

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672  
7490 SENATE JUDICIARY

# Alleged molester freed, rearrested

By A.J. HOSTETLER  
The Associated Press

PHILADELPHIA — A man with AIDS who may have paid hundreds of boys and young men to have sex with him was rearrested Saturday night after two more teen-agers made allegations against him, police said.

The man known to many as "Uncle Ed," was back in custody Saturday evening, less than a day after he posted 10 percent of his \$3 million bail. He was first arrested Wednesday.

Lt. James Mooney of the Sex Crimes Unit said the two latest accusers were "Uncle Ed" identified Friday. They bring to four the number of teen-agers who have made allegations.

Mooney said police have identified other youths and he expects additional charges will be filed as the investigation continues.

District Attorney Lynne Abraham, who Friday announced the arrest, said her office signed an agreement with the suspect and his lawyer letting officials say he was an AIDS victim so those who had sexual



contact with him could take appropriate steps.

Abraham wouldn't release the suspect's name because of a state AIDS confidentiality law, but a court official speaking on condition of anonymity identified him as Edward Savitz, 40, and one of his lawyers, Steve Lacheen, confirmed that Saturday.

AIDS telephone hot lines were inundated after Friday's announcement. A police mug shot of the man was released, and a hot line operator said some callers recognized the man as someone they knew more than a decade ago as "Fast Eddie."

One of the suspect's lawyers on Saturday disputed allegations of dangerous sexual conduct and complained that reports of the arrest were feeding "AIDS hysteria."

Savitz faces a preliminary hearing Wednesday on charges of involuntary deviate sexual intercourse, sexual abuse of children, indecent assault and corrupting the morals of a minor.

Neighbors gave authorities information that led to his arrest, Abraham said. Afterward, he admitted he has had AIDS for at least one year.

Local AIDS hot lines were jammed.

"There were 300 to 400 calls packed into a couple of hours," Francis L. Stoffa Jr., executive director of the AIDS Task Force

# Haire indicted on 10 sexual abuse charges

STEVE PILKINGTON

STAFF WRITER

A grand jury indicted a 36-year-old Anchorage man Tuesday on 10 charges of sexual abuse, extortion and providing drugs to children in recent months.

Russell D. Haire, who was arrested earlier this month, remains in custody on \$20,000 bail and faces more than 20 additional charges of sexual abuse of minors and tampering with a witness.

Prosecutors have said they will file more charges related to the molestation.

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Prosecutors said the ages of the alleged victims range from 7 to 13.

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Prosecutors said the ages of the alleged victims range from 7 to 13 and include boys and girls. Three children were listed as witnesses before the grand jury Tuesday.

The case began after police said a 10-year-old girl on Feb. 4 told the principal of North Star Elementary School that she witnessed Haire having sex with some of her friends. The charges

accuse Haire of criminal conduct between November 1991 and February 1992.

Haire is accused of taking nude photographs of some of the children, having sex with them, showing them pornographic movies in his Campbell Place home and distributing marijuana to a minor.

Haire told police when he was arrested two days later that he

had pictures of nude children in his possession, but he denied taking them, court records show.

Prosecutors said Haire eventually could face charges of criminal conduct with as many as 17 children.

A District Court judge on Feb. 11 refused to release Haire to his father's custody. The judge also refused a prosecutor's request to raise Haire's bail.

Haire is scheduled to be arraigned today on the 10-count indictment in Anchorage Superior Court before Judge Rene Gonzalez.



Russell D. Haire

Monroe, WA  
(Snohomish Co.)  
Monroe Monitor  
(Cir. W. 3,500)

JUN 19 1991

Allen's P. C. B Est. 1888

## Numerous sex 2041 offenders reside in Sno. county

The Snohomish County Sheriff's Office recently reported that 350 sex offenders are registered in the county.

A bill was passed in February requiring sex offenders to notify local law enforcement agencies when they are released from custody and take up residence in a community. Offenders have been and will be arrested for failure to register in Snohomish County.

Of the 350 sex offenders registered in the county, 160 live in unincorporated areas and 190 live in various cities and towns. The vast majority of the sex offenders reside along the I-5 corridor, where the majority of the general population also resides.

The sex offender law accomplishes several things. It provides, through registration, a degree of sex offender monitoring after the offender is no longer in state custody or under some sort of state supervision. The law provides a forum through which the public can be reasonably informed about sex offenders and about specific offenders who may pose a continuing threat to the community.

The data bank of registered offenders also provides investigators with potential resource information if a registered offender should re-offend.

The sheriff's office said the public should not be lulled into a false sense of security by assuming that all sex offenders are either in custody or registered with a law enforcement agency. Sex offenders, known and unknown, remain at large and still pose a threat within their own family circles and within the community at large.

Tacoma, WA  
(Pierce Co.)  
Tacoma News Tribune  
(Cir. D. 108,436)  
(Cir. S. 120,490)  
JUN 30 1991

Allen's P. C. B Est. 1888

## Kent-area group 2091 strikes a deal with sex offender

By Gestin Suttle  
The News Tribune

A Kent-area block-watch group has struck a deal with a convicted sex offender living in its neighborhood: find him a job, and he will obey the rules.

The 22-year-old man arrived at the Timberlane community this month after serving about 1½ years in a state penitentiary for raping a 16-year-old girl at knife point in 1988, said King County Lt. David Maehren.

The man's arrival alarmed community members, who formed the block-watch group primarily to figure out what to do about his presence, said Lori Herrboldt, one of 22 captains in the neighborhood group.

Block-watch members decided to help the man instead of shun him because "if he's chased out of the area, he's just going to go somewhere else," Herrboldt said.

"If we can turn him around, that will make him an asset to us rather than a threat," she added.

The man has agreed not to go near children for any reason, and he will accept counseling if a counselor can be found, Herrboldt said.

In return, community members will do their best to find him a job.

Herrboldt will accompany him on interviews next week to show potential employers he has community members' support, she said. Although the agreement has a lot of support, some block-watch members "still want to shoot him," Herrboldt said.

But most residents agree it is in their best interest that the offender is working; that way, he is easier to keep track of, she said.

"We wanted to know he was behaving himself ... how he was spending his time," she said.

Maehren commended the block-watch group's response to the offender's presence. Many neighborhoods, he said, would attempt to drive the man out of town.

The Timberlane group's response is "much more constructive, and we're pleased with that," he said.

Maehren also said the group's display of optimism is necessary because "when you're dealing with difficult problems, you often have to be optimistic."

But Maehren cautioned that the community should not be so optimistic that it fails to guard against the offender's presence.

The group should "temper that (optimism) with some realism," he said.

Examples of how this  
community have  
used the law -

# Judge upholds sex-offender registration

By Christopher Jarvis  
Journal American Staff Writer

The state's sex-offender registration law applies to people convicted of sex crimes before the law went into effect, a King County Superior Court judge ruled Tuesday.

The decision by King County Superior Court Judge Arthur Pichler cleared the way for the trial of Kenneth James White, a 26-year-old man convicted of molesting a 6-year-old boy in 1987, two years before the requirement became law.

When White was released from the Washington State Penitentiary in November 1990, he told authorities he planned to move into a house in Bellevue.

He did not register with the King County police. Since his release, he has lived primarily on the streets or in shelters. He currently is in the King County Jail.

White now becomes the first person to go to trial in King County accused of a felony charge of failing to register as a sex offender.

Defense attorney Gary Nacht had argued that White shouldn't have to register because his crime occurred before the Community Protection Act of 1990 went into effect.

He said the law is unconstitutional if it applies to people convicted before the law was on the books, because it adds punishment to the 31-month prison sentence White served.

To register is an added burden that could draw public attention. That, Nacht argued, could bring about additional punishment in the form of harassment, as it has in other cases.

"These things have happened and you have to speculate they will happen again," he said. To apply it to people convicted before the law existed amounts to a "scarlet letter" being pinned unfairly on White, Nacht said.

Increasing punishment after the fact, he said, has been ruled unconstitutional in court decisions dating back to the 18th Century.

Upon White's release from prison, "he was to be a free man. He was to be able to put this incident behind him and get on with his life," Nacht said.

King County Deputy Prosecutor Kyle Aiken disputed Nacht's contention, saying the law is not punishment but merely allows police to know the whereabouts of former offenders.

In addition, it is no more punishment than the state Department of Licensing's regulation that people should report a change of address.

Among other things Nacht is expected to argue in the trial, which is being heard without a jury, is that White failed to receive adequate notice upon his release that he was required to register.

Bellevue, WA  
(King Co.)  
Journal American  
(Cir. D. 30,000)

JAN 22 1992

Allen's P. C. B. Est. 1888

February 4, 1992, All-Alaska Weekly

## *Hearing set for molester*

BETHEL—A public hearing before a state professional board is set for convicted child molester John Hawkins, Ph.D, who seeking his license to practice as a psychologist, according to *The Tundra Drums*.

The Board of Psychologist and Psychological Associate Examiners will hear the re-licensing case in Bethel February 17. The hearing was originally scheduled for last November in Anchorage.

Hawkins, 72, had his psychologist's license revoked following a 1984 conviction of sexually abusing a 13-year old girl. He spent two years in prison and underwent several years of court-ordered sex offender treatment.

Prior to his conviction, Hawkins was a clinical psychologist for the Yukon-Kuskokwim Health Corporation and the Lower Kuskokwim School District.

This is Hawkins' second attempt to get his license back. He was denied it by the board in 1989.

Hawkins' public statements about child-molestation have been controversial.

Editorial

Fair warning

12/84

A recent sentence by Superior Court Judge Thomas Schulz should be fair warning to child abusers. Like rape, people are now more inclined to report cases of sexual abuse of children, prosecutors are more likely to take the cases to court and judges aren't afraid to impose strict sentencing. A Ketchikan man was recently sentenced by Schulz to 19 years in jail for sexual abuse of a minor. That term will be added to a five-year sentence the man is already serving for the same charge.

Nineteen years sounds like a stiff penalty, but in some cases it doesn't approach justice. In this case, the man had a prior conviction from Washington state. Despite that, his wife obtained a state license for a child care facility in Ketchikan — where the man abused an 8-year-old boy. While awaiting sentencing on that charge, he sexually abused still another child.

One could argue that justice has been served. The mother of the 8-year-old sued the state and collected about \$1.5 million for her claims that the state was negligent in not warning child care clients of the man's tendencies and for not revoking the child care license. And the man has now been sentenced on both charges.

But the sad part of the story is that a convicted abuser was able to go as far as he did. There were just enough cracks in the system to let him through. And there are still more cracks available, depending on probation.

But people's perceptions of child abuse are changing. Just a few years ago, rape victims were the ones who felt guilty of a crime. Now people are beginning to acknowledge that it's the perpetrator, not the victim, who deserves the scrutiny. As that perception changed, women became more likely to report rapes and pursue convictions.

The same thing is happening with child abuse. People, including family members, are more willing to admit that it's the children, not the adult perpetrator, who are the victims. In some cases, treatment for the offender may help solve the problem. In other cases, stiff sentencing is the only answer.

Public reporting on child abuse cases is another factor that can help stem its growth. If abusers know they face criminal prosecution, they should also know that their name will appear in public.

But more important than shaming the criminal, public information about child abuse can help people understand and come to terms with it. As each child abuse case is reported, it serves as an example to someone else who might be living with it — and thinking they're alone with it.

Unfortunately, public scrutiny might embarrass the... as well. We're confident that will change. The first step is under

Ketchikan Daily News 12/84

# Ketchikan man charged with sexual abuse of minors

ASSOCIATED PRESS

KETCHIKAN — A grand jury has charged a Ketchikan man with 24 counts of second-degree sexual abuse of a minor and related charges.

Richard Dunker, 39, was charged with bringing six boys, aged 11 to 16, to his apartment, giving them alcohol, tobacco and money and trying to get them to have sex with him and pose for videotaping sessions.

The grand jury returned the

indictments on Friday.

Dunker was arrested March 19. He was jailed on \$100,000 bail. If convicted, he could receive more than 70 years in jail.

The charges included second-degree sexual abuse of a minor, attempted sexual abuse of a minor, indecent exposure, contributing to the delinquency of minors, unlawful exploitation of minors and attempted exploitation of minors.

Five minors testified to the grand jury, along with Ketchikan

Police Officer Dale Young and police Lt. Michael Hunter.

According to an affidavit filed in support of a search warrant, the investigating officer interviewed at least two of the boys. One said Dunker gave him wine coolers and paid him to lie on the floor naked with another teenage boy and sit in his underwear. The boy said Dunker would show pornographic videotapes to the boys in his apartment.

Dunker paid one boy \$20 to watch a video of men engaged in

sex acts and asked the boy if he would like to do those things with him.

It was not immediately known if any of the minors agreed to the sex acts.

"He told (the boy) that it wasn't so bad," Jacobson wrote. Dunker paid the boy to allow Dunker to videotape him with his clothes on, the boy said.

Dunker had the boy visit his apartment 50 times, the boy said, but also told him to come to his boat.

"Dunker wanted his relationship with the boys to be secret from his girlfriend with whom he shares an apartment," Jacobson wrote.

"The boy) told me that Dunker masturbates while the boys are present and does this while watching the pornographic videos. He was naked in front of (the boy) on one occasion and on another occasion he flashed him showing his genitals," Jacobson wrote.

According to court records,

Dunker told two of the boys that if they knew any pretty young girls that wanted to be videotaped, to bring them to the apartment.

"He requested pretty young ones that were about 6- or 7-year-old," Jacobson wrote.

Another young boy told detective Young that he had been offered beer but did not drink it. He said he was offered \$25 to be videotaped nude on several occasions but did not agree to it.

## Revamp of



Associated Press

...event Thursday, joined long-track speedskater ... as the only two American double-medal winners at the 1992 Winter Olympic Games.

## winners, losers

Big winners  
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'ICS, Back Page)

## MEDALS

Through Saturday

	G	S	B	T
Germany	10	10	6	26
Unified Team	8	6	8	22
Austria	8	7	8	23
Norway	9	6	5	20
Italy	4	6	4	14
United States	5	4	2	11
France	3	6	1	10
Finland	3	1	3	7
Japan	1	2	4	7
Canada	2	2	2	6
South Korea	2	1	1	4
The Netherlands	1	1	2	4
Sweden	1	0	3	4
Switzerland	1	0	2	3
China	0	3	0	3
Luxembourg	0	2	0	2
Czechoslovakia	0	0	2	2
New Zealand	0	1	0	1
North Korea	0	0	1	1
Spain	0	0	1	1

Olympics coverage.  
Page C-4

# Time doesn't heal trauma

## Victims of sex abuse hit time limit on prosecutions

By ANNA FARNESKI  
Staff Writer

As the white-haired man sat at the defense table, leaning forward to hear the judge's comments, tears welled in the eyes of a 26-year-old woman sitting alone in the courtroom visitors' gallery.

The droplets rolled down her face, over the dark circles beneath her blue eyes. She wiped the tears on her skirt. Her gaze returned to the scholarly-looking man.

Attending George "Biff" McGlauffin's sentencing hearing in late January was as close as the young woman will ever get to justice. McGlauffin cannot be punished for what he did to her when she was 9 years old.

A boarder at her parents' home, McGlauffin befriended her, treated her like a daughter . . . and then like a mistress. He showered her with gifts and attention, but robbed her of her childhood.

McGlauffin, 64, was sentenced to eight years in jail Jan. 23 after a judge earlier found him guilty of raping and sexually abusing a 5-year-old girl—not the woman in court—between 1981 and 1983.

Based on evidence from the state and pornographic photos of young boys and girls shot by McGlauffin, the prosecutor estimated that the retired laborer sexually abused at least three other young children in the mid-1970s in Fairbanks. But McGlauffin, 64, could not be prosecuted for those alleged crimes because the statute of limitations on the crimes prevents the state from filing charges.

The young woman who wept silently was one of the girls in the photographs—McGlauffin admitted to the crime in court and in a letter to the judge.

"It's like we don't matter," the woman said in an interview later. "Why don't we matter?"

According to mental health experts, victims of childhood sexual abuse are often so traumatized by the abuse that they repress the memories for years. In the interim, they are often plagued with depression, anger, food disorders, drug and alcohol abuse and suicidal tendencies.

Often, their minds do not allow them to recall the events, or deal with them, until they are mature adults. By that time, the state cannot prosecute, so the perpetrator remains free.

Advocates for victims of sexual assault and sex abuse throughout the state want the statute of limitations for prosecution lengthened, and they have gone to the Legislature for help.

At his hearing in January, McGlauffin asked the judge for leniency. He has heart problems,

**The numbers**

Alaska's sex abuse rate is six times the national average, according to the state Division of Family and Youth Services.

Alaska: One of every 105 children is abused.

Nation: One of every 633 children is abused.

he said, and he hasn't touched a child since 1983. His niece, a speech writer for President George Bush, sent the judge a letter asking for a light sentence. She used White House letterhead.

McGlauffin's attorney said the man has rehabilitated himself.

Despite his conviction, McGlauffin adamantly denied any misconduct with children, with one exception. He admitted to sexual relations with the 26-year-old woman at the sentencing hearing, who is referred to as "R" in the court record.

With "R," McGlauffin said, he was able to "experiment to my heart's content. She was a very loving, responsive, imaginative young person."

But the grown woman doesn't associate such feelings with the experience. While growing up after that time, she always thought nobody liked her. Even now, intimacy with her husband is difficult. Despite help from a therapist, she has nightmares and often cannot sleep.

Sex abuse victims in Fairbanks, including McGlauffin's 26-year-old victim, have gathered more than 400 signatures from Fairbanks residents supporting a bill to change the statute of limitations.

Under current state law, a victim must report the crime before his or her 17th birthday and within 10 years of the offense, or the state cannot prosecute. Compared to other states, Alaska's statute of limitations on sex abuse is short, according to legislators and advocates for victims.

The topic is "hot one" in Juneau these days, legislators said. National attention focused on the issue last year after celebrities, such as comedian Roseanne Arnold announced they had been sexually abused as children.

"It's topical and there's a lot of interest and support," said Rep. Mark Boyer, D-Fairbanks. "My guess is we'll see a change in the statutes."

Boyer's HB 370 would remove any time limitation on reporting sexual abuse. It would also raise the age of consent from 16 to 18.

Sens. Arliss Sturgulewski, Virginia

(See ABUSE, Back Page)

# Prices Beat!



## ABUSE

(Continued from Page A-1)  
Collins and Lyman Hoffman also introduced similar bills.  
Boyer said he and other legislators have been bombarded with mail on the issue.  
He began researching the statute of limitations after a victim here pointed out the problem to him. "At first I was skeptical because of all the national media attention given to people like Roseanne Barr, but once I looked at the issue and did the research, I thought, boy, this was serious."

### What's fair?

However, not everyone is pleased at the thought of an increase in the statute of limitations on sex abuse crimes. Assistant Public Defender Paul Canarsky, who defended McGlauffin, said the change would be costly to the state and unfair to defendants.

Canarsky said defendants would have to rely on old evidence. He also predicted that the prosecutors would use already scarce funds to try old cases. Prosecutors would decline more current cases, he said.

"The thing about the statute of limitations, though, is that it also embodies a common sense approach," he added. "Unless it's something really, really serious like murder, the mistakes a person has made in the past should be left behind them."

Canarsky said he objects to special rules for a class of crimes. The statute of limitations for most crimes is five years. There is none for murder.

Law enforcement officials say they would welcome a change in the rules. They said the additional cases would not be too expensive or time-consuming.

Karla Taylor Welch, the assistant district attorney who prosecutes sex abuse cases here, said that in the past year there were four cases in which she could not prosecute individuals on alleged crimes because of the statute of limitations. Two of the men, including McGlauffin, were convicted on other sexual abuse charges, but two of the men remain free.

In McGlauffin's case, Welch said, it would have been easy to convict, because McGlauffin saved hundreds of photos that he took of the boys and girls he molested.

Alaska State Trooper Sgt. Jim McCann, who investigated the McGlauffin case, said he routinely learns of abuse cases in which the statute of limitations has expired. "That sort of thing happens all the time, we're getting more and more," he said.

"It hurts, and it's not very easy for us to look into the eyes of the victim that sits before us and say 'I'm sorry there's nothing for us to do.'"

McCann disagrees with a statute of limitations on any crime.

"What do we owe this perpetrator?" he asked. "Why is it not fair if we can prove 10 or 15 years later that he's a pedophile. If we can make the case, who cares?"

## OLYMPICS

(Continued from Page A-1)  
disappointments in '84 and '88, the one-man ski squad from Luxembourg claimed two medals here, albeit neither gold.

HB

443

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

NO. 4  
Bill Version: HB 443  
(H) Publish Date: 2-28-92

Revision Date: \_\_\_\_\_  
Title: "...increasing superior court judges...  
decreasing...district judges in the fourth...district..."  
Sponsor: House Judiciary by Request  
Requestor: House Judiciary Committee

Department Affected: Department of Law  
BRU: Prosecution  
Component: Fourth Judicial District

COMPONENT SERIAL 

		R	R
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Prepared by: Richard I. Peques, Director  
Division: Administrative Services  
Approved by Commissioner: Charles E. Cole, Attorney General  
Agency: Department of Law

Phone: 465-3672  
Date: February 24 1992

Date: February 24, 1992

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 443

This bill amends AS 22.10 and AS 22.15 to increase the number of superior court judges in the fourth judicial district from five to six, and to decrease the number of district judges in the fourth judicial district from four to three. The bill will have the effect of increasing the time available to hear felony trials and decreasing the time available to hear misdemeanor trials, to the extent that the time of the two positions involved will be or has been spent on criminal matters. If the time to be spent hearing felony trials is evenly offset by the time that was previously spent hearing misdemeanor trials, there should not be a fiscal impact for the Department of Law.

No. 1

Bill Version: HB 443

(H) Publish Date: 2-28-92

**FISCAL NOTE**

**STATE OF ALASKA  
1992 LEGISLATIVE SESSION**

Revision Date: \_\_\_\_\_ Department Affected: Alaska Court System  
 Title: An Act increasing the total number of BRL: Trial Courts  
superior court judges... Components: \_\_\_\_\_  
 Sponsor: Judiciary by request  
 Requestor: Judiciary COMPONENT SERIAL NO. 

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

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	118.4	118.4	118.4	118.4	118.4	118.4
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT	7.8					
LAND & STRUCTURES						
GRANTS & CLAIMS						
<b>TOTAL OPERATING</b>	<b>126.2</b>	<b>118.4</b>	<b>118.4</b>	<b>118.4</b>	<b>118.4</b>	<b>118.4</b>
<b>CAPITAL</b>						
<b>REVENUE</b>						

**FUNDING: (Thousands of Dollars)**

GENERAL FUNDS	126.2	118.4	118.4	118.4	118.4	118.4
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>126.2</b>	<b>118.4</b>	<b>118.4</b>	<b>118.4</b>	<b>118.4</b>	<b>118.4</b>

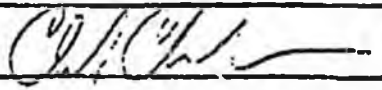
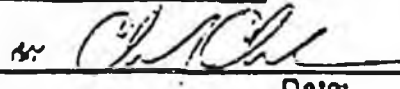
**POSITIONS:**

FULL-TIME	2.0	2.0	2.0	2.0	2.0	2.0
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

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

See attached fiscal analysis.

Prepared by: C. S. Christensen III, Staff Counsel  Phone: 264-8228  
 Division: Alaska Court System Date: 02/06/92  
 Approved by: Arthur H. Snowden, II, Administrative Director  Date: 02/06/92  
 Agency: Alaska Court System

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

No 1  
HB 443Alaska Court SystemFiscal Impact of Adding a Superior Court Judge and  
Deleting a District Court Judge in the Fairbanks Trial Courts  
HB 443Personal Services

	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Cost difference between a Superior Court Judge and a District Court Judge			\$22,812
Law Clerk I, Fairbanks, permanent full-time, 13D	36,684	14,156	50,840
Secretary II, Fairbanks, permanent full-time, 12B	31,824	12,896	44,720
<b>Total Personal Services</b>			<u>118,372</u>

Equipment (one-time cost)

Office equipment for Law Clerk (personal computer, desk, chair, statutes and filing cabinet)			4,100
Office equipment for Secretary (personal computer, desk, chair, and filing cabinet)			3,700
<b>Total Equipment</b>			<u>7,800</u>

<b>Total Costs</b>			<u>\$126,172</u>
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FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

No. 2  
Bill Version: HB 443  
(H) Publish Date: 2-28-92

Effective Date: \_\_\_\_\_  
Title: An Act increasing the number of Superior Court judges  
... and decreasing the number of District Court judges  
Sponsor: House Judiciary  
Requestor: House Judiciary

Department Affected: Administration  
BRU: Office of Public Advocacy  
Component: Office of Public Advocacy

COMPONENT SERIAL NO. 

		4	3
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE:	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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Brant McGee, Public Advocate  
Division: Office of Public Advocacy

Phone: 274-1684  
Date: February 13, 1992

Approved by Commissioner: Nancy Bear Usara  
Agency: Administration

Date: 2/13/92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

Bill Version: HB 443  
(H) Publish Date: 2-28-92

Revision Date: \_\_\_\_\_  
Title: "An Act increasing the total number of superior court judges from 30 to 31."  
Sponsor: House Judiciary  
Requestor: House Judiciary

Department Affected: Administration  
BRU: Public Defender Agency  
Component: Public Defender Agency

COMPONENT SERIAL NO. 

1	6	3	1
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE:	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

Estimate of current year impact \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.) This bill eliminates a district court judge position and adds a superior court judge position in the fourth judicial district.

Fiscal impact is likely to be minimal as concerns the Public Defender Office in that location.

Prepared by: John Salemi, Public Defender  
Division: Public Defender Agency

Phone: 279-7541  
Date: February 12, 1992

Approved by Commissioner: Nancy Bear Usura  
Agency: Administration

Date: 2/21/92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).



Alaska Court System  
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

CHARLES S. CHRISTENSEN III  
Staff Counsel

April 6, 1992

303 K Street  
Anchorage, AK 99501  
(907) 264-8228

The Honorable Rick Halford  
Chairman, Senate Judiciary Committee  
P. O. Box V  
Juneau, Alaska 99811

Dear Senator Halford:

I am writing to request that the Judiciary Committee schedule House Bill 443, relating to the number of judges in the fourth judicial district, at its earliest possible convenience. This bill was introduced at the request of the Alaska Supreme Court. Its purpose is to correct an imbalance in the number and type of judges in the fourth judicial district.

At the present time, the superior court for the fourth judicial district is authorized to have five judges (including four in Fairbanks and one in Bethel), while the district court is authorized to have four (all in Fairbanks). HB 443 would upgrade one of the district court positions to a superior court judgeship, thus reducing the number of district judges to three, and increasing the number of superior court judges to six.

The supreme court is requesting this statutory change because it believes that the superior court workload in the fourth judicial district is excessive for five judges, and that the changes proposed by HB 443 represent the most practical way to address this problem.

At the present time, the five superior court judges sitting in the fourth judicial district are averaging 60 work hours each per week. They are being assisted by a pro tem judge brought out of retirement, as well as by two district judges who are hearing

The Honorable Rick Halford  
April 6, 1992  
Page 2

superior court cases in a pro tem capacity. In spite of this tremendous effort, the superior court has been unable to keep pace with its workload. Because of the high trial rate in the district, we have come close to losing criminal cases that could not be heard in a timely manner. An additional superior court judge is essential.

The reduction in the number of district judges reflected in this upgrade will necessarily cause some strain on the district court. However, the supreme court is cognizant of the fiscal problems facing the state at the present time. It has chosen to pursue this course of action so as to have as little fiscal impact on the state as possible.

A judicial upgrade in the fourth judicial district is essential if the superior and district courts are to operate efficiently, and provide an adequate level of service to the community. Please let me know if I can provide any additional information.

Very truly yours,

*C.S. Christensen III / bh*  
C. S. Christensen III  
Staff Counsel

CSC:bh

H B

4 6 8

FISCAL NOTE

1

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

BILL

Bill Version: HB 468

(H) Publish Date: 2-26-92

Revision Date: \_\_\_\_\_  
 Title: "An Act relating to unfair trade  
 practices by construction contractors."  
 Sponsor: House Judiciary Committee  
 Requestor: House Labor & Commerce

Department Affected: Labor  
 BRU: Workers' Compensation  
 Component: Workers' Compensation  
 COMPONENT SERIAL NO. 344

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Linda Rexwinkel, Director

Division: Workers' Compensation

Phone: 264-2452

Date: 2/24/92

Approved by Commissioner: John Abshire, Acting Commissioner

Agency: Department of Labor

Date: 2/24/92

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

COMMITTEE COPY

# REPRESENTATIVE DAVE DONLEY

ALASKA STATE LEGISLATURE  
DISTRICT ELEVEN  
SEAT A

3111 "C" STREET, SUITE 450  
ANCHORAGE, ALASKA 99503  
(907) 561-7629 (FAX) 562-4376

ALASKA LANDINGS • BENTZEN • BIRCHWOOD • CHESTER CREEK • HEATHER MEADOWS • LINCOLN PARK • MIDTOWN • NORTHSTAR  
NORTHWOOD • ROMIG • ROOSEVELT PARK • SPENARD • THOMPSON • TURNAGAIN • WINDEMERE • WOODLAND PARK



CHAIRMAN  
JUDICIARY COMMITTEE

VICE CHAIRMAN  
REGULATION REVIEW COMMITTEE

MEMBER  
RULES COMMITTEE  
LABOR AND COMMERCE COMMITTEE

## MEMORANDUM

To: Senator Drue Pearce  
Chair, Labor and Commerce Committee

MAR 30 1992

From: Representative Dave Donley<sup>D</sup>  
Chair, House Judiciary Committee

Re: HB 468, An act relating to unfair trade practices by  
construction contractors

Date: March 30, 1992

I am writing to request that you please schedule for hearing HB 468, an act relating to unfair trade practices by noncomplying contractors. This legislation addresses concerns both contractors and the labor community have about unfair bidding practices of contractors who are attempting to reduce their bids by misclassifying employees as independent contractors. Misclassification allows the bidder to escape payment of FICA taxes, workers' compensation, and unemployment contributions and resultingly reduce their bid.

The bill has two main provisions.

1. It provides a private cause of action to contractors workers, and unions that suffer damages by loss of a bid to sue winning bidders who reduced their bid by knowingly misclassifying employees as independent contractors. One exception to this provision is that a person who brings an action against a winning bidder may not collect damages if the defendant to the case establishes that the plaintiff also knowingly violated employment law by misclassifying an employee as an independent contractor in their bid for the same contract.

JUNEAU OFFICE

(During Legislative Session January through May)

P.O. BOX V, JUNEAU, ALASKA 99811 • (907) 465-3892 (FAX) 463-5661



• (907) 465-3892

2. It gives the attorney general authority to bring an action for civil penalties and injunctive relief against a person who knowingly violates the workers' compensation, unemployment contributions, and FICA withholdings by misclassifying an employee as an independent contractor.

While the State presently has the authority to address this misclassification in the bids it receives, many are concerned that the State is too overburdened to discover every case. For example, the IRS has recently estimated that 38% of employers misclassify workers as contractors. Therefore, HB 468 provides this private cause of action. It is similar to a bill presently introduced at the federal level to address this same concern.

HB 468 has the support of the Labor community and is not opposed by the Associated General Contractors.

DD/jmn

# REPRESENTATIVE DAVE DONLEY

ALASKA STATE LEGISLATURE  
DISTRICT ELEVEN  
SEAT A

3111 "C" STREET, SUITE 450  
ANCHORAGE, ALASKA 99503  
(907) 561-7629 (FAX) 562-4376

ALASKA LANDINGS • BENTZEN • BIRCHWOOD • CHESTER CREEK • HEATHER MEADOWS • LINCOLN PARK • MIDTOWN • NORTHSTAR  
NORTHWOOD • ROMIG • ROOSEVELT PARK • SPENARD • THOMPSON • TURNAGAIN • WINDEMERE • WOODLAND PARK



CHAIRMAN  
JUDICIARY COMMITTEE  
VICE CHAIRMAN  
REGULATION REVIEW COMMITTEE  
MEMBER  
RULES COMMITTEE  
LABOR AND COMMERCE COMMITTEE

## MEMORANDUM

TO: All House Members

FROM: Representative Dave Donley <sup>DB</sup>

RE: Questions and Answers regarding HB468, an act relating  
to unfair trade practices by construction contractors

DATE: March 11, 1992

### 1. What is the problem HB 468 will redress?

HB 468 tries to address a growing problem in Alaska and in many other states where there is a high probability contractors are misclassifying employees as independent contractors in order to escape payment of unemployment compensation, workers' compensation insurance, and social security taxes. The problem is so pervasive that in 1990 the Internal Revenue Service estimated that 38% of all employers misclassify employees as contractors. With declining revenues it is nearly impossible for Alaska to effectively monitor employee misclassification. In turn, HB 468 provides an additional solution to this problem by allowing industry participants to bring a private cause of action and police misclassification by their peers.

### 2. How does HB468 address the problem?

HB468 provides a private cause of action to contractors, workers, or unions that suffers damages by loss of a bid. In their action the person who suffers damages must show that the winning bidder knowingly misclassified employees as independent contractors. If they meet this burden, the plaintiff may collect damages for the loss they suffered and may enjoin award of the bid to the bidder in



violation of these statutes. The plaintiff may not succeed in this action if, in their bid, they also knowingly misclassified employees as independent contractors.

HB 468 also gives the attorney general authority to bring an action for penalties and for injunctive relief against a person who knowingly violates the employee provisions addressed in this bill.

3. What types of construction contracts does this address?

HB 468 would primarily affect public sector construction projects. This legislation applies to all construction contracts that were let out for competitive bid. For this reason the act would apply to projects put out for bid by the state, its political subdivisions, and public corporations, including the Alaska Railroad. If a construction project in the private sector was let out for competitive bid the legislation would conceivably apply.

4. Is there similar legislation in other states?

Connecticut and Oregon have both enacted legislation similar to HB 468. Illinois and California are addressing similar legislation at this time. In addition, there is a bill in the United States Congress to provide for a private cause of action on federal construction projects.

The real impetus for this legislation in other states is parallel to the reason for this legislation in Alaska. The number of contractors failing to secure workers' compensation, failing to make unemployment contributions, and failing to pay social security taxes is too great, and in the face a grave fiscal constraints, the states do not have the budget to address this problem on their own. For example, Connecticut, the first state to enact legislation on this issue, did so in large part because they lacked the state funds to monitor compliance on their own.

Here in Alaska the fiscal constraints are identical. Just as one example, in FY 92 the Workers' Compensation Division laid off the one investigator they had who pursued companies that failed to obtain workers' compensation coverage. While the Wages and Hours Division of the Department of Labor has taken on some of these responsibilities, the amount of effort they can expend on this issue is minimal at best.

**BILL NO:** House Bill No. 468

**DATE:** March 2, 1992

**TITLE:** "An Act relating to unfair trade practices by construction contractors."

**CONTACT:** Arbe Williams  
465-2700

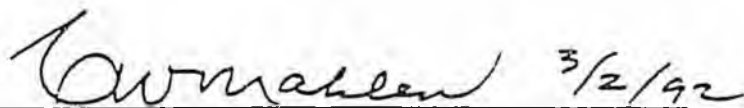
House Bill No. 468 provides that a person who suffers damages as a result of a competitive bid for a construction contract losing to a bid of a person who knowingly violates an employee provision by treating an employee as an independent contractor may bring action for damages or injunctive relief against the person who was awarded the contract. An employee provision as used in this subsection provides for an employer's obligation to pay unemployment insurance contributions, an employer's liability for workers' compensation payments to employees or an employer's obligations under the Federal Insurance Contributions Act.

The bill also provides that the attorney general may bring action in superior court against a person who knowingly violates an employee provision and provides for specific penalties in addition to any other penalty allowed by law.

House Bill No. 468 establishes a civil liability against a contractor or subcontractor who knowingly violates an employee's right to unemployment compensation, workers' compensation coverage or provisions of the Federal Insurance Contributions Act.

The Department of Labor supports this legislation.

APPROVED:



C. W. Mahlen, Commissioner  
Department of Labor

**POSITION PAPER/Department of Labor**

HJR

43

FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

BILL NO. HJR 43

Revision Date: January 27, 1992 Department Affected: Department of Law  
 Title: "Congratulating the National Conference of Commissioners on Uniform State Laws..." BRU: Legal Services  
 Sponsor: House Rules/Req. of Governor Component: Operations  
 Requestor: Senate Judiciary COMPONENT SERIAL NO. 

		9	3
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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

This joint resolution congratulates the National Conference of Commissioners on Uniform State Laws (NCCUSL) on its centennial, and this action will not have a fiscal impact.

Prepared By: Richard I. Pegues, Director Phone: 465-3672  
 Division: Administrative Services Date: January 27, 1992  
 Approved by Commissioner: Charles E. Cole, Attorney General  
 Agency: Department of Law Date: January 27, 1992

HJR 36

HOUSE JOINT RESOLUTION NO. 36  
Relating to off-shore oil exploration,  
development, and tanker transportation activities  
in the Beaufort and Chukchi seas.

and recommends it be replaced with the following committee  
substitute:

CS FOR HOUSE JOINT RESOLUTION NO. 36 (O&G)  
(same title)

Recommending do pass (2): Brown, Hudson

Recommending do not pass (2): Zawacki, G. Phillips

No recommendation (3): Carney, Choquette, Navarre

The following was published April 29, 1991:

Zero fiscal note, Department of Natural Resources

The report was signed by Representative Hudson, Chairman.

HJR 36 was referred to the Resources Committee.

INTRODUCTION OF CITATIONS

The following citations were received:

Honoring - Kwethluk Community School, Winner of the  
Secretary's Initiative Award  
By Representative Ivan  
Senator Hoffman

Honoring - The Ratification of the Constitution of  
the State of Alaska  
By Senator Rodey

Honoring - Frank See, Sr., Honorary Doctorate Award  
By Senators Eliason, Duncan  
Representative Mackie

In Memoriam - Barney Myring  
By Representative Kubina  
Senators Kerttula, Menard

The citations were referred to the Rules Committee for  
placement on the calendar.

INTRODUCTION, FIRST READING AND REFERENCEOF HOUSE RESOLUTIONSHJR 43

HOUSE JOINT RESOLUTION NO. 43 by the Rules Committee by  
request of the Governor:

Congratulating the National Conference of  
Commissioners on Uniform State Laws on its  
centennial, and expressing the gratitude of the  
State of Alaska for the work of the conference.

was read the first time and referred to the Judiciary  
Committee.

The following was published April 29, 1991:

Zero fiscal note, Department of Law

The Governor's transmittal letter, dated April 29, 1991,  
appears below:

"Dear Speaker Gruesendorf:

Under the authority of art. III, sec. 18, of the Alaska  
Constitution, I am transmitting a joint resolution on the  
National Conference of Commissioners on Uniform State Laws.  
This measure is a most appropriate means of acknowledging  
our benefits from that organization, expressing our  
gratitude to it, and extending our congratulations on its  
centennial this year. The resolution sets out some  
highlights of Alaska's participation in the conference and  
of its history, and mentions some of the Uniform Acts  
developed by the conference.

I am confident that the legislature shares the executive  
branch's appreciation of the work of the conference, and, on  
behalf of the people of the State of Alaska, I urge you to  
join in this commendation of a national organization that  
has done so much to benefit our state. I urge your  
favorable consideration and early passage of this measure.

Sincerely,

/s/

Walter J. Hickel  
Governor"

# Alaska State Legislature

Senate District L  
Al Adams

WHILE IN SESSION  
P.O. Box V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-3707

OUT OF SESSION  
P.O. Box 333  
Kotzebue, Alaska 99752  
(907) 442-3245

Official Business

TO: Senator Rick Halford, Chair  
Senate Judiciary Committee

FROM: Senator Al Adams *ADA*

RE: House Joint Resolution 43

DATE: January 27, 1992

I would like to suggest a corrective amendment to House Joint Resolution 43 in committee tomorrow:

Page 1, line 5, delete "is beginning the"

Page 1, line 5, insert "began"

Page 1 line 6, delete "this year"

Page 1, line 6, insert "in 1991"

The National Conference of Commissioners of Uniform State Laws launched its 100th anniversary last year. The amendment leaves the resolution more appropriate for a 1992 congratulations.

Thank you.

Proposed Amendments To HJR 43  
By Senator Al Adams

# *Alaska State Legislature*



## *Senate Judiciary Committee*

### M E M O R A N D U M

TO: Legislative Legal Services

FROM: Senator Rick Halford, Chairman  
Senate Judiciary Committee

RE: CS for HJR 43

DATE: January 31, 1992

---

I request Legislative Legal Services to draft a Judiciary CS for HJR 43 to include the amendments attached.

**SENATE CS FOR HOUSE JOINT RESOLUTION NO. 43 (JUDICIARY)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**SEVENTEENTH LEGISLATURE - SECOND SESSION**

**BY THE SENATE JUDICIARY COMMITTEE**

**Offered: 4/29/91  
Referred: Judiciary**

**Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A RESOLUTION**

1 **Congratulating the National Conference of Commissioners on Uniform State Laws on its**  
2 **centennial, and expressing the gratitude of the state for the work of the conference.**

3 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 **WHEREAS** the National Conference of Commissioners on Uniform State Laws is celebrating  
5 its 100th anniversary this year; and

6 **WHEREAS** it is appropriate upon this auspicious occasion to highlight the achievements of the  
7 organization and to applaud its role in creating uniformity of the laws of the states, the District of  
8 Columbia, Puerto Rico, and the U. S. Virgin Islands; and

9 **WHEREAS** the state has been an active participant in the national conference since 1912, with  
10 the appointment of Royal A. Gunnison of Juneau and Peter D. Overfield of Fairbanks as members, and  
11 the appointment of 28 additional members over the years since then; and

12 **WHEREAS** the state has been a major beneficiary of the work of the conference since 1913,  
13 with that year's enactment of the Uniform Bills of Lading Act, the Uniform Negotiable Instruments Law,  
14 the Uniform Sales Act, and the Uniform Warehouse Receipts Act, and enactment of a total of 63  
15 uniform acts to date; and

16 **WHEREAS** the existence and work of the conference recognize our nation's need for uniformity

1 among the various United States jurisdictions in certain areas of the law, a need perceived at least as far  
2 back as 1881, when the Alabama State Bar Association took the first formal action to encourage  
3 development of uniform laws, and 1889, when the American Bar Association decided at its 12th annual  
4 meeting to work for uniformity of the laws of the then 44 states; and

5       **WHEREAS**, within a year after the American Bar Association's decision, the New York  
6 legislature authorized the governor to appoint three commissioners to explore the most effective manner  
7 in which to effect uniformity of law to ease problems developing between increasingly interdependent  
8 states, and the first meeting of the Conference of State Boards of Commissioners on Promoting  
9 Uniformity of Law in the U. S. was held in Saratoga Springs, New York, on August 24, 1892, with  
10 commissioners from seven states attending; and

11       **WHEREAS**, by the turn of the century, 33 of the then 45 states, along with two territories, were  
12 members, and in 1915 the name of the conference was changed to the present one; and

13       **WHEREAS** the acts produced by the conference, both uniform acts and model acts, solve many  
14 of the problems associated with wide variations in state laws, covering a great range of issues from  
15 commercial law and property law to probate and adoption; and

16       **WHEREAS**, among the most widely adopted uniform acts are the Uniform Anatomical Gift Act,  
17 Uniform Child Custody Jurisdiction Act, Uniform Commercial Code, Uniform Controlled Substances  
18 Act, Uniform Partnership Act, Uniform Durable Power of Attorney Act, and Uniform Reciprocal  
19 Enforcement of Support Act, all providing crucial legislative answers to a vast array of human concerns  
20 and situations; and

21       **WHEREAS**, at the present time, more than 300 lawyers in private practice or government  
22 practice, justices, judges, and law professors, selected for their wide range of legal expertise and  
23 experience, serve as uniform law commissioners or associate members of the conference and donate  
24 hundreds and, in some cases, thousands of hours of their time to the conference, receiving no salary or  
25 fees for their work;

26       **BE IT RESOLVED** that the Alaska State Legislature congratulates the National Conference of  
27 Commissioners on Uniform State Laws on its 100th anniversary, applauds the work of the conference,  
28 expresses the state's most grateful and sincere appreciation for the opportunity to benefit from that work,  
29 and wishes the conference the greatest success in at least the next 100 years.

30       **COPIES** of this resolution shall be sent to Dwight A. Hamilton, President, and William J. Pierce,  
31 Executive Director, of the National Conference of Commissioners on Uniform State Laws.

LAW OFFICES  
DILLON & FINDLEY  
ONE SEALASKA PLAZA, SUITE 202  
JUNEAU, ALASKA 99801  
TELEPHONE (907) 586-1000  
FACSIMILE (907) 586-3777

DENNIS C. BAILEY  
CAROLINE B. CRENNAN  
PAUL L. DILLON  
THOMAS W. FINDLEY  
RICHARD D. MONKMAN  
ARTHUR H. PETERSON

SEIKA OFFICE  
514 LAKE STREET  
SEIKA, ALASKA 99835  
TELEPHONE (907) 747-3900  
FACSIMILE (907) 747-3990

January 19, 1992

Hon. Rick Halford, Chair  
Senate Judiciary Committee  
P. O. Box V  
Juneau, Alaska 99811

Re: HJR 43, NCCUSL centennial

Dear Senator Halford:

HJR 43, commemorating the National Conference of Commissioners on Uniform State Laws (NCCUSL) centennial, was not able to complete its legislative course last year. It is currently in your committee, and I urge scheduling it for an early hearing and favorable action on it. Alaska has certainly benefitted from the work of the Conference.

Since the resolution did not complete passage last year, two updating amendments are necessary. This timing gives us a chance to correct one typo and one oversight, too.

Here are my suggested amendments for HJR 43:

Page 1, lines 5 and 6:

Delete "is beginning the celebration of its 100th" and substitute "is celebrating its 100th."

Page 1, line 11:

After "Juneau," delete "as a member" and substitute "and Peter D. Overfield, of Fairbanks, as members."

Page 2, line 1:

Delete the "s" from "recognizes."

Page 2, line 31:

Delete "Lawrence J. Bugge" and substitute "Dwight A. Hamilton."

The Alaska, Anchorage, and Juneau Bar Associations have adopted similar resolutions, and congratulations from the Alaska Legislature would be most appropriate. Thank you.

Your truly,

*Arthur H. Peterson*  
Arthur H. Peterson  
Uniform Law Commissioner  
for Alaska

Proposed Amendments To HJR 43  
By Arthur Peterson, AK Uni Law Comm

LAW OFFICES  
DILLON & FINDLEY  
ONE SEALASKA PLAZA, SUITE 202  
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DENNIS C. BAILEY  
PAUL L. DILLON  
THOMAS W. FINDLEY  
RICHARD D. MONKMAN  
ARTHUR H. PETERSON

TELEPHONE (907) 586-4000  
FACSIMILE (907) 586-3777

May 14, 1991

Hon. Rick Halford, Chair  
Senate Judiciary Committee  
Alaska State Legislature  
P. O. Box V  
Juneau, Alaska 99811

Re: HJR 43, NCCUSL  
centennial

Dear Senator Halford:

HJR 43, commemorating the National Conference of Commissioners on Uniform State Laws (NCCUSL) on its centennial, passed the House a few days ago and is now in your committee. I would appreciate your scheduling it for an early hearing, and of course I urge favorable action on it.

Alaska has been an active participant in the NCCUSL throughout our period as a territory and since statehood. In addition, we have been the direct beneficiary of the work of the NCCUSL through Alaska enactment of at least 63 of its Uniform Acts.

The NCCUSL begins its centennial celebration at this summer's annual meeting, so it is important that the legislature pass this resolution this session.

Thank you.

Yours truly,

DILLON & FINDLEY

By:

  
Arthur H. Peterson

Uniform Law Commissioner  
for Alaska

cc: Jeff Bush, Supervising Attorney  
Legislation/Regulations Section  
Alaska Department of Law

List of Commissioners for: Alaska

Billy G. Berrier - Juneau, AK - 1976-86 \*\*  
Edgar Paul Boyko - Juneau, AK - 1967-68  
Frank A. Boyle - Juneau, AK - 1926-32  
Fred M. Brown - Valdez, AK - 1913-16  
D. A. Burr - Juneau, AK - 1966  
W. Grant Callow - Anchorage, AK - 1987-90  
John A. Clark - Fairbanks, AK - 1917-30  
Warren C. Colver - Juneau, AK - 1964-65  
Tamara B. Cook - Juneau, AK - 1987-90 \*\*  
Fred O. Eastaugh - Juneau, AK - 1969-74  
G. Kent Edwards - Juneau, AK - 1969-70  
John M. Elliott - Juneau, AK - 1970-75 \*\*  
Herbert L. Faulkner - Juneau, AK - 1932-50  
George B. Grigsby - Nome, AK - 1913-16  
Royal A. Gunnison - Juneau, AK - 1912-17  
John E. Havelock - Juneau, AK - 1971-74  
George N. Hayes - Juneau, AK - 1962-63  
Lloyd S. Kurtz, Jr. - Anchorage, AK - 1989-90  
Ralph E. Moody - Juneau, AK - 1960-61  
John C. Murphy - Juneau, AK - 1919-25  
Peter D. Overfield - Fairbanks, AK - 1912  
Donna Spragg Pegues - Juneau, AK - 1971-74  
Arthur H. Peterson - Juneau, AK - 1975-90  
Jay A. Rabinowitz - Fairbanks, AK - 1971-90  
James N. Reeves - Anchorage, AK - 1985-88  
R. E. Robertson - Juneau, AK - 1933-60  
Paul F. Robison - Anchorage, AK - 1970-85  
James S. Truitt - Anchorage, AK - 1926-43  
W. H. Whittlessey - Seward, AK - 1917-25

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TOTAL NUMBER OF UNIFORM ENACTMENTS  
(through June 1, 1990)

ALABAMA - 51  
ALASKA - 63  
ARIZONA - 63  
ARKANSAS - 73  
CALIFORNIA - 64  
COLORADO - 74  
CONNECTICUT - 66  
DELAWARE - 53  
DISTRICT OF COLUMBIA - 38  
FLORIDA - 52  
GEORGIA - 44  
HAWAII - 81  
IDAHO - 78  
ILLINOIS - 76  
INDIANA - 55  
IOWA - 62  
KANSAS - 77  
KENTUCKY - 54  
LOUISIANA - 62  
MAINE - 70  
MARYLAND - 83  
MASSACHUSETTS - 60  
MICHIGAN - 73  
MINNESOTA - 95

Total Number Of Uniform Enactments  
(Through June 1, 1990)

MISSISSIPPI - 39  
MISSOURI - 51  
MONTANA - 89  
NEBRASKA - 66  
NEVADA - 83  
NEW HAMPSHIRE - 65  
NEW JERSEY - 53  
NEW MEXICO - 66  
NEW YORK - 54  
NORTH CAROLINA - 53  
NORTH DAKOTA - 107  
OHIO - 49  
OKLAHOMA - 71  
OREGON - 82  
PENNSYLVANIA - 69  
PHILIPPINE ISLANDS - 2  
PUERTO RICO - 15  
RHODE ISLAND - 71  
SOUTH CAROLINA - 46  
SOUTH DAKOTA - 84  
TENNESSEE - 64  
TEXAS - 49  
UTAH - 79  
VERMONT - 49  
VIRGIN ISLANDS - 26  
VIRGINIA - 63  
WASHINGTON - 82

YEAR EACH STATE JOINED THE CONFERENCE

Alabama - 1906  
Alaska - 1912  
Arizona - 1900  
Arkansas - 1906  
California - 1897  
Colorado - 1895  
Connecticut - 1893  
Delaware - 1892  
District of Columbia - 1905  
Florida - 1895  
Georgia - 1892  
Hawaii - 1910  
Idaho - 1909  
Illinois - 1893  
Indiana - 1900  
Iowa - 1895  
Kansas - 1893  
Kentucky - 1898  
Louisiana - 1903  
Maine - 1895  
Maryland - 1896  
Massachusetts - 1892  
Michigan - 1892  
Minnesota - 1893  
Mississippi - 1892  
Missouri - 1895  
Montana - 1893  
Nebraska - 1893  
Nevada - 1911  
New Hampshire - 1893  
New Jersey - 1892  
New Mexico - 1908  
New York - 1892  
North Carolina - 1906  
North Dakota - 1893  
Ohio - 1898  
Oklahoma - 1895  
Oregon - 1908  
Pennsylvania - 1892  
Philippine Islands - 1909  
Puerto Rico - 1910  
Rhode Island - 1896  
South Carolina - 1895  
South Dakota - 1893  
Tennessee - 1909  
Texas - 1907  
US Virgin Islands - 1988  
Utah - 1907

Year Each State Joined The Conference

Vermont - 1895  
Virginia - 1895  
Washington - 1904  
West Virginia - 1909  
Wisconsin - 1893  
Wyoming - 1893

YEAR EACH STATE JOINED THE CONFERENCE

1892 - Delaware  
Georgia  
Massachusetts  
Michigan  
Mississippi  
New York  
New Jersey  
Pennsylvania

1893 - Connecticut  
Illinois  
Kansas  
Minnesota  
Montana  
Nebraska  
New Hampshire  
North Dakota  
South Dakota  
Wisconsin  
Wyoming

1894 -

1895 - Colorado  
Florida  
Iowa  
Maine  
Missouri  
Oklahoma  
South Carolina  
Vermont  
Virginia

1896 - Maryland  
Rhode Island

1897 - California

1898 - Kentucky  
Ohio

1899 -

1900 - Arizona  
Indiana

1901 -

1902 -

1903 - Louisiana

1904 - Washington

1905 - District of Columbia

1906 - Alabama  
Arkansas  
North Carolina

1907 - Texas  
Utah

1908 - New Mexico  
Oregon

1909 - Idaho  
Philippine Islands  
Tennessee  
West Virginia

1910 - Hawaii  
Puerto Rico

1911 - Nevada

1912 - Alaska

1988 - US Virgin Islands

FIRST UNIFORM ACT ADOPTED IN EACH STATE

- ALABAMA - Negotiable Instruments Law - 1909
- ALASKA - Bills of Lading Act - 1913  
Negotiable Instruments Law - 1913  
Sales Act - 1913  
Warehouse Receipts Act - 1913
- ARIZONA - Negotiable Instruments Law - 1913  
Sales Act - 1913
- ARKANSAS - Negotiable Instruments Law - 1913
- CALIFORNIA - Warehouse Receipts Act - 1909
- COLORADO - Negotiable Instruments Law - 1897
- CONNECTICUT - Negotiable Instruments Law - 1897
- DELAWARE - Negotiable Instruments Law - 1911
- DISTRICT OF COLUMBIA - Negotiable Instruments Law - 1899
- FLORIDA - Negotiable Instruments Law - 1897
- GEORGIA - Negotiable Instruments Law - 1924
- HAWAII - Negotiable Instruments Law - 1907
- IDAHO - Negotiable Instruments Law - 1903
- ILLINOIS - Negotiable Instruments Law - 1907  
Warehouse Receipts Act - 1907
- INDIANA - Negotiable Instruments Law - 1913
- IOWA - Negotiable Instruments Law - 1902
- KANSAS - Negotiable Instruments Law - 1905
- KENTUCKY - Negotiable Instruments Law - 1904
- LOUISIANA - Negotiable Instruments Law - 1904
- MAINE - Bills of Lading Act - 1917  
Negotiable Instruments Law - 1917  
Warehouse Receipts Act - 1917
- MARYLAND - Stock Transfer Act - 1910  
Bills of Lading Act  
Warehouse Receipts Act - 1910

MASSACHUSETTS - Negotiable Instruments Law - 1898

MICHIGAN - Acknowledgments Act - 1895

MINNESOTA - Wills Act, Foreign Executed - 1901

MISSISSIPPI - Child Labor Act of 1911 - 1914

MISSOURI - Negotiable Instruments Law - 1905

MONTANA - Negotiable Instruments Law - 1903

NEBRASKA - Negotiable Instruments Law - 1905

NEVADA - Negotiable Instruments Law - 1907

NEW HAMPSHIRE - Negotiable Instruments Law - 1909

NEW JERSEY - Negotiable Instruments Law - 1902

NEW MEXICO - Acknowledgments Act - 1901

NEW YORK - Negotiable Instruments Law - 1897  
Proof of Statutes Act - 1897

NORTH CAROLINA - Negotiable Instruments Law - 1899

NORTH DAKOTA - Negotiable Instruments Law - 1899

OHIO - Negotiable Instruments Law - 1902

OKLAHOMA - Negotiable Instruments Law - 1899

OREGON - Negotiable Instruments Law - 1899

PENNSYLVANIA - Negotiable Instruments Law - 1901

PHILIPPINES - Negotiable Instruments Law - 1911

PUERTO RICO - Proof of Statutes Act - 1911

RHODE ISLAND - Negotiable Instruments Law - 1899

SOUTH CAROLINA - Negotiable Instruments Law - 1914

SOUTH DAKOTA - Desertion and Non-Support - 1913  
Support Act - 1913  
Negotiable Instruments Law - 1913  
Warehouse Receipts Act - 1913

TENNESSEE - Negotiable Instruments Law - 1899

TEXAS - Desertion and Non-Support Act - 1913

UTAH - Negotiable Instruments Law - 1899

VERMONT - Marriage Evasion Act - 1912  
Negotiable Instruments Law - 1912  
Warehouse Receipts Act - 1912

US VIRGIN ISLANDS - 21 uniform acts adopted in 1957, including  
Reciprocal Enforcement of Support,  
Partnership and Limited Partnership Act.

VIRGINIA - Negotiable Instruments Law - 1897

WASHINGTON - Negotiable Instruments Law - 1899

WEST VIRGINIA - Negotiable Instruments Law - 1907

WISCONSIN - Wills Act, Foreign Executed - 1895  
Wills Act, Foreign Probated - 1895

WYOMING - Negotiable Instruments Law - 1905

Uniform Adoptions for: ALASKA

Act to Secure the Attendance of Witnesses from Without a  
State in Criminal Proceedings  
Alcoholism and Intoxication Treatment Act  
An Act Relative to the Probate in this State of Foreign  
Wills  
Anatomical Gift Act  
Arbitration Act  
Bills of Lading Act  
Business Corporation Act  
Child Custody Jurisdiction Act  
Commercial Code  
Commercial Code, Article 8 Amendments  
Commercial Code, Article 9 Amendments  
Common Interest Ownership Act  
Common Trust Fund Act  
Conditional Sales Act  
Conservation Easement Act  
Contribution Among Tortfeasors Act, Revised 1955  
Criminal Extradition Act  
Desertion and Non-Support Act  
Determination of Death Act  
Disclaimer of Transfers by Will, Intestacy or Appointment  
Act  
Disposition of Community Property Rights at Death Act  
Division of Income for Tax Purposes Act  
Enforcement of Foreign Judgments Act  
Estate Tax Apportionment Act  
Exemptions Act  
Extradition of Persons of Unsound Mind Act  
Federal Lien Registration Act  
Federal Tax Lien Registration Act  
Foreign Acknowledgments Act  
Foreign Bank Loan Act  
Foreign Depositions Act  
Foreign Money Judgments Recognition Act  
Gifts to Minors Act  
Gifts to Minors Act, Revised 1965  
Insurers Liquidation Act  
Land Sales Practices Act  
Limited Partnership Act  
Narcotic Drug Act, Amended 1942  
Narcotic Drug Act, Amended 1952  
Negotiable Instruments Law  
Partnership Act  
Photographic Copies of Business and Public Records as  
Evidence Act  
Principal and Income Act  
Probate Code  
Proof of Statutes Act  
Reciprocal Enforcement of Support Act  
Reciprocal Enforcement of Support Act, Amended 1958  
Reciprocal Transfer Tax Act

Recognition of Acknowledgments Act  
Residential and Landlord Tenant Act  
Rights of the Terminally Ill Act  
Sales Act  
Securities Act  
Simultaneous Death Act  
Stock Transfer Act  
Testamentary Additions to Trusts Act  
Trade Secrets Act, Amended 1985  
Transfers to Minors Act, Amended 1986  
Trust Receipts Act  
Unclaimed Property Act  
Vital Statistics Act  
Warehouse Receipts Act  
Wills Act, Foreign Executed

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MOST WIDELY ADOPTED UNIFORM STATE LAW PROPOSALS \*

As of June 1, 1990

Anatomical Gift Act (1968) - 50 states and D.C.

Attendance of Out of State Witnesses Act - 50 states; D.C.; U.S. Virgin Islands; Puerto Rico

Child Custody Jurisdiction Act - 50 states; D.C.; U.S. Virgin Islands

Reciprocal Enforcement of Support Act - 50 states, D.C.; U.S. Virgin Islands; Puerto Rico

Commercial Code - 49 states; D.C.; U.S. Virgin islands

Partnership Act - 49 states; D.C.; U.S. Virgin Islands

Durable Power of Attorney Act - 47 states; D.C.

Simultaneous Death Act - 47 states; D.C.; U.S. Virgin Islands

Arbitration Act - 45 states; D.C.; U.S. Virgin Islands and Puerto Rico

Limited Partnership Act - 45 states and D.C.

Controlled Substances Act - 43 states; D.C.; U.S. Virgin Islands; Puerto Rico

Testamentary Additions to Trusts Act - 43 states; D.C.

Declaratory Judgments Act - 41 states; D.C.; U.S. Virgin Islands, Puerto Rico

\* Excludes those acts that were approved over the century but have been either superseded or withdrawn.

# A 100 YEAR TRADITION OF EXCELLENCE

## *The National Conference Of Commissioners On Uniform State Laws*

In the latter part of the 19th century, about the time a prominent law professor was characterizing state legal systems as "a whimsical diversity of laws," a movement began taking hold for the development of uniform laws among the states.

The Alabama Bar Association took the first formal action to encourage the development of "uniform" laws in 1881. But it was not until August 1889, during the 12th annual meeting of the American Bar Association, that the legal community made a formal resolution to work for "uniformity in the laws" of the then 44 states.

New York was the first state to act. In 1890 it authorized the governor to appoint three commissioners to "examine the subjects of marriage and divorce, insolvency, the form of notarial certificates and other subjects; to ascertain the best means to effect an assimilation and uniformity of the laws of the states; and especially to consider whether it would be wise and practicable for the state of New York to invite other states of the Union to send representatives to a convention to draft uniform laws to be submitted for the approval and adoption of the several states...." A few months later the ABA endorsed the New York action and urged the states, the District of Columbia and territorial legislatures to follow New York's lead.

### *In the Beginning — Seven States*

Six other states heeded the call and joined New York at the first meeting of the "Conference of State Boards of Commissioners on Promoting Uniformity of Law in the U.S." in Saratoga Springs, New York on August 24, 1892. They were Delaware, Georgia, Massachusetts, Michigan, New York, New Jersey and Pennsylvania.

The new commissioners wasted no time. They immediately completed and urged states and territories to adopt three Acts — Relating to Acknowledgments on Written Instruments, Validating Wills Lawfully Executed Without the State, and Recognizing as Valid Wills Probated in Another State.

They also recommended that states enact laws governing payment of notes, validating contracts and divorce and marriage. With great variance in the marriage consent age, they proposed raising the marrying age to 18 for males and 16 for females.

They also adopted a table of weights and measures, noting "it will probably be a surprise to most people to learn that legal weights of a bushel ... with the exception of wheat alone, vary in all the states."

After this burst of activity, the Conference produced no other proposals until 1896, when the Negotiable Instruments Law was completed. The NIL was the first act adopted by every state and the District of Columbia; it later became the basis for Article 3 of the Uniform Commercial Code.

### *Then There were 33*

By 1900, 33 states and two territories had appointed commissioners on uniform laws. During the first decade of the new century the Uniform Law Commissioners (ULC) concentrated on legislation to facilitate interstate commerce, drafting laws concerning sales, warehousing and transportation. A majority of states adopted all of these pioneering acts before they, as well as the Negotiable Instruments Law, were superseded by the Uniform Commercial Code some 40 years later.

By 1910, only Nevada and the Territory of Alaska had not appointed commissioners. They came aboard by 1912.

In its third decade, the Conference considered and adopted legislative proposals on issues ranging from partnerships to child labor. And in 1915, the organization officially became known as the National Conference of Commissioners on Uniform State Laws.

The ULC responded to problems of the 1920s with proposals in such areas as aviation and public utilities. In the 1930s, commissioners wrestled with machine gun laws as well as torts and trusts.

## *Fifty-Year Assessment*

As the Conference approached its golden anniversary year, its leadership began a reassessment to determine how the ULC could better serve the federal system. Though the past had been productive, commissioners decided they could play a more useful role in the future if they attacked major problems with comprehensive legal solutions rather than trying to address them piecemeal.

That decision led to the launching of the mammoth project that produced the Uniform Commercial Code (UCC). The ULC officially took on the task of drafting a comprehensive code to provide guidelines for all commercial transactions in 1940. Work on some of its components had already begun. In 1947 the ULC and the American Law Institute joined in a partnership that put all the components together in a Uniform Commercial Code that was offered to the states for their consideration in 1951. More than a decade of difficult battles for adoption in every state followed. But by 1967, all the states had enacted the Code except for Louisiana, which remains the lone holdout on several code provisions.

The breadth and depth of the UCC are difficult to grasp. It guarantees that commercial transactions in California are subject to the same law as transactions in Maine. A child purchasing penny candy in a neighborhood shop and a manufacturer buying robot welders for his assembly line both complete their transactions within the framework of the UCC. In UCC states, the code encompasses every sale of goods from crude oil to autos, every bank check written, and all commercial paper, stock and bond transactions.

The UCC is not set in stone. In 1987 the first new article since 1951 was approved, establishing law for the billion dollar leasing industry. As the Conference embarks on its second century, it is dealing with major changes in state payment system law, including electronic funds transfers, to bring the Code into the 21st century of finance.

The UCC's success as a comprehensive solution inspired commissioners to produce and work for enactment of a wide variety of legislative solutions to other basic state problems. These have included: the Uniform Probate Code, Uniform Consumer Credit Code, Uniform Marriage and Divorce Act, Uniform Alcoholism and Intoxication Treatment Act and a package of proposals designed to do for land transactions what the UCC did for transactions in the commercial realm — provide modern law to deal with modern problems.

While forging these major broad projects — primarily from the 1960s to the early '80s — the ULC also completed legislation needed by the states to deal with more specific problems. Among these proposals were the Uniform Child Custody Jurisdiction Act, Anatomical Gift Act, a major revision of the Limited Partnership Act and the Uniform Determination of Death Act.

Agendas are made by a Scope and Program Committee. Most recently, commercial and family law have been focal areas for drafting efforts. Among the "products" of the 1980s are two new articles to the Uniform Commercial Code, a Trade Secrets Act, the Transfers to Minors Act, Premarital Agreement and Marital Property Acts, and acts addressing such topical issues as surrogate mother contracts and rights of the terminally ill.

### *Uniform and Model Acts*

In addition to "Uniform Acts," which every state is urged to adopt, the ULC also drafts "Model Acts" to guide legislatures dealing with issues that need not be treated uniformly. Some models — such as the Model State Administrative Procedure Act — have been adapted for use by most states.

It is important to state treasuries that most ULC proposals fall into the category of "private law" — the body of law based on English common law that governs the basic legal relationships between people. No government body intervenes in "private law" relationships. People conduct their affairs without interference. When a breach of a legally enforceable private obligation occurs, the courts are available to sort out the facts and grant remedies ranging from monetary payments to injunctive relief. For example, the Uniform Residential Landlord and Tenant Act governs the contractual relationship between landlord and tenant. This relationship proceeds unfettered unless a party breaches an obligation — such as a landlord's obligation to maintain fit and safe premises. If such a breach occurs, then the wronged party can seek damages and reparations for losses sustained.

This contrasts with "public law," which usually involves using an executive agency or bureau as a regulatory body. In that case, legislatures enact laws vesting authority in an administrative agency which then carries out the duties of investigator, rulemaker, regulator and enforcer. Because new agencies must be created to enforce public law, it usually costs more money.

## *Why the Conference Works*

Commissioners dedicated to the work of the Conference make it work. They include about 300 law professors, judges and lawyers in the public and private sector. It is their contribution of time and expertise — commissioners receive no salaries or fees for their work with the Conference — that has earned NCCUSL the media label of "prestigious." In this century, President Woodrow Wilson and U.S. Supreme Court Justices Louis D. Brandeis and William F. Rehnquist served as commissioners. So did such law school legends as Roscoe Pound of Harvard.

Commissioners are appointed by the 50 states, the District of Columbia, Puerto Rico and the U.S. Virgin Islands. The number of commissioners (most states have at least three) and the method of appointment varies from state to state. While the governor is responsible for appointments in most states, commissioners are usually considered non-partisan. As a result, many are appointed by the governor of one party and reappointed by the governor of another. Some commissioners serve the ULC for decades.

### *A Two-Part Job*

Being a commissioner involves two areas of service. They not only draft proposals but then work within their state for enactment of uniform laws designed to solve problems common to all states.

The ULC's reputation was built on the high quality of its drafts. That results from a procedure structured to bring a unique blend of legal minds to bear on a particular problem. It begins with the choice of a drafting committee whose members are selected to insure that as much expertise and as many viewpoints as possible will be represented at the drafting table.

For example, there were a number of real estate law experts appointed to the committee responsible for preparing preliminary drafts of the land transactions package, which includes the Uniform Land Transactions Act (ULTA), Uniform Simplification of Land Transfers Act (USOLTA), Uniform Condominium Act (UCA), Uniform Planned Community Act (UPCA), Model Real Estate Cooperative Act (MRECA), and finally the Uniform Common Interest Ownership Act (UCIOA). These drafters included commissioners who were law school professors as well as practicing lawyers specializing in real estate law. Outside lawyer and non-lawyer experts were invited to provide specialized knowledge to the drafting committee. These advisers represented associations of lenders, builders, sellers, lawyers and consumers. But all decisions were made by commissioners who represent only the people of their state.

### *The Drafting Ordeal*

Preliminary drafts of the proposals were prepared and circulated to advisers and others interested in the committee's deliberations. That included every commissioner. Eventually, the committee was ready to present its work at an annual meeting of the Conference for "initial consideration" by every commissioner.

During the annual meeting commissioners assemble for a week, spending every day and some nights considering each "tentative draft" prepared by the drafting committees. The drafts are read "line by line" and then discussed, debated and changed. With hundreds of trained eyes probing every concept and word, it's a rare draft that leaves an annual meeting in the same form it comes in. Because the ULC is a confederation of state commissions on uniform laws, close issues are decided by polling state delegations. Regardless of the number of representatives from each state, each state has only one vote.

Shortly after the annual meeting, committees with uncompleted drafts begin incorporating changes made during the meeting and dealing with new problems raised by commissioners as well as others.

Proposals are subjected to this rigorous procedure for at least two annual meetings before they become eligible for designation as ULC products. The final decision on whether a proposal is ready for promulgation to the states is made near the close of an annual meeting — again on a one-state, one-vote basis. But the procedure can take much longer. Because of the complexities of ULTA, USOLTA, UCA, UPCA, MRECA and UCIOA, more than a decade elapsed before these proposals were adopted by the ULC.

## *The Conference Proposes — The State Disposes*

With the drafting done, a commissioner's job has only begun. Each is then obligated to return home and work for adoption of the completed proposal in his or her state legislature. Normal resistance to anything new makes this the most difficult part of a commissioner's responsibility. Remember, it took 14 years before the Uniform Commercial Code was adopted by 49 states.

But the result can be workable, modern state law that helps keep the federal system alive. The work of the ULC simplifies the legal life of businesses and individuals by providing rules and procedures that are consistent from state to state. It also insures that problems can be solved close to home in state courts and agencies rather than lost in overworked federal courts and U.S. departments and agencies.

## UNIFORM LAW COMMISSIONERS

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### A CENTURY OF UNIFORM LAWS

Their current agenda reads like a legislative calendar. Issues up for discussion range from Uniform Commercial Code amendments to child support enforcement, crime victims' rights and standards for employment termination.

While this crowded calendar doesn't yet belong to the legislatures, it will affect them. It's the agenda for the 100th annual meeting of the National Conference of Commissioners on Uniform State Laws — the Chicago-based group of more than 300 judges, lawyers and law professors, appointed by the states (as well as the District of Columbia, Puerto Rico and the U.S. Virgin Islands) to draft proposals for uniform laws on issues where disparity between the states is a problem.

As they've done each summer since 1892, the commissioners will gather for a full week in 1991 to discuss — and more likely than not debate line by line, word by word — legislative proposals drafted by their colleagues during the year.

Among those who participated in earlier conferences have been such luminaries as Woodrow Wilson and U.S. Supreme Court Justices Louis D. Brandeis and William F. Rehnquist. So have law school legends, among them Roscoe Pound of Harvard.

Some of the staples of modern law are the products of these annual conferences: the Uniform Commercial Code, Uniform Partnership Act, Uniform Controlled Substance Act and uniform child custody and support codes.

The group's legislative proposals have set patterns for change across the nation, notably in marriage and divorce, probate and usury reform. Others have provided the model for laws affecting consumer credit, no-fault insurance, state administrative procedures and rules of evidence.

The movement for uniform state laws dates back more than a century. The Alabama State Bar called for uniformity as early as 1881, but it was nearly a decade later, at the 12th annual meeting of the ABA in 1889, that the legal community made its formal motion to work for uniformity in the then 44-state union.

New York was the first state to move, appointing three commissioners in 1890. Other states soon heeded the call: Delaware, Georgia, Massachusetts, Michigan, New York, New Jersey and Pennsylvania attended the first Conference in Saratoga Springs, New York, in 1892. The commissioners wasted no time. They urged adoption of three acts and proposed raising the marrying age to 18 for males and 16 for females. They also adopted a table of weights and measures, noting that with the exception of wheat, legal weights of a bushel varied in all the states!

By the turn of the century, 33 states and two territories had appointed commissioners on uniform laws. In 1910, only Nevada and the Territory of Alaska still had not; they came aboard in 1912.

→ The Historical Background Continued + only Alaska in 1912.

During its early decades the Conference considered and adopted legislative proposals on issues ranging from partnerships and child labor to aviation and public utilities. Around the time of its 50th anniversary, 53 uniform acts (excluding those acts that had been deleted or superseded) were available for adoption by the states.

At about the same time, in 1940, the Conference began a reassessment. Its leadership decided that instead of coping with legislative problems on a piecemeal basis, it would begin drafting comprehensive solutions to major problems. The result of that decision was the project that produced the Uniform Commercial Code (UCC) — to this day the signature product of the Conference. The uniform nature of the UCC, which took a decade to complete and another 15 years to be enacted across the country, guarantees that every commercial transaction — every sale of goods, every bank check written and every commercial paper, stock and bond transaction — is subject to the same law in Maine as it is in California.

Success of the UCC inspired commissioners to produce and work for the adoption of a range of other comprehensive legislative solutions to basic state problems. These include the Uniform Probate Code, Consumer Credit Code, Marriage and Divorce Act and a package of proposals designed to do for land transactions what the UCC did for commercial transactions — provide comprehensive modern law to deal with a modern problem.

While forging these major projects — primarily from the '60s to the early '80s, the Conference also completed legislation needed by the states to deal with specific issues. Among these proposals have been the Uniform Child Custody Jurisdiction Act, Uniform Anatomical Gift Act, a major revision of the Limited Partnership Act and the Uniform Determination of Death Act.

Most recently, commercial and family law have been focal areas for drafting efforts. Among the newer "products" are two new articles to the Uniform Commercial Code, a Trade Secrets Act, the Transfers to Minors Act, Premarital Agreement and Marital Property Acts, and acts addressing such topical issues as surrogate mother contracts and rights of the terminally ill.

The dedication of commissioners makes the Conference work. The number appointed (most states have at least three) and the method of appointment varies from state to state. In most, the governor is responsible for appointments. But commissioners are usually considered non-partisan and many serve for decades.

The responsibilities of being a commissioner involve drafting proposals and then working within the home state for their enactment. The drafting process begins with a committee of commissioners; outside experts are invited to provide the committee with their specialized knowledge.

Eventually, the committee will present its work for "initial consideration" at an annual meeting. It is a rare draft that leaves an annual meeting in the same form it came in. Proposals must be considered at no less than two annual meetings before they are eligible for designation as a product of the Conference and are available for enactment by the states. That final decision is reached after a state-by-state vote.

The process is time consuming. But it results in well-drafted legislation that has simplified the legal activities of businesses and individuals for almost 100 years. It provides rules that are consistent from state to state; rules that help keep the federal system alive.

## UNIFORM LAW COMMISSIONERS

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### Drafters of Commercial Law Code 100 Years Old And Still Drafting To Meet Tomorrow's Business Needs

*"I have seen in the Courts of England, its robed and venerable judges bending forward as they listened, on commercial questions, to the laws of Rhodes, a little island; the laws of Oleron, an island smaller still; the laws of Wisby, a dreary town of the Gothland seas. But I waited in vain to hear of the commercial law of my own free, great, commercial country."*

"And why?," asked John William Wallace in his lecture on "The Want of Uniformity in the Commercial Law Between the Different States of our Union." "Because no man can say that such a system exists," he explained.

Wallace made his plea for a system of home commercial law in 1851, when the "different states" numbered 31. It was not the first such lament, nor would it be the last.

A century passed before the National Conference of Commissioners on Uniform State Laws heeded the call. Today this prestigious group of 300 state-appointed lawyers, judges and law professors, drafters of the Uniform Commercial Code (UCC), is almost 100 years old.

Its history harks back to 1890, when New York's legislature passed the first act authorizing its governor to appoint three commissioners; later that year the American Bar Association recommended that all other states follow New York's lead.

Uniform law commissioners have been drafting proposals for the states' consideration since 1892, when the first conference was held in Saratoga Springs, New York, with seven states in attendance. By 1912 every state and the Territory of Alaska was represented. Today, all states as well as the District of Columbia, Puerto Rico and the U.S. Virgin Islands are on board.

The mammoth task of drafting a comprehensive code to establish the fundamental law governing all commercial transactions was set into motion in 1940. In 1947 the ULC joined in a partnership with the American Law Institute to put all the components together. Work on various components had begun much earlier.

In 1896, for example, just four years after the Conference was founded, the commissioners completed the Uniform Negotiable Instruments Law (NIL), the first of their legal products to be adopted by every state and the District of Columbia. The NIL made modern banking and an efficient payment system possible. Some 50 years after it was first drafted it became the basis of Article 3 of the Uniform Commercial Code (UCC), that section of the Code which governs payment by checks and other paper instruments.

It took four years to complete the UCC. In 1952 it was presented to the states for their consideration; then the really hard work began. Acceptance by the Conference was followed by nearly two decades of legislative battles in every state.

The first, and for some time only legislative success came in Pennsylvania in 1953. Massachusetts followed in 1957. Success began to melt resistance and Kentucky acted in 1958; Connecticut and New Hampshire in 1959. Nine states, including industrial Ohio, Illinois and New Jersey took the plunge in 1961. In 1962, four more states, including New York, came aboard. Ten joined the ranks in 1963; two in 1964; 13 in 1965; five in 1966; and finally Arizona, Idaho and U.S. Virgin Islands in 1967. The lone holdout was Louisiana, due to difficulties in

reconciling UCC provisions with those of the Civil Code. Louisiana did adopt Articles 1, 3, 4, 5, 7 and 8 in 1974 and Article 9 more recently.

The scope of the UCC is difficult to grasp. A child purchasing penny candy in a neighborhood shop and a manufacturer buying robot welders for his assembly line both complete their transactions within the framework of the UCC. In UCC states, the Code encompasses every sale of goods from crude oil to autos, every bank check written, and all commercial paper, stock and bond transactions.

But the UCC is not written in stone. It is constantly studied with an eye toward revisions needed to meet the requirements of changing technologies. In 1977, for example, the Conference finalized amendments — now enacted in 42 states — setting out legal rights and responsibilities for transferring securities without certificates to facilitate electronic book-keeping in security transactions. In 1987 the first new UCC Article since 1951 was approved — Article 2A, Leases — establishing fundamental law for the \$150 billion dollar leasing industry.

Most recent drafting efforts involve substantial revisions and a new article to the UCC and mark the first major changes to state payments system law in over 30 years. Proposed changes include revisions to UCC articles 3 and 4, modernizing the laws governing checks and other paper instruments. A new article 4A, the first code section created expressly to deal with the trillion dollar business of electronic funds transfers, should have a significant impact on the way banks do some of their most basic business.

This drafting effort is but the first step to bring the law into the 21st century of finance. The next step is enactment by all the states. Uniformity is critical. It guarantees that commercial transactions in California are subject to the same law as they are in Maine. It is the quality that has made the Code the historical legal instrument it has been for decades.

## STATE ADOPTIONS OF THE UCC

1953 — Pennsylvania

1957 — Massachusetts

1958 — Kentucky

1959 — Connecticut, New Hampshire

1961 — Arkansas, Illinois, New Jersey, New Mexico, Ohio, Oklahoma, Oregon, Rhode Island, Wyoming

1962 — Alaska, Georgia, Michigan, New York

1963 — California, Indiana, Maine, Maryland, Missouri, Montana, Nebraska, Tennessee, West Virginia, Wisconsin

1964 — District of Columbia, Virginia

1965 — Alabama, Colorado, Florida, Hawaii, Iowa, Kansas, Minnesota, Nevada, North Carolina, North Dakota, Texas, Utah, Washington

1966 — Delaware, Mississippi, South Carolina, South Dakota, Vermont

1967 — Arizona, Idaho, U.S. Virgin Islands

1974 — Louisiana (Articles 1, 3, 4, 5, 7 and 8)