 state under the provisions of this section, the department may suspend
19 or revoke the registrations previously issued, and may deny future
20 registration of the fleet under (a) of this section, until the addi-
21 tional trucks have been registered. If registration of the rental
22 fleet under (a) of this section has been suspended, revoked, or denied
23 by the department, all trucks in the fleet present at any time in the
24 state must be registered under applicable Alaska law.

25 (f) Fees and taxes paid under this section do not satisfy or
26 offset other fees and taxes levied by the state or jurisdictions
27 within the state in connection with the ownership or operation of
28 rental trucks.

29 (g) As used in this section, "rental truck" means a truck that

1 is rented or offered for rent without a driver.

2 Sec. 28.10.147. REGISTRATION OF INTERSTATE RENTAL TRAILERS. (a)
3 Notwithstanding any other registration requirement of this chapter,
4 the owner or authorized representative of a fleet of 10 or more rental
5 trailers shall register the average number of trailers present in this
6 state, and shall pay the fees and taxes required by this chapter. The
7 average number of trailers is calculated as the total number of trail-
8 ers in the fleet which have been present at any time in the state
9 during a calendar year or other period established by the department
10 by regulation, divided by the number of calendar months in the period.

11 (b) When applying for registration of trailers as required in
12 (a) of this section, the owner or authorized representative of the
13 rental fleet shall file with the department a certified report con-
14 taining verifiable data as to the average number of trailers operating
15 in or through this state for the previous calendar year or other
16 period specified by the department.

17 (c) An owner or authorized representative whose application for
18 registration under this section has been accepted by the department
19 shall preserve the records on which the application was based for a
20 period of four years following the period upon which the application
21 was based. Upon request of the department, the owner or authorized
22 representative shall

23 (1) make these records available to the department at its
24 office for audit as to the accuracy of the number of vehicles reported
25 and the correct computation and payment of fees and taxes; or

26 (2) pay the cost of such an audit by a representative of
27 the department at the place where the records are kept by the owner.

28 (d) After registration of, and payment of fees and taxes for,
29 the number of trailers required to be registered under (a) of this

1 section, all trailers identified as part of the rental fleet, and
2 currently registered in any state or in the District of Columbia, may
3 operate in this state.

4 (e) If the department determines that the owner or authorized
5 representative of the fleet should have registered more trailers in
6 this state under the provisions of this section, the department may
7 suspend or revoke the registrations previously issued, and may deny
8 future registration under (a) of this section, until the additional
9 trailers have been registered. If registration under (a) of this
10 section has been suspended, revoked, or denied by the department, all
11 trailers in the fleet present at any time in the state must be duly
12 registered under applicable Alaska law.

13 (f) Fees and taxes paid under this section do not satisfy or
14 offset other fees and taxes levied by the state or jurisdictions
15 within the state in connection with the ownership or operation of
16 rental trailers.

17 (g) As used in this section, "rental trailer" means a trailer
18 that is rented or offered for rent for personal use, not for the
19 transportation of persons or property for hire or other commercial
20 use, and includes a boat trailer, baggage trailer, box trailer, utili-
21 ty trailer, house trailer, or travel trailer.

22 * Sec. 10. AS 28.10.381 is repealed and reenacted to read:

23 Sec. 28.10.381. FILING A SECURITY INTEREST. (a) A security
24 interest in a vehicle may be filed by delivering to the department

25 (1) a manufacturer's certificate of origin or an existing
26 certificate of title;

27 (2) an application for a new certificate of title, signed
28 by the registered owner and containing the name and address of any
29 lienholder and the date of the lienholder's security interest;

- 1 (3) applicable filing fees required by law; and
2 (4) other documents or information required by the depart-
3 ment.

4 (b) Upon approval of the application, the department shall send
5 to the person holding a lien or other encumbrance a new certificate of
6 title which displays the name of the owner, and indicating the exist-
7 tence of the lien or other encumbrance.

8 * Sec.11. AS 28.10.421(b) is amended to read:

9 (b) The annual registration fees under this subsection are
10 imposed within the following classifications for:

11 (1) a passenger vehicle or motor home not used or main-
12 tained for the transportation of persons or property for hire or for
13 other commercial use.....\$30;

14 (2) a pick-up truck or a van not exceeding 6,000 pounds
15 unladen weight and not used or maintained for the transportation of
16 persons or property for hire or for other commercial use.....\$35;

17 (3) a taxicab.....\$70;

18 (4) a motor bus with a seating capacity for 20 or more
19 persons and used exclusively for commercial purposes in the transport-
20 ing of visitors or tourists.....\$85;

21 (5) a motorcycle or a motor-driven cycle.....\$20;

22 (6) a [TWO- OR FOUR-WHEELED] trailer not used or maintained
23 for the transportation of persons or property for hire or for other
24 commercial use, including, but not limited to, a boat trailer, baggage
25 trailer, box trailer, utility trailer, [OR] house trailer, travel
26 trailer, or a trailer rented or offered for rent.....\$ 5.

27 * Sec. 12. AS 28.10.495 is amended to read:

28 Sec. 28.10.495. PARKING PERMIT FOR VEHICLE TRANSPORTING DISABLED
29 PERSON. (a) Upon application by a disabled or medically handicapped

1 person, or by an organization that transports disabled or medically
2 handicapped persons, the department shall issue to the applicant,
3 without charge, a special permit bearing the control number of the
4 applicant. The permit issued under this section, when displayed in
5 the front windshield of a parked or standing vehicle, shall provide
6 for special consideration by the public with respect to the parking or
7 standing in designated spaces of a vehicle that [WHICH] is being used
8 for the transportation of a [THE] disabled or medically handicapped
9 person.

10 (b) A person is not entitled to use the special permit provided
11 for in (a) of this section except when providing transportation for a
12 [THE] disabled or handicapped person [WITH RESPECT TO WHOM THE PERMIT
13 WAS ISSUED]. Upon the death of a [THE] disabled or handicapped person
14 to whom a special permit has been issued, the special permit shall be
15 returned to the department. If an organization to which a special
16 permit has been issued ceases transporting disabled or handicapped
17 persons, or ceases operating, it shall return the special permit to
18 the department.

19 (c) Proof of disablement or medical handicap, for the purpose of
20 this section, shall be provided as specified in AS 28.10.181(d).

21 * Sec. 13. AS 44.33.020 is amended by adding a new paragraph to read:

22 (31) administer state laws relating to registration of
23 dealers in motor vehicles, trailers, or semi-trailers.

24 * Sec. 14. AS 28.05.011(10) and AS 28.10.181(g) are repealed.

25 * Sec. 15. This Act takes effect January 1, 1990.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to motor vehicles...
Sponsor: Rules
Requestor: Governor

Agency Affected: Public Safety
BRU: Division of Motor Vehicles
Component: _____

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

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	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS : (Attach a separate page if necessary)

This bill contains several provisions that will improve public service and streamline procedures of the division. Major subjects of the bill include registration of motor vehicle dealers, cancellation of ID cards, registration of interstate rental vehicles, eliminating unnecessary lien documents, expanding the range of non-commercial trailers for registration, issuing handicap parking permits, and repealing provisions for foreign consul license plates.

Passage of this bill will streamline present procedures within the division, but will not have any direct fiscal impact.

Prepared by: Jay N. Dulany, Director
Division: Motor Vehicles

Phone: 269-5551
Date: 11-23-88

Approved by Commissioner: A.H. English
Agency: Department of Public Safety

Date: 12-2-88

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Commerce & Economic Dev.
 Title: An Act relating to motor vehicles BRU: Occupational Licensing
and functions of the Dept. of Public Safety...
 Sponsor: Rules Committee Components: Administration
 Requestor: Governor

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		23.7	23.7	23.7	23.7	23.7
TRAVEL		.6	.6	.6	.6	.6
CONTRACTUAL		7.0	7.0	7.0	7.0	7.0
SUPPLIES		.3	.3	.3	.3	.3
EQUIPMENT		6.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		37.6	31.6	31.6	31.6	31.6
CAPITAL						

REVENUE	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
		16.3	8.1	32.5	0	32.5

FUNDING: (Thousands of Dollars)

GENERAL FUND		21.3	23.5			
FEDERAL FUNDS						
OTHER PR/GF		16.3	8.1	31.6	31.6	31.6
TOTAL		37.6	31.6	31.6	31.6	31.6

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See attached for explanation.

*Revenues are based on approximate numbers. These numbers will be revised upon receipt of actual numbers from Div. of Motor Vehicles in late December.

Prepared by: Jennifer Strickler, Admin. Officer Phone: 465-2144
 Division: Occupational Licensing Date: November 25, 1988

Approved by Commissioner: Larry Metcullieff Date: 11/25/88
 Agency: Commerce and Economic Development

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

CONTINUATION OF FISCAL NOTE ANALYSIS

SB 92 (b)
1/9/89

For Bill/Resolution No. _____

The transfer of the motor vehicle dealer license program to the Division of Occupational Licensing is being made without the transfer of personnel or Department of Motor Vehicle funds to support the transfer and therefore requires a fiscal note. The fiscal note is based on a proportion of personnel and supporting costs which the program can be expected to require, based on a percentage of motor vehicle dealer licensees. Information obtained regarding the motor vehicle dealer license program indicates that there are approximately 650 current licensees, or approximately half renew each year.

*Revenues: In FY 90, approximately 325 motor vehicle dealer licensees are anticipated to renew their biennial license. Based on a biennial renewal fee of \$50, revenues collected will total \$16.3 (325 x 50) in the first year. This will require \$21.3 to be supplemented by general funds.

In FY 91, the division will renew the remaining 325 licensees for a one year period only, in order to place all motor vehicle dealer renewals on the same biennial cycle, to parallel the biennial renewal scheme followed by all other licensing areas administered by the division. Therefore, 325 licensees are expected to be renewed for one year (325 x \$25), totalling \$8.1. This year will require a general fund supplement of \$23.5.

Effective in FY 92, all licensees placed on the same biennial renewal cycle with the licenses to be renewed in FY 92 generating \$32.5 in licensing fees (650 x \$50), sufficient to support the motor vehicle licensing program with program receipts. As with all the other division biennial renewals, the expenses incurred by the motor vehicle dealer program during FY 93 (a non-renewal year) will be covered by other occupations renewing in that year.

S B

94

SENATE STATE AFFAIRS COMMITTEE

BILL NUMBER SB 94

SPONSOR Governor

BILL TITLE Limiting liability for Nat'l. Guard activities

DATE REFERRED 1-9-89

HEARING SCHEDULED 1-23-89

FISCAL NOTE PREPARED ✓

SPONSOR CONTACTED

[50.0]
✓(DMVA)

INTERESTED PARTIES CONTACTED

✓ Jeff Morrison, DMVA x4600
DMVA "expert" Attorney Gary Bowen (Anch)

← Teleconference
Hark-up
345-3609

OTHER NO record of anyone testifying prior to hearings
except DMVA

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE 1-19-89
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER JUDICIARY

**FISCAL NOTE(S) MUST BE ATTACHED
IN ACCORDANCE WITH AS 24.08.035

DATE TURNED INTO OFFICE 1-23-89

1/9/89

Mr. President:

STATE AFFAIRS Committee considered SB 94

limiting liability for certain activities of the Alaska National Guard

and recommended:

replace with CS _____ same title

attached amendment(s) and new title

_____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

FISCAL NOTE(S) attached zero

fiscal impact

appropriation no FN attached

Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Col Adams

John Smith

Tim Kelly

Pat [Signature]
Chairman signature and recommendation

Committee backup attached

SB94POOP.TXT

SB 94 LIMITING LIABILITY FOR ACTIVITIES OF THE ALASKA
NATIONAL GUARD

TO TESTIFY:

JEFF MORRISON, DEPT. MILITARY AND VETERANS AFFAIRS

Maj. GARY BOWEN, DEPT. MILITARY AND VETERANS AFFAIRS (TELECONFERENCE)

OTHERS (SEE WITNESS LIST)

FYI:

SAME BILL WAS INTRODUCED LAST YEAR. ACCORDING TO D.M.V.A. NOBODY BUT THEM EVER TESTIFIED ON IT. BILL DIED IN SUND'S JUDICIARY COMMITTEE -- D.M.V.A. IS NOT SURE WHY, BUT SUSPECTS IT GOT CAUGHT UP IN THE TORT REFORM DEBATE.

QUESTION: WILL THIS BILL DISENFRANCHISE CLAIMANTS? WHY, IF FEDERAL REMEDIES ARE AVAILABLE, WOULD ANYONE FILE AGAINST THE STATE?

ANSWER, PER D.M.V.A.: WITHOUT THIS BILL, A CLAIMANT COULD PURSUE BOTH A FEDERAL AND STATE REMEDY AND ACHIEVE A DOUBLE RECOVERY.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 9, 1989

The Honorable Tim Kelly
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Kelly:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to liability immunity of the state, its employees and agents, and members of the Alaska National Guard.

While training or on duty under federal mandate, the state national guards are performing a United States Government activity. Nevertheless, there have been occasions in which states, rather than the United States, have been exposed to tort liability for injuries or damage resulting from federally mandated guard activities.

In 1981, Congress amended 28 U.S.C. 2671 by adding to the definition of "employees of the government" members of the National Guard while training or on duty under federal order under 32 U.S.C. The effect of this amendment was to clarify that the United States considers the Guard as a federal function during 32 U.S.C. activities and that claims for injuries resulting from such activities could be pursued under the Federal Tort Claims Act, 28 U.S.C. 2671 et seq. In spite of this change in the law, there are rare occasions when the state remedy is preferred by an injured third party, who consequently will file a claim for damages in state court on the basis of state law. This bill will prevent suits of this nature, and assure that persons injured or property damaged as a result of federally mandated and controlled Guard activities will be required to seek damages from the United States Government. Existing worker's compensation coverage of guardsmen will not be affected by this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper".

Steve Cowper
Governor

STATE OF ALASKA

DEPARTMENT OF MILITARY AND VETERANS AFFAIRS

OFFICE OF THE ADJUTANT GENERAL

STEVE COWPER, GOVERNOR

FRONTIER BUILDING
SUITE 120
3601 C STREET
ANCHORAGE ALASKA 99503 5989
PHONE (907) 243 0656
AUTOVON 626-1444

Administrative & Support
Services Division
P.O. Box L
Juneau, AK 99811

January 19, 1989

The Honorable Pat Pourchot
Chairman, Senate State Affairs Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

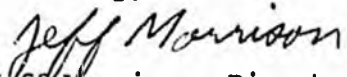
Dear Senator Pourchot,

Thank you for scheduling a hearing for SB 94 in your committee. This bill, introduced by the Governor, protects the State from liability when members of the Alaska National Guard are acting under federally-mandated training.

This bill was introduced in the Fifteenth Legislature as SB 91, in virtually the same language as it now reads. Enclosed is a copy of SB 91 as it was introduced two years ago. SB 91 passed the Senate by a vote of 17-2 on April 2, 1987. In the House, it was referred out of the State Affairs Committee on April 17, 1987 with a report of 3 "do pass" and 2 "no recommendation." It remained in the House Judiciary Committee until the end of the Fifteenth Legislature.

The Staff Judge Advocate of the Alaska National Guard, Major Gary Bowen, sent a letter, dated March 18, 1988, to the Chairman of the House Judiciary Committee, concerning SB 91. A copy of that letter is enclosed for your information, as the reasons for our support of this bill have not changed. Please let me know if there is any additional information you need concerning SB 94.

Sincerely,


Jeff Morrison, Director

cc: Major Gary Bowen, Staff Judge Advocate, DMVA
Bob Evans, Deputy Chief of Staff, Governor's Office



DEPARTMENTS OF THE ARMY AND THE AIR FORCE

HEADQUARTERS, ALASKA NATIONAL GUARD
OFFICE OF THE STAFF JUDGE ADVOCATE
3501 "C" STREET, SUITE 626
ANCHORAGE, ALASKA 99503-5089
(907) 249-1375 • (AV) 317-626-1375

18 March 1988

John Sund
House of Representatives
Post Office Box V
Juneau, Alaska 98111

Subject: Senate Bill 91

Dear Representative Sund:

On behalf of the Adjutant General, the Alaska National Guard, and the Department of Military and Veterans Affairs I write to express interest in seeing Senate Bill 91 positively endorsed by the House Judiciary Committee. The bill is the product of the cumulative experience of many states. Alaska is one of the few states that to date has not enacted protective legislation to insure that the state is not held liable in tort for federally mandated training of the National Guard.

In order to appreciate the National Guard perspective on this matter, some background may be in order. In the early 1970s the President and Congress of the United States determined that the National Guard should become a more integral and functioning part of our national defense forces. Therefore, in the last decade, Alaska National Guard units have intensified the complexity and frequency of their military training with active duty units of the Army, the Air Force, as well as the other services.

Then in 1981 Congress amended the Federal Tort Claims Act to permit suits against the United States for injuries or damage resulting from National Guard training. Until that time, persons who were injured because of National Guard activities had no recourse against the federal government and could seek redress only against the state military department concerned or against the individual Guardsperson. Congress so acted because nearly all of the training conducted by National Guard units today is done in accordance with procedures, programs, and direction issued by the United States Department of Defense through both Army and Air Force operational commands. Since the United States funds approximately 95% of all National Guard activities, it is appropriate that the United States should assume financial responsibility for this often hazardous training.

After the 1981 amendment to the Federal Tort Claims Act, a number of states amended their laws to provide that the state would not be liable for National Guard training accidents when the training or duty is being conducted pursuant to federal statutory requirements or authorization. As noted above, Alaska has not responded to this change in federal law.

Often the impetus for such remedial legislation is not provided until a law suit demonstrates the need to respond. A case in point is the recent experience of the State of Washington.

In 1983, while conducting weekend training at Fort Lewis, a Washington National Guard unit was involved in an accident which resulted in the death of 2 soldiers, and the injury of 4 others who were assigned at Fort Lewis. Those individuals or their estates sued the state of Washington alleging negligence. The state moved to dismiss the suit on grounds that the state of Washington ought not to bear the cost and trauma of defending suits arising out of national defense training (Emsley v. State, 106Wn.2d 474).

Ultimately, the Washington Supreme Court rejected the appeal and held there was no bar in Washington to the suit. The concurring judges noted that this legislative omission "should be corrected by the Legislature." The Washington legislature at the urging of the Washington National Guard and with the consent of the Washington Trial Lawyers Association followed the judicial suggestion and adopted the following statutory language:

"Neither the state of Washington, its officers, employees, or agents nor any member of the militia may be held liable in any civil action for damages arising out of any of the activities of the military forces of the state of Washington while engaged in activities during which the officers, employees, agents, or members are considered employees of the federal government under the federal tort claims act, 26 U.S.C. Sec. 2671 et seq."

California has also recently addresses this issue. Section 816 of the California Government Code states:

"A public entity is not liable for injury arising out of any activity conducted by a member of the California National Guard pursuant to Section 316, 502, 503, 504, or 505 of Title 32 of the United States Code and compensated pursuant to the Federal Tort Claims Act.

It is the intent of the Legislature, in enacting this section, to conform state law regarding liability for activities of the National Guard to federal law as expressed in Public Law 97-124.

(Added by Stats.1982, c.616,p. 2600, s 1.)"

Idaho has recently adopted a statute similar in language to Senate Bill 91. Although worded somewhat differently, these statutory enactments from sister states reflect their public policy, to wit, to immunize the State in cases where the federal government has agreed to be responsive in damages under the Federal Tort Claims Act (FTCA). By adopting Senate Bill 91 Alaska would be following the lead of other western/northwestern states in asserting immunity from federally mandated training of the National Guard.

The National Guard operates in one of three duty statuses. It may be called to active federal service by the President in which case the Guard is merged with the active forces. The torts committed by active duty soldiers incident to their employment as soldiers of the United States is compensated under the FTCA. Another status is that of state active duty where the Governor calls members of the National Guard to state active duty under AS 26.05.070. Torts which occur incident to this duty status subject the state to tort liability. SB 91 would not affect the liability of the State of Alaska during periods of state active duty. AS 26.05.140 immunizes officers and enlisted members of the militia for acts done in an official capacity. AS 26.05.150 immunizes commander of the militia for exercises in judgement. The most common status of the National Guard is that in which the National Guard participates in reserve component training under Title 32 United States Code (USC). Although this is a federally paid and federally mandated training function, it is often referred to as "state status". The state status refers to the fact that the Adjutant General who is appointed by the Governor, is in command of the National Guard during training under Title 32 USC. It is this concept of state status that potentially exposes the State of Alaska to liability for training mandated by federal authorities. Under the Federal Constitutional scheme the discretionary power to determine the training necessary for the militias of the various states is vested in the Congress. The operational authority has been vested in the states. Article 1, Section 8 of the U.S. Constitution provides that the Congress shall have power...

To provide for organizing, arming, and disciplining the militia and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively the appointment of the officers and the authority of training the militia according to the discipline prescribed by Congress...

Congress has mandated that the discipline, including training of the National Guard conform to that of the active components of the Army and Air Force. 32 USC 501 (a). Although the Governor is the commander and chief during these periods of training, the failure to conduct the training as prescribed by federal authorities could result in the loss of federal recognition and the federal funding which goes with that recognition. Since it is unlikely that the Governor would ever refuse to conduct the federally mandated National Guard training during service under Title 32 USC, the potential for exposure is great notwithstanding that the Governor has virtually no discretion over the type and manner of training. Under these circumstances it seems inappropriate that the State of Alaska should be responsible for any personal injury or property damage which occurs incident to this training.

In the 1981 Amendments to the FTCA Congress determined that federal government responsibility for personal injury or property damage incident to National Guard training should be coextensive with that for the Army and the Air Force Reserve. Since there is no state responsibility for Army or Air Force Reserve training, it seems appropriate that the state should assert immunity. The United States has waived sovereign immunity under the FTCA and has consented to be responsible in damages just as

though it were a private citizen. The law to be applied is the law of the situs of the injury. In other words, an Alaskan injured incident to National Guard training would have a remedy against the United States and the applicable tort law is that of Alaska. I understand that there is some apprehension in the House Judiciary Committee that Senate Bill 91 would leave Alaskans without a remedy in the event of personal injury or property damage which incurred incident to National Guard training. This is not so. Alaskans injured incident to National Guard training do have a remedy and that remedy is against the federal authority who has directed the training.

One final matter which should be mentioned. The question has been raised concerning why someone would sue the State of Alaska if the federal government will respond in damages. The answer may be found in Alaska's collateral source rule. As an attorney you understand that the collateral source rule means that settlement by one tortfeasor is not a set off against other tortfeasors. Therefore, assuming that someone were to obtain a settlement from the United States under FTCA or even achieve judgement, there would be no prohibition against then re-litigating those issues vis a vis the State of Alaska. Without passage of Senate Bill 91 it would be possible for anyone injured by National Guard training to pursue both a federal and state remedy and achieve a double recovery!

Alaska Air National Guard deployments outside the State of Alaska are not unusual. Often these deployments are overseas. As this letter was being composed, elements of the Alaska Air National Guard were in Panama. Personal injury and property damage incident to military operation overseas (outside the United States) are subject to the Military Claims Act. Damage incident to military operations inside the United States or its territories are subject to the FTCA.

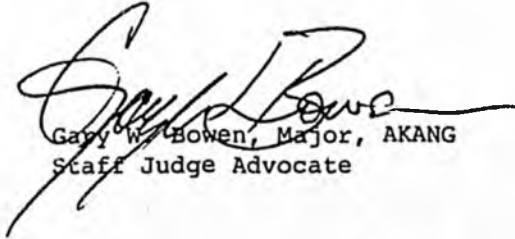
Notwithstanding these federal remedies, without Senate Bill 91, claims could be prosecuted against the U.S. under the FTCA and against the State of Alaska. It is not clear that the public policy of Alaska should be that the whole world has a cause of action against the state for damages occurring incident to training ordered by federal authorities.

I hope the foregoing explains why the National Guard and the Department of Military and Veterans Affairs believes that this bill is in the best interest of the state and in the best interest of the whole body politic of the State of Alaska. The bill would not leave residents of the State of Alaska remediless in the event of torts perpetrated by the Alaska National Guard. The FTCA gives them a remedy under the laws of the State of Alaska.

If this letter raises additional questions or if you would like further explanation about the matters contained herein, please do not hesitate to ask. I would be happy to arrange a meeting with National Guard attorneys if such would be of assistance to you. Additionally, I can arrange for a meeting with the active Army and Air Force Judge Advocates who can explain how the FTCA works to remedy personal injury or

property damage incident to training and operation of the armed forces of the United States. On behalf of the Department of Military and Veterans Affairs I earnestly solicit your support for this bill and request that it be favorably endorsed by the House Judiciary Committee.

FOR THE ADJUTANT GENERAL



Gary W. Bowen, Major, AKANG
Staff Judge Advocate

FISCAL NOTE

REQUEST:

Revision Date: December 22, 1988
Title: An Act limiting liability for activities of the Alaska National Guard
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Military & Veterans Affairs
BRU: Alaska National Guard
Components: Office of the Adjutant General

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL		(50.0)	(50.0)	(50.0)	(50.0)	(50.0)
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		(50.0)	(50.0)	(50.0)	(50.0)	(50.0)
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		(50.0)	(50.0)	(50.0)	(50.0)	(50.0)
FEDERAL FUNDS						
OTHER						
TOTAL						

GENERAL FUNDS

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Passage of this bill will reduce the civil liability exposure of the State of Alaska. This reduction in exposure will be reflected by a reduction in the insurance costs charged to DMVA by the Division of Risk Management.

Prepared by: Jeff Morrison Phone: 465-4600
Division: Administrative & Support Services, DMVA Date: 12/21/88
Approved by Commissioner MG John Schaeffer Date: 12/21/88
Agency: Department of Military & Veterans Affairs

Distribution (by preparer):

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

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An act limiting liabilities for activities of the Alaska National Guard
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Dept. of Military & Veterans Affairs
BRU: Alaska National Guard

Components: Risk Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	(50.0)	(50.0)	(50.0)	(50.0)	(50.0)
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	(50.0)	(50.0)	(50.0)	(50.0)	(50.0)
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	(50.0)	(50.0)	(50.0)	(50.0)	(50.0)
TOTAL	0	(50.0)	(50.0)	(50.0)	(50.0)	(50.0)

OTHER FUNDS
(interagency receipts)

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

The fiscal benefit is difficult to project because the State insurance deductible has varied, also this legislation would apply only to future claims. There could, however, be rather substantial savings in claims defense costs.

Prepared By: Donald J. Hitchcock
Division: Risk Management

Phone: 465-2180

Date: 12-19-88

Approved by Commissioner: John M. Andrews
Agency: Department of Administration

Date: 12-19-88

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



Official Business

Alaska State Legislature

P.O. Box V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO: Senate State Affairs Committee Members
FROM: Senator Pat Pourchot, Chairman *Pat*
RE: January 23 Committee Hearing
DATE: January 20, 1989

On Monday, January 23 at 1:30 p.m. in the Beltz Room the Senate State Affairs Committee will hear the following bills:

SCR 10, Relating to the promotion of Colonel Lars L. Johnson to major general in the Alaska National Guard.

SCR 10 requests that the Governor appoint Colonel Johnson as a major general in the Alaska National Guard. Johnson is now retired. The promotion would be honorary, in recognition of his service and achievements. Johnson was the first Adjutant General of the Alaska National Guard and organizer of the Alaska Air National Guard. The Guard would like to honor Johnson with this promotion at its annual awards ceremony on February 12. The appointment would be subject to legislative confirmation.

SCR 10 has a zero fiscal note. A biographical sketch of Colonel Johnson is attached.

SB 48, An Act extending the termination date of the Older Alaskans Commission.

SB 48 would continue the Older Alaskans Commission through June 30, 1993.

The Older Americans Act of 1965 (PL 100-175) provides grants to the states for programs for senior citizens, and requires that a state agency be designated to administer the grant programs. The Older Alaskans Commission was established in 1981 to perform this function. In addition, the commission is charged with developing a statewide plan for senior needs and advocating for the elderly within the state.

The commission, located within the Department of Administration, consists of seven senior citizens appointed by the Governor and representatives of DHSS, DOA, DCRA, and the Pioneers Homes Advisory Board.

SB 48 has a zero fiscal note, with funding being continued in the Governor's proposed FY 90 operating budget. A copy of the recently performed sunset audit of the Older Alaskans Commission, which recommends continuation, is attached.

SB 91. Relating to methods of appointment to the Alaska Public Offices Commission.

SB 91 clarifies that all members of APOC shall be appointed by the Governor and confirmed by the legislature.

APOC has five members. Current law provides that four of the members shall be appointed by the Governor from nominees made by political parties, and that these four members shall then appoint one public member. The legality of this provision has been questioned on the grounds that it conflicts with Article III, Section 26 of the State Constitution which requires that the Governor appoint members of boards and commissions.

SB 91 would clear up the legal question by providing for the Governor to appoint the fifth APOC member from nominees made by the other four members. The Alaska Public Offices Commission supports the bill. SB 91 has a zero fiscal note.

SB 94. Limiting liability for activities of the Alaska National Guard.

SB 94 will prevent suits against the State for injuries or damage resulting from federally mandated and controlled National Guard activities. Federal law was amended in 1981 to permit such suits against the United States. Alaska is one of the few states that has not enacted protective legislation to ensure that the state is not held liable in such cases. SB 91 would not affect the liability of the State during periods of state active duty (i.e. duty called by the Governor).

Because SB 94 would reduce the civil liability exposure of the state, the Department estimates an annual savings of \$50,000 in insurance costs charged by the Division of Risk Management.

Sandra

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2

SENATE BILL NO. 94

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act limiting liability for certain activities of
7 the Alaska National Guard."

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

9 * Section 1. AS 26.05 is amended by adding a new section to read:

10 Sec. 26.05.145. IMMUNITY FROM TORT LIABILITY. The state, its
11 employees and representatives, and individual members of the Alaska
12 National Guard, acting in an official capacity, are not civilly liable
13 in tort actions for injuries to persons or property arising from
14 National Guard activities occurring during training or duty under 32
15 U.S.C. 316, 502, 503, 504, or 505.

FISCAL NOTE

REQUEST:

Revision Date: December 22, 1988
Title: An Act limiting liability for activities of the Alaska National Guard
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Military & Veterans Affairs
BRU: Alaska National Guard
Components: Office of the Adjutant General

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL		(50.0)	(50.0)	(50.0)	(50.0)	(50.0)
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		(50.0)	(50.0)	(50.0)	(50.0)	(50.0)
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		(50.0)	(50.0)	(50.0)	(50.0)	(50.0)
FEDERAL FUNDS						
OTHER						
TOTAL		(50.0)	(50.0)	(50.0)	(50.0)	(50.0)

GENERAL FUNDS

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Passage of this bill will reduce the civil liability exposure of the State of Alaska. This reduction in exposure will be reflected by a reduction in the insurance costs charged to DMVA by the Division of Risk Management.

Prepared by: Jeff Morrison Phone: 465-4600
Division: Administrative & Support Services DMVA Date: 12/21/88
Approved by *John Schaeffer* Commissioner: MG John Schaeffer Date: 12/21/88
Agency: Department of Military & Veterans Affairs

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

FISCAL NOTE

REQUEST:

Revision Date:
Title: An act limiting liabilities for activities of the Alaska National Guard
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Dept. of Military & Veterans Affairs
BRU: Alaska National Guard
Components: Risk Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	(50.0)	(50.0)	(50.0)	(50.0)	(50.0)
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	(50.0)	(50.0)	(50.0)	(50.0)	(50.0)

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	(50.0)	(50.0)	(50.0)	(50.0)	(50.0)
TOTAL	0	(50.0)	(50.0)	(50.0)	(50.0)	(50.0)

OTHER FUNDS (interagency receipts)

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

The fiscal benefit is difficult to project because the State insurance deductible has varied, also this legislation would apply only to future claims. There could, however, be rather substantial savings in claims defense costs.

Prepared By: Donald J. Hitchcock
Division: Risk Management

Phone: 465-2180

Date: 12-19-88

Approved by Commissioner: John M. Andrews
Agency: Department of Administration

Date: 12-19-88

Distribution (by preparer):

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



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 9, 1989

The Honorable Tim Kelly
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

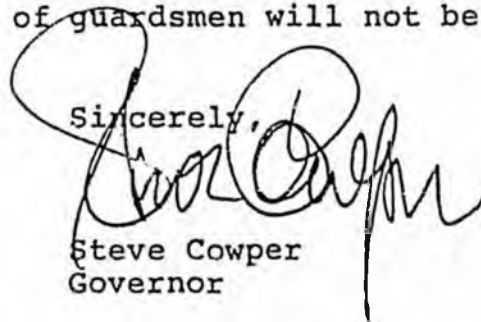
Dear Senator Kelly:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to liability immunity of the state, its employees and agents, and members of the Alaska National Guard.

While training or on duty under federal mandate, the state national guards are performing a United States Government activity. Nevertheless, there have been occasions in which states, rather than the United States, have been exposed to tort liability for injuries or damage resulting from federally mandated guard activities.

In 1981, Congress amended 28 U.S.C. 2671 by adding to the definition of "employees of the government" members of the National Guard while training or on duty under federal order under 32 U.S.C. The effect of this amendment was to clarify that the United States considers the Guard as a federal function during 32 U.S.C. activities and that claims for injuries resulting from such activities could be pursued under the Federal Tort Claims Act, 28 U.S.C. 2671 et seq. In spite of this change in the law, there are rare occasions when the state remedy is preferred by an injured third party, who consequently will file a claim for damages in state court on the basis of state law. This bill will prevent suits of this nature, and assure that persons injured or property damaged as a result of federally mandated and controlled Guard activities will be required to seek damages from the United States Government. Existing worker's compensation coverage of guardsmen will not be affected by this bill.

Sincerely,



Steve Cowper
Governor

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF MILITARY AND VETERANS AFFAIRS

OFFICE OF THE ADJUTANT GENERAL

FRONTIER BUILDING
SUITE 620
3601 C STREET
ANCHORAGE ALASKA 99503 5969
PHONE 907 243 0656
AUTOVON 626 1444

Administrative & Support
Services Division
P.O. Box L
Juneau, AK 99811

January 19, 1989

The Honorable Pat Pourchot
Chairman, Senate State Affairs Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

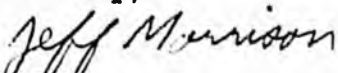
Dear Senator Pourchot,

Thank you for scheduling a hearing for SB 94 in your committee. This bill, introduced by the Governor, protects the State from liability when members of the Alaska National Guard are acting under federally-mandated training.

This bill was introduced in the Fifteenth Legislature as SB 91, in virtually the same language as it now reads. Enclosed is a copy of SB 91 as it was introduced two years ago. SB 91 passed the Senate by a vote of 17-2 on April 2, 1987. In the House, it was referred out of the State Affairs Committee on April 17, 1987 with a report of 3 "do pass" and 2 "no recommendation." It remained in the House Judiciary Committee until the end of the Fifteenth Legislature.

The Staff Judge Advocate of the Alaska National Guard, Major Gary Bowen, sent a letter, dated March 18, 1988, to the Chairman of the House Judiciary Committee, concerning SB 91. A copy of that letter is enclosed for your information, as the reasons for our support of this bill have not changed. Please let me know if there is any additional information you need concerning SB 94.

Sincerely,


Jeff Morrison, Director

cc: Major Gary Bowen, Staff Judge Advocate, DMVA
Bob Evans, Deputy Chief of Staff, Governor's Office



DEPARTMENTS OF THE ARMY AND THE AIR FORCE

HEADQUARTERS, ALASKA NATIONAL GUARD
OFFICE OF THE STAFF JUDGE ADVOCATE
3801 "C" STREET, SUITE 828
ANCHORAGE, ALASKA 99503-5989
(907) 249-1375 • (AV) 317-626-1375

18 March 1988

John Sund
House of Representatives
Post Office Box V
Juneau, Alaska 98111

Subject: Senate Bill 91

Dear Representative Sund:

On behalf of the Adjutant General, the Alaska National Guard, and the Department of Military and Veterans Affairs I write to express interest in seeing Senate Bill 91 positively endorsed by the House Judiciary Committee. The bill is the product of the cumulative experience of many states. Alaska is one of the few states that to date has not enacted protective legislation to insure that the state is not held liable in tort for federally mandated training of the National Guard.

In order to appreciate the National Guard perspective on this matter, some background may be in order. In the early 1970s the President and Congress of the United States determined that the National Guard should become a more integral and functioning part of our national defense forces. Therefore, in the last decade, Alaska National Guard units have intensified the complexity and frequency of their military training with active duty units of the Army, the Air Force, as well as the other services.

Then in 1981 Congress amended the Federal Tort Claims Act to permit suits against the United States for injuries or damage resulting from National Guard training. Until that time, persons who were injured because of National Guard activities had no recourse against the federal government and could seek redress only against the state military department concerned or against the individual Guardsperson. Congress so acted because nearly all of the training conducted by National Guard units today is done in accordance with procedures, programs, and direction issued by the United States Department of Defense through both Army and Air Force operational commands. Since the United States funds approximately 95% of all National Guard activities, it is appropriate that the United States should assume financial responsibility for this often hazardous training.

After the 1981 amendment to the Federal Tort Claims Act, a number of states amended their laws to provide that the state would not be liable for National Guard training accidents when the training or duty is being conducted pursuant to federal statutory requirements or authorization. As noted above, Alaska has not responded to this change in federal law.

Often the impetus for such remedial legislation is not provided until a law suit demonstrates the need to respond. A case in point is the recent experience of the State of Washington.

In 1983, while conducting weekend training at Fort Lewis, a Washington National Guard unit was involved in an accident which resulted in the death of 2 soldiers, and the injury of 4 others who were assigned at Fort Lewis. Those individuals or their estates sued the state of Washington alleging negligence. The state moved to dismiss the suit on grounds that the state of Washington ought not to bear the cost and trauma of defending suits arising out of national defense training (Emsley v. State, 105Wn.2d 474).

Ultimately, the Washington Supreme Court rejected the appeal and held there was no bar in Washington to the suit. The concurring judges noted that this legislative omission "should be corrected by the Legislature." The Washington legislature at the urging of the Washington National Guard and with the consent of the Washington Trial Lawyers Association followed the judicial suggestion and adopted the following statutory language:

"Neither the state of Washington, its officers, employees, or agents nor any member of the militia may be held liable in any civil action for damages arising out of any of the activities of the military forces of the state of Washington while engaged in activities during which the officers, employees, agents, or members are considered employees of the federal government under the federal tort claims act, 26 U.S.C. Sec. 2671 et seq."

California has also recently addresses this issue. Section 816 of the California Government Code states:

"A public entity is not liable for injury arising out of any activity conducted by a member of the California National Guard pursuant to Section 316, 502, 503, 504, or 505 of Title 32 of the United States Code and compensated pursuant to the Federal Tort Claims Act.

It is the intent of the Legislature, in enacting this section, to conform state law regarding liability for activities of the National Guard to federal law as expressed in Public Law 97-124.

(Added by Stats.1982, c.616, p. 2600, s 1.)"

Idaho has recently adopted a statute similar in language to Senate Bill 91. Although worded somewhat differently, these statutory enactments from sister states reflect their public policy, to wit, to immunize the State in cases where the federal government has agreed to be responsive in damages under the Federal Tort Claims Act (FTCA). By adopting Senate Bill 91 Alaska would be following the lead of other western/northwestern states in asserting immunity from federally mandated training of the National Guard.

The National Guard operates in one of three duty statuses. It may be called to active federal service by the President in which case the Guard is merged with the active forces. The torts committed by active duty soldiers incident to their employment as soldiers of the United States is compensated under the FTCA. Another status is that of state active duty where the Governor calls members of the National Guard to state active duty under AS 26.05.070. Torts which occur incident to this duty status subject the state to tort liability. SB 91 would not affect the liability of the State of Alaska during periods of state active duty. AS 26.05.140 immunizes officers and enlisted members of the militia for acts done in an official capacity. AS 26.05.150 immunizes commander of the militia for exercises in judgement. The most common status of the National Guard is that in which the National Guard participates in reserve component training under Title 32 United States Code (USC). Although this is a federally paid and federally mandated training function, it is often referred to as "state status". The state status refers to the fact that the Adjutant General who is appointed by the Governor, is in command of the National Guard during training under Title 32 USC. It is this concept of state status that potentially exposes the State of Alaska to liability for training mandated by federal authorities. Under the Federal Constitutional scheme the discretionary power to determine the training necessary for the militias of the various states is vested in the Congress. The operational authority has been vested in the states. Article 1, Section 8 of the U.S. Constitution provides that the Congress shall have power...

To provide for organizing, arming, and disciplining the militia and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively the appointment of the officers and the authority of training the militia according to the discipline prescribed by Congress...

Congress has mandated that the discipline, including training of the National Guard conform to that of the active components of the Army and Air Force. 32 USC 501 (a). Although the Governor is the commander and chief during these periods of training, the failure to conduct the training as prescribed by federal authorities could result in the loss of federal recognition and the federal funding which goes with that recognition. Since it is unlikely that the Governor would ever refuse to conduct the federally mandated National Guard training during service under Title 32 USC, the potential for exposure is great notwithstanding that the Governor has virtually no discretion over the type and manner of training. Under these circumstances it seems inappropriate that the State of Alaska should be responsible for any personal injury or property damage which occurs incident to this training.

In the 1981 Amendments to the FTCA Congress determined that federal government responsibility for personal injury or property damage incident to National Guard training should be coextensive with that for the Army and the Air Force Reserve. Since there is no state responsibility for Army or Air Force Reserve training, it seems appropriate that the state should assert immunity. The United States has waived sovereign immunity under the FTCA and has consented to be responsible in damages just as

though it were a private citizen. The law to be applied is the law of the situs of the injury. In other words, an Alaskan injured incident to National Guard training would have a remedy against the United States and the applicable tort law is that of Alaska. I understand that there is some apprehension in the House Judiciary Committee that Senate Bill 91 would leave Alaskans without a remedy in the event of personal injury or property damage which incurred incident to National Guard training. This is not so. Alaskans injured incident to National Guard training do have a remedy and that remedy is against the federal authority who has directed the training.

One final matter which should be mentioned. The question has been raised concerning why someone would sue the State of Alaska if the federal government will respond in damages. The answer may be found in Alaska's collateral source rule. As an attorney you understand that the collateral source rule means that settlement by one tortfeasor is not a set off against other tortfeasors. Therefore, assuming that someone were to obtain a settlement from the United States under FTCA or even achieve judgement, there would be no prohibition against then re-litigating those issues vis a vis the State of Alaska. Without passage of Senate Bill 91 it would be possible for anyone injured by National Guard Training to pursue both a federal and state remedy and achieve a double recovery!

Alaska Air National Guard deployments outside the State of Alaska are not unusual. Often these deployments are overseas. As this letter was being composed, elements of the Alaska Air National Guard were in Panama. Personal injury and property damage incident to military operation overseas (outside the United States) are subject to the Military Claims Act. Damage incident to military operations inside the United States or its' territories are subject to the FTCA.

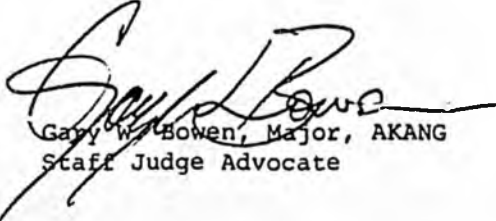
Notwithstanding these federal remedies, without Senate Bill 91, claims could be prosecuted against the U.S. under the FTCA and against the State of Alaska. It is not clear that the public policy of Alaska should be that the whole world has a cause of action against the state for damages occurring incident to training ordered by federal authorities.

I hope the foregoing explains why the National Guard and the Department of Military and Veterans Affairs believes that this bill is in the best interest of the state and in the best interest of the whole body politic of the State of Alaska. The bill would not leave residents of the State of Alaska remediless in the event of torts perpetrated by the Alaska National Guard. The FTCA gives them a remedy under the laws of the State of Alaska.

If this letter raises additional questions or if you would like further explanation about the matters contained herein, please do not hesitate to ask. I would be happy to arrange a meeting with National Guard attorneys if such would be of assistance to you. Additionally, I can arrange for a meeting with the active Army and Air Force Judge Advocates who can explain how the FTCA works to remedy personal injury or

property damage incident to training and operation of the armed forces of the United States. On behalf of the Department of Military and Veterans Affairs I earnestly solicit your support for this bill and request that it be favorably endorsed by the House Judiciary Committee.

FOR THE ADJUTANT GENERAL



Gary W. Bowen, Major, AKANG
Staff Judge Advocate

Introduced: 1/7
Referred: July

wo00167s

1987-88 session

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2

SENATE BILL NO. 91

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act limiting liability for activities of the
7 Alaska National Guard."

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

9 * Section 1. AS 26.05 is amended by adding a new section to read:

10 Sec. 26.05.145. IMMUNITY FROM TORT LIABILITY. The state, its
11 employees and representatives, and individual members of the Alaska
12 National Guard, acting in an official capacity, are not civilly liable
13 in tort actions for injuries to persons or property arising from
14 National Guard activities occurring during training or duty under 32
15 U.S.C. secs. 316, 502, 503, 504, or 505.

roduced: 1/7
erred: July

wo00167s

1987-88 session

THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

SENATE BILL NO. 91

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - SECOND SESSION

A BILL

an Act entitled: "An Act limiting liability for activities of the
Alaska National Guard."

IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 26.05 is amended by adding a new section to read:

Sec. 26.05.145. IMMUNITY FROM TORT LIABILITY. The state, its
employees and representatives, and individual members of the Alaska
National Guard, acting in an official capacity, are not civilly liable
in tort actions for injuries to persons or property arising from
National Guard activities occurring during training or duty under 32
U.S.C. secs. 316, 502, 503, 504, or 505.

S B

102

SENATE STATE AFFAIRS COMMITTEE

BILL NUMBER SB 102

SPONSOR Kelly

BILL TITLE RE: Winter Olympic Funding

DATE REFERRED 1-11-89

HEARING SCHEDULED 1-18-89

FISCAL NOTE PREPARED req. Royce 1-13-89

SPONSOR CONTACTED Eldon 3822

INTERESTED PARTIES CONTACTED

✓ x2301 Royce, Dept. Revenue (Cliff Orsh) ²⁶²²
Mike McGee
Emin Jones
Chris Walling
Ben Kelly

Rick Nerland, AOC
(Don Gilliam) 561-1998

Chris Walling
Fax# 5620413

OTHER

Kelly says:
June
bid city
status

Mar 15 - forms go out
Sept - USOC selects
Oct - payments made

1 IN THE SENATE

BY KELLY

2

SENATE BILL NO. 102

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 Winter Olympic funding; and
7 providing for an effective date."

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

9 * Section 1. Section 3(a), ch. 6, SLA 1986, is repealed and reenacted
10 to read:

11 (a) Section 2 of this Act takes effect as follows:

12 (1) on December 31, 1989, if during 1989 the United States
13 Olympic Committee does not select Anchorage, Alaska as America's
14 choice to host the 1998 Olympic Winter Games;

15 (2) on December 31, 1991, if before or during 1991 the
16 International Olympic Committee does not select Anchorage, Alaska to
17 host the 1998 Olympic Winter Games;

18 (3) on December 31, 1998, if before or during 1991 the
19 International Olympic Committee selects Anchorage, Alaska to host the
20 1998 Olympic Winter Games.

21 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

SB 102

Chapter 6

AN ACT

Relating to Winter Olympic funding; and providing for an effective date.

* Section 1. Section 2, ch. 45, SLA 1985, is amended to read:

Sec. 2. This Act takes effect March 15, 1986 (JULY 1, 1986, IF THE UNITED STATES OLYMPIC COMMITTEE SELECTS ALASKA AS THE NATION'S NOMINEE TO HOST THE 1992 WINTER OLYMPIC GAMES).

* Sec. 2. AS 05.35.100 is repealed.

* Sec. 3. (a) Section 2 of this Act takes effect as follows:

(1) on January 1, 1991, if the International Olympic Committee has announced the cities selected to host the 1992 and 1996 Winter Olympic Games, and if Anchorage, Alaska is not a city selected;

(2) on January 1, 1992, if the International Olympic Committee selects Anchorage, Alaska to host the 1992 Olympics;

(3) on January 1, 1996, if the International Olympic Committee selects Anchorage, Alaska to host the 1996 Olympics.

(b) When sec. 2 of this Act takes effect, the money deposited in the Alaska Winter Olympics account lapses into the general fund.

* Sec. 4. This Act takes effect immediately in accordance with AS 01.10.070(c).

Repealer

§ 1 eff. 3/21/86; § 2 conditional eff. date per § 3

→ alaska winter olympics act (attached)

HCS CSSSSB 331(Fin)

Relating to pollution damage discharge of an effective

* Section 1. AS 46 Sec. 46.03.7 FOR DAMAGES. A violation of AS search by the department of the state, or Fish and Game. the vessel was under 740 - 46.03.750 indicating that the vessel may amount of damage and 46.03.812. are not paid within an appeal, the vessel directed by the balance, if any vessel. The cost of a bond set

35.070

ity. A
t to be
by di-
lease.

§ 05.35.100

AMUSEMENTS AND SPORTS

§ 05.35.100

and equipment as may be necessary in connection with the project; and allocable portion of the administrative and operating expenses of the grantee; the cost of financing the project, including interest on bonds issued to finance the project; and the cost of other items, including any indemnity and surety bonds and premiums on insurance, legal fees, fees and expenses of trustees, depositories, financial advisors, and paying agents for the bonds issued as the issuer considers necessary; it does not include the cost of promotion, travel, or feasibility studies;

(3) "facility" means a covered stadium or arena or any combination of them, or any other similar structure or structures, including related improvements such as parking areas, locker rooms, concession stands, restaurants, offices, press boxes, rest rooms, and storage areas, and including fixed or portable equipment, used in the operation of the facility;

(4) "municipality" means an organized borough of any class or a first class city outside an organized borough;

(5) "population" means the population of a municipality established by the final official 1970 U.S. Census or other reliable population data;

(6) "used principally for sports" means that the major use of a facility shall be for sporting events such as baseball games, rodeos, football games, soccer games, track and field meets, ice hockey matches, basketball games, and boxing and wrestling matches, viewed by spectators in substantial numbers, and that the use of a facility may be for organized participant sports and nonsports activities for which similar facilities are commonly used. (§ 2 ch 155 SLA 1972; am § 27 ch 168 SLA 1978)

Editor's notes. — This section is set out to incorporate editorial changes made by the Revisor of Statutes.

Article 2. Sport Funds.

Section

100. Alaska Winter Olympics account

150. Alaska Sports Fund

Sec. 05.35.100. Alaska Winter Olympics account. (a) There is created in the general fund an Alaska Winter Olympics account. The Department of Revenue shall prepare the permanent fund dividend application to allow applicants to designate that \$10 of the dividend be subtracted from their check and contributed to the Alaska Winter Olympics account. Permanent fund dividend contributions shall be deposited in the Alaska Winter Olympics account. The Department of

Revenue may use money in the Alaska Winter Olympics account to pay administrative costs incurred under this section.

(b) The Alaska Winter Olympics account shall be held in trust by the Department of Administration for distribution to the official Olympic Organizing Committee in Alaska to be used to develop facilities for Winter Olympic training and competition and to attract the Winter Olympics to Alaska. (§ 1 ch 45 SLA 1985; am § 2 ch 6 SLA 1986; am § 1 ch 1 SLA 1988).

Repeal of section. — Section 2, ch. 6, SLA 1986 repeals this section. Section 3(a), ch. 6, SLA 1986 makes the repeal effective as follows:

(1) on January 1, 1991, if the International Olympic Committee has announced the cities selected to host the 1992 and 1996 Winter Olympic Games, and if Anchorage, Alaska is not a city selected;

(2) on January 1, 1992, if the International Olympic Committee selects Anchorage, Alaska to host the 1992 Olympics;

(3) on January 1, 1996, if the International Olympic Committee selects Anchorage, Alaska to host the 1996 Olympics.

Effect of amendments. — The 1988 amendment, effective January 20, 1988, substituted "\$10" for "\$5" in the second sentence in subsection (a).

Editor's notes. — Section 3(b), ch. 6, SLA 1986 provides that "money deposited in the Alaska Winter Olympics account lapses into the general fund" on the effective date of the repeal of this section.

Sec. 05.35.150. Alaska Sports Fund. There is established as a separate fund in the Department of Commerce and Economic Development the Alaska sports fund. The fund consists of private contributions and money appropriated to the fund from receipts under AS 28.10.165, 28.10.421(d)(14), and 28.10.421(f). Money in the fund may be appropriated for the promotion and development of sports. (§ 2 ch 15 SLA 1988)

Cross references. — For statement of legislative intent in connection with the enactment of this section, see sec. 1, ch. 15, SLA 1988 in the Temporary and Special Acts.

Effective dates. — Section 3, ch. 15, SLA 1988, provides: "This Act takes effect on the effective date of those sections of an Act enacted by the Fifteenth Alaska State

Legislature that enact AS 28.10.165, 28.10.421(d)(14), and 28.10.421(f) providing for winter Olympics commemorative plates, or immediately under AS 01.10.070(c), whichever is later." The actual effective date of ch. 15, SLA 1988, is July 27, 1988, the effective date of ch. 24, SLA 1988.

FISCAL NOTE

REQUEST

Revision Date: January 18, 1988
Title: An Act relating to Winter Olympic Funding
Sponsor: Kelly
Requestor: Senate State Affairs

Agency Affected: Revenue
BRU: Permanent Fund Dividend Division
Components: Permanent Fund Dividend Division

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: If the United States Olympic Committee makes its decision by December 31, 1989 as in Section 3(a)(1), or the International Olympic Committee makes its decision by December 31, 1991 as in Section 3(a)(2), the Permanent Fund Dividend application form can be changed in time so there will be no fiscal impact.

Prepared By: Erwin Jones
Division: Permanent Fund Dividend Division

Phone: 465-2323
Date: January 18, 1989

Approved by Commissioner: [Signature]
Agency: Revenue

Date: 1/18/89

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

1 IN THE SENATE

BY KELLY

2

SENATE BILL NO. 102

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 Winter Olympic funding; and

7

providing for an effective date."

8

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

9

* Section 1. Section 3(a), ch. 6, SLA 1986, is repealed and reenacted

10 to read:

repealer of Winter Olympics Aect. (\$10 PFD check-off)

11

(a) Section 2 of this Act takes effect as follows:

12

(1) on December 31, 1989, if during 1989 the United States

13

Olympic Committee does not select Anchorage, Alaska as America's

14

choice to host the 1998 Olympic Winter Games;

15

(2) on December 31, 1991, if before or during 1991 the

16

International Olympic Committee does not select Anchorage, Alaska to

17

host the 1998 Olympic Winter Games;

18

(3) on December 31, 1998, if before or during 1991 the

19

International Olympic Committee selects Anchorage, Alaska to host the

20

1998 Olympic Winter Games.

21

* Sec. 2. This Act takes effect immediately under AS 01.10.079(c).

*US nominee will
be selected 1989 -
repeal 1989 if AK
isn't nominee
host choice 1991 -
repeal 1991 if AK
not host choice*

*after 1998 if
Anch. hosts 1998*

*Because new decision
to stagger winter (1998) + summer
(1996)*

-5 File with Kelly bill

NO OLYMPICS 88
7801 Schoon Street, #11
Anchorage, AK 99518
(907) 344-2998

RECEIVED JAN 31 1989

JANUARY 27, 1989

Response?
NO PD

DEAR SENATOR:

AGAIN WE ASK YOU TO CONSIDER THE FAIRNESS OF THE AOC BEING THE ONLY GROUP ALLOWED ON THE CHECK-OFF. WE ARE SURE WHEN ALL THINGS ARE CONSIDERED THE ANSWER WILL BE NO.

THANK YOU



MICHAEL P. CITTI
CHAIRMAN

Group argues against AOC dividend checkoff

Daily News staff and wire services

A group opposed to holding the Winter Olympics in Anchorage is asking the legislature to provide other non-profit groups access to permanent fund dividend checkoffs.

But Senate President Tim Kelly, R-Anchorage, said a bill he has introduced is intended to make it harder, not easier, for groups to use the "very lucrative" dividend checkoff.

The only organization allowed to tap the dividends is the Anchorage Organizing Committee, which has received more than \$2.2 million in the past three years to help finance bids for the 1992 and 1994 Games. Both bids were unsuccessful.

The AOC announced last week it plans a \$50,000 advertising campaign in April to encourage people to check the box on their dividend applications to make a \$10 contribution to the 1998 Olympic drive.

The announcement prompted letters

from No Olympics 98 to each legislator urging the dividend checkoff be extended to other groups.

"Why is the AOC the privileged child?" asked the letter signed by the group's chairman, Michael Citti, of Anchorage. "Why are they more equal than any other non-profit group?"

"No Olympics 98 feels that the United Way, the Alaska Visitors Association, the Cancer Society, the Boys and Girls Club and many other non-profit groups accomplish more for the people of Alaska year in and year out than the AOC will ever accomplish."

Kelly counters that there are hundreds of worthy non-profit groups in Alaska. Most are hungry for money, and most have their legislative champions. "Every time you get a checkoff bill on the floor, somebody jumps up and adds another non-profit on to it."

The prospect of having a laundry list of checkoffs is an administrative nightmare, he said.

His bill would not legislate such checkoffs out of existence. But it says the AOC checkoff, on the dividend applications since 1988, may remain only so long as Anchorage stays in the running for the 1998 Winter Games. If the city misses the U.S. Olympic Committee selection this June, or if it fails to gain the endorsement of the International Olympic Committee in 1991, the checkoff ends, Kelly said.

Citti described his group as "a grass-roots organization of Anchorage residents who see the proposed Winter Olympics for what it really is: a quick fix nine years down the road that will benefit a very small minority of Alaskans and damage the economy of Anchorage and Alaska in the long term."

Citti noted there has been criticism from within the AOC that it is spending too much time wining and dining International Olympic Committee members and too little sponsoring sporting events.

ANCHORAGE DAILY NEWS
1-26-89

THE AOC IS DIVIDING THE STATE OF ALASKA
IN THE NAME OF THE OLYMPICS? IS THIS
THE IMAGE THE U.S.O.C. WISHES TO PROJECT?

CORRECTION

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

-5 File with Kelly bill

NO OLYMPICS 98
7801 Schoon Street, #B
Anchorage, AK 99518
(907) 344-2998

RECEIVED JAN 31 1989

JANUARY 27, 1989

Response?
NO PD

DEAR SENATOR:

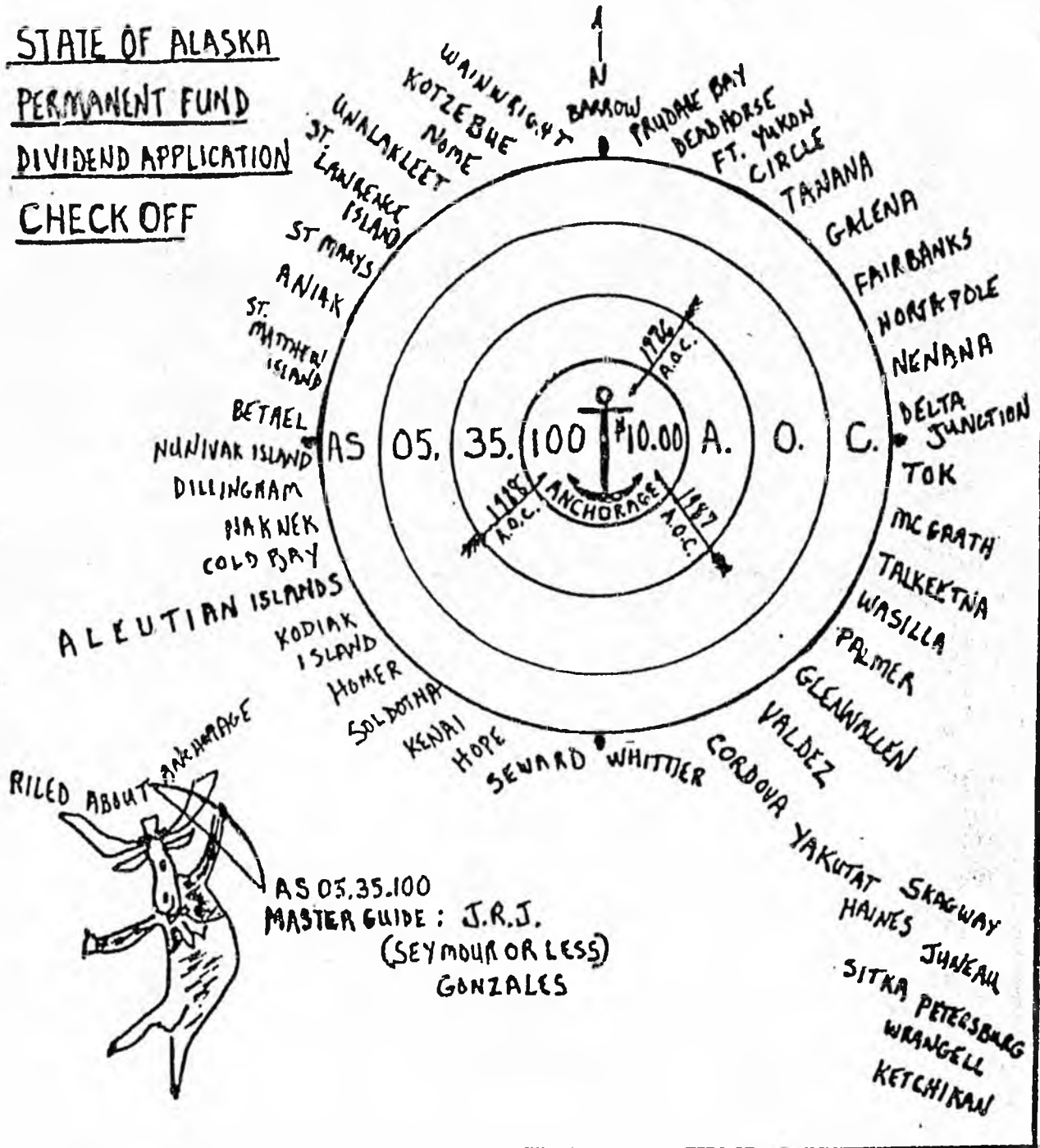
AGAIN WE ASK YOU TO CONSIDER THE FAIRNESS OF THE AOC BEING
THE ONLY GROUP ALLOWED ON THE CHECK-OFF. WE ARE SURE WHEN
ALL THINGS ARE CONSIDERED THE ANSWER WILL BE NO.

THANK YOU



MICHAEL P. CITTI
CHAIRMAN

STATE OF ALASKA
 PERMANENT FUND
 DIVIDEND APPLICATION
 CHECK OFF



— AS 05.35.100 —

THE ALASKA LEGISLATURES' "EXCLUSIVE GUIDE AREA", ANCHORAGE

Jim Miller