

ALASKA LEGISLATURE COMMITTEE FILES

1993-1994

8672

7842

HOUSE JUDICIARY

107

Position Title Investigator II		No. of Positions 2	Range / Step 16/A	Barg. Unit GGU	
Time Status PFT	Staff Months 24/0	Location EBA - Fairbanks		Election District 20-7	
TYPE OF EXPENDITURE		AMOUNT		Justification These investigators will be based in Anchorage and Fairbanks but will provide services throughout the entire state.	
Salary	74,340.0				
Benefits	30,218.0				
Premium Pay					
Other					
Total Personal Services	104,558.0	104,558.0			
Travel		5,000.0			
Contractual		7,000.0			
Commodities		1,000.0			
Equipment		1,500.0			
Other					
Total Cost		119,058.0			
FUNDING SOURCE FOR TOTAL COST					
Federal Receipts	1002				
G.F. Match	1003				
General Fund	1004	119,058.0			
I-A Receipts	1007				
CIP Receipts	1061				
Other					

8/LEG93/17/028.kp/2

**Request For
New Position**

AGENCY ADMINISTRATION
 BRU PUBLIC DEFENDER AGENCY
 COMPONENT PUBLIC DEFENDER AGENCY

FY 94

Page 3 of 4
Revised Date: _____

Position Title Clerk/Typist III		No. of Positions 2	Range / Step 8/A	Barg. Unit GGU	
Time Status PFT	Staff Months 24.0	Location EBA - Fairbanks		Election District 7-20	
TYPE OF EXPENDITURE		AMOUNT			
Salary	44,868.0	Justification These two support staff positions will be based in Anchorage and Fairbanks.			
Benefits	21,977.0				
Premium Pay					
Other					
Total Personal Services	66,845.0				66,845.0
Travel					0.0
Contractual					4,000.0
Commodities					1,000.0
Equipment					1,500.0
Other					
Total Cost		73,345.0			
FUNDING SOURCE FOR TOTAL COST					
Federal Receipts	1002				
G.F. Match	1003				
General Fund	1004	73,345.0			
I-A Receipts	1007				
CIP Receipts	1061				
Other					

8/LEG93/17/028.kp/4

Request For New Position

AGENCY ADMINISTRATION
 BRU PUBLIC DEFENDER AGENCY
 COMPONENT PUBLIC DEFENDER AGENCY

FY 94

Page 4 of 4
 Revised Date: _____

Rep. Brian Porter, Chairman

House Judiciary Committee

Date: February 17, 1993
Place: Capitol Room 120

Subject of Meeting: HB43 Crime of Conspiracy
 HB 97 Parental Care/Child in State Custody
 HB 100 Prosecution of Juvenile Felons

	Please Print Name	Representing	Business/Personal Mailing Address	Zip	(H) Phone	(W) Phone	Do you Want to Testify?	Which Subject/ Which Bill?
	DEAN GUANELI	LAW				3428	(Y) N	HB 43 / HB 100
	Reborah Wing	DFYS/DHSS				465-3191	(Y) N	HB 97
	Donna Schuetz	DFYS DHSS				465-2112	(Y) N	HB / 100
	Kathy Deltzin	Juvenile School Dist.				463-1850	(Y) N	HB / 100
	LEE ABU LUCAS	DPS				465-4322	Y (N)	HB 43 / HB 100
2.	A.C. Swackhammer	DPS				465-4322	(Y) N	HB 43
	Tom Meyer	self				3904	Y (N)	
	Dore Latour	Connections				3376	Y (N)	HB 43 IF Questions
3.	SRANT MAGEE	DFA					Y N	43 Questions
2.	John Salemi	P.D.					Y N	HB 43 will answer questions
							Y N	
							Y N	

HB

47

HOUSE COMMITTEE REPORT

7) Date Referred: March 5, 1993

FURTHER REFERRALS:

Finance

Date of Committee Action: 3-25-94

The JUDICIARY Committee considered:

HB 47

HOUSE BILL NO. 47

ABSENTEE BALLOTS - PRIMARY ELECTIONS

An Act relating to the delivery of the primary ballots to persons making application for them when, by operation of political party rule, two or more primary ballots must be provided to the public."

RECOMMENDATIONS:

be replaced with CSHB(47) Jud the same title a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS:

(Dept/Date)

fiscal impact Div. of Elections (3/25/94)

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) _____

SIGNING/DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<i>Jim Donohue</i>		<input checked="" type="checkbox"/>	
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
<i>Channette James</i>	<input checked="" type="checkbox"/>				
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
<i>Liz Phillips</i>	<input checked="" type="checkbox"/>				

[Signature]

CHAIRMAN'S SIGNATURE

8-LS0351NR
Chenoweth
2/8/94

CS FOR HOUSE BILL NO. 47(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVE MARTIN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to primary elections and to the delivery of the primary ballots
2 to persons making application for them when, by operation of political party rule,
3 two or more primary ballots must be provided to the public; preventing a voter
4 from changing the voter's party affiliation within 30 days of a primary election
5 when two or more primary ballots must be provided to the public; and annulling
6 a related regulation; and providing for an effective date."

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

8 * Section 1. LEGISLATIVE FINDINGS AND INTENT. (a) To implement the stipulation
9 and approval entered into between the state and various parties in the case captioned Zawacki
10 v. State, No. A-92-414-Civil, in the United States District Court for the District of Alaska, the
11 lieutenant governor prepared and adopted a series of emergency regulations, codified as 6
12 AAC 28. Among the provisions was a subsection, 6 AAC 28.040(c), directing that "if an
13 applicant for an absentee ballot does not indicate a ballot preference on the absentee ballot

1 application, the director [of elections] will send the applicant the open primary (statutory)
2 ballot." As a result of the stipulated subsection, persons registered to the one political party
3 whose rules then required the use of a ballot containing a listing of candidates limited to those
4 who were registered as members of that political party received the absentee ballot for the
5 September 8, 1992, primary that contained the names of candidates seeking the nomination
6 of other political parties. The regulations in question lapsed, effective November 7, 1992, and
7 do not apply to future primary elections. The division of elections has since adopted a
8 permanent regulation, 6 AAC 28.130(c), making the same provision.

9 (b) The purpose of AS 15.20.155, added by sec. 2 of this Act, is to establish that, for
10 purposes of guiding state primary elections after June 30, 1994, if a political party's rules
11 require the use of an absentee ballot containing a listing of candidates limited to those who
12 were registered as members of that political party, absentee ballot applicants shall receive the
13 primary election ballot of their choice or, in the event of failure to indicate a choice or lack
14 of opportunity to make the choice, shall receive the appropriate primary election ballot or, if
15 the director is unable to make a determination of the appropriate primary election ballot after
16 review of relevant division records, shall receive the open primary (statutory) ballot.

17 (c) It is the intent of the legislature in enacting secs. 3 and 4 of this Act to amend the
18 nominating process to take into account the decision in Tashjian v. Republican Party of
19 Connecticut, 479 U.S. 208 (1986).

20 * Sec. 2. AS 15.20 is amended by adding a new section to read:

21 Sec. 15.20.155. DELIVERY OF PRIMARY BALLOT. (a) The provisions
22 of this section apply to a state primary election held on or after July 1, 1994, when

23 (1) the central committee or other governing body of a political party
24 adopts a rule that, notwithstanding AS 15.25.010 - 15.25.130, nominees of the party
25 may not be chosen by a primary election open to all voters, but rather shall be chosen
26 by a primary election that is limited to voters whose political affiliation or
27 nonaffiliation is designated by the party rules; and

28 (2) the director is prevented by application of that rule from providing
29 to a voter the ballot of a political party if, under the rules of that party, the voter
30 would not be eligible to vote in that party's primary election.

31 (b) If an applicant for an absentee ballot under AS 15.20.071, 15.20.081, or

1 15.20.082

2 (1) indicates a ballot preference on the absentee ballot application when
3 an opportunity to indicate the preference has been provided on the application, the
4 director shall deliver to the applicant the primary ballot indicated on the application
5 unless the director reasonably believes the applicant does not qualify to vote in that
6 party's primary election;

7 (2) does not qualify to vote in a party's primary election for which the
8 applicant has indicated a ballot preference, does not indicate a ballot preference on the
9 absentee ballot application when an opportunity to indicate the preference has been
10 provided on the application, or has not been given an opportunity on the application
11 to indicate the applicant's preference, the director shall deliver to the applicant the
12 primary ballot that is appropriate based on the applicant's political party affiliation or
13 nonaffiliation; the director shall make the determination of appropriateness of the
14 primary ballot on the basis of voter registration documents maintained by the director
15 as follows:

16 (A) the director shall determine whether the applicant has filed
17 a change of party registration at the same time the person has filed an
18 application for an absentee ballot; if the person has

19 (i) filed a change of party affiliation and the change of
20 party affiliation may take effect before the primary election, the director
21 shall make the determination of appropriateness of the primary ballot
22 on the basis of the affiliation designated by the applicant on that change
23 of party registration form;

24 (ii) not filed a change of party affiliation, or has filed a
25 change of party affiliation that may not take effect before the primary
26 election because of the operation of AS 15.25.090(b), the director shall
27 make the determination of appropriateness of the primary ballot on the
28 basis of the then current registration of the applicant;

29 (B) the primary ballot that is appropriate based on the
30 applicant's political party affiliation or nonaffiliation is

31 (i) the ballot described in AS 15.25.060(b) of the

1 appropriate political party, if the applicant's registration shows
2 affiliation with a political party for which a separate ballot is required
3 under AS 15.25.060(b); or

4 (ii) the statutory primary ballot described in
5 AS 15.25.060(a) in cases not described in (i) of this subparagraph.

6 * Sec. 3. AS 15.25.060 is amended to read:

7 Sec. 15.25.060. PREPARATION AND DISTRIBUTION OF BALLOTS. The
8 primary election ballot shall be prepared and distributed by the director in the manner
9 prescribed for general election ballots except as specifically provided otherwise for the
10 primary election. Except when (b) of this section otherwise requires, the [THE]
11 director shall place the names of all candidates who have properly filed in groups
12 according to offices filed for, without regard to party affiliation. The names for each
13 office shall be rotated as provided for the general election ballot. Blank [NO
14 BLANK] spaces may not [SHALL] be provided on the ballot for the writing or
15 pasting in of names. The ballot prepared under this subsection shall be designated,
16 prominently labeled, and referred to as the "statutory primary ballot." In this
17 subsection, "statutory primary ballot" means that the ballot is available to all
18 qualified and eligible voters of the state.

19 * Sec. 4. AS 15.25.060 is amended by adding new subsections to read:

20 (b) If, for a primary election held on or after July 1, 1994, (1) the central
21 committee or other governing body of a political party adopts a rule that,
22 notwithstanding AS 15.25.010 - 15.25.130, nominees of the party may not be chosen
23 by a primary election open to all voters, but rather shall be chosen by a primary
24 election limited to voters whose political affiliation or nonaffiliation is designated by
25 the party rule; (2) the central committee or other governing body of the party delivers
26 a copy of the rule to the director no later than March 1 of the year in which a primary
27 election is to take place; and (3) the rule has been submitted to the United States
28 Department of Justice for review under 42 U.S.C. 1973c (section 5, Voting Rights Act
29 of 1965, as amended) and the Department of Justice has provided an affirmative
30 indication of nonobjection to the rule's implementation, the director shall prepare a
31 separate ballot listing only the candidates of that party, and shall authorize the

1 distribution of that ballot only to the registered voters who are eligible to vote in that
2 party's primary under the party rule. Candidates who are listed on a separate ballot
3 under this subsection may not be listed on the ballot described in (a) of this section.
4 The names of the candidates for each office shall be rotated as provided for the general
5 election ballot, and blank spaces may not be provided on the ballot for the writing or
6 pasting in of names. A ballot prepared under this subsection shall be designated,
7 prominently labeled, and referred to as the "(insert name of the party whose candidates
8 appear on the ballot) party primary ballot."

9 (c) If at a primary election under AS 15.25.010 there is more than one ballot
10 available, a registered voter may choose which ballot the voter wishes to use. A voter
11 may not be given more than one ballot, and may not be given a ballot of a political
12 party if, under the rules of that party as delivered to the director under (b) of this
13 section, the voter would not be eligible to vote in that party's primary election.

14 * Sec. 5. AS 15.25.090 is amended by adding a new subsection to read:

15 (i) The director shall change the party affiliation of a registered voter when
16 requested by the voter. However, when a primary election involves a ballot required
17 by AS 15.25.060(b), the director may not change a registered voter's party affiliation
18 during the period after the 30th day preceding the primary election and the date of the
19 primary election.

20 * Sec. 6. 6 AAC 28.130(c) is annulled.

21 * Sec. 7. This Act takes effect immediately under AS 01.10.070(c).

STATE OF ALASKA

OFFICE OF THE GOVERNOR

DIVISION OF ELECTIONS
P.O. BOX AF
JUNEAU, ALASKA 99811-0105
PHONE (907) 465-4611

POSITION PAPER

FOR

CSHB47

The Division of Elections acknowledges the associational rights of Alaska's political parties to determine who can vote in their primaries.

We oppose CSHB 47 on the following grounds:

- It will be extremely difficult to maintain the integrity of the elections process with multiple ballots being sent to a voter;
- the difficulty and cost of programming our ballot tabulation system to accommodate the rotation and cross-ballot counting the bill requires;
- the cost, nearly \$1,000,000.00, to create as many as five ballots from which each voter would select one;
- the disillusionment and confusion of the voters when asked to select one of many ballots at the polls; and,
- the difficulty in training poll workers, especially in remote areas, on how to explain the multiple ballot process to voters in such a way that the voter is not confused and/or votes the wrong ballot.

2/7/94

ELECTIVE DISTRICT 14
ELMENDORF A.F.B.
EAST ANCHORAGE
GOVERNMENT HILL

REP. TERRY MARTIN

HOME
355 DONNA DR., #11
ANCHORAGE, AK 99504
PHONE: 333-6990

Alaska House of Representatives

DURING SESSION
P.O. BOX V
STATE CAPITOL BUILDING
JUNEAU, AK 99811
PHONE: 465-3783

SPONSOR STATEMENT

CSHB47 (STA)

An Act pertaining to the delivery of primary ballots under political party rule, when two or more ballots must be provided.

As a direct result of the 1992 Primary Election, this legislation has been drafted with the intent of requiring all absentee voter applicants to receive the primary ballot selection of their choice. In the event they do not indicate a ballot or lack the opportunity, they shall receive the appropriate primary election ballot(s) and be directed to select and mark one.

Need for Legislation

In retrospect of last year's primary, a significant number of votes were lost for primary candidates due to the Division of Elections' emergency regulation 6 AAC 28.040(c) requiring the statutory ballot to be sent to applicants failing to signify their ballot choice. Many Republican absentee voters expected a ballot aligned with their registered party affiliation. Instead, all eligible absentee voters with the affiliation of Republican, Independent, and Undeclared who did not mark their ballot preference on the absentee ballot application received the statutory ballot with only Democrat, Green, and Alaska Independent Party candidates to select. As a result, they either voted for a candidate they did not truly support or opted not to vote. In either case, this hindrance to equal selection is an example of why the regulation of the electoral process should be changed.

Sponsor Statement

CSHB47(STA) removes the barriers to the democratic process of voting in a primary election in Alaska. If an individual voting absentee does not clearly mark the desired ballot on the absentee application, the absentee voter will be sent all ballots in which he is eligible to vote under state party laws. The unmarked ballot(s) would subsequently be returned with the marked ballot and a felony charge would result if more than one ballot was intentionally marked.

In the interest of fair election practices, CSHB47(STA) would afford all voters in Alaska the complete slate of candidates they are allowed to choose from on the ballot. The 1992 Primary Election was not conducive towards the freedom of choice, which is the underlying premise for all elections in the United States. This bill corrects the current regulations.

ELECTIVE DISTRICT 14
ELMENDORF A.F.B.
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REP. TERRY MARTIN

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355 DONNA DR., #11
ANCHORAGE, AK 99504
PHONE: 333-6990

DURING SESSION
P.O. BOX V
STATE CAPITOL BUILDING
JUNEAU, AK 99811
PHONE: 465-3783

Alaska House of Representatives

SECTIONAL ANALYSIS

CSHB47 (STA)

An Act pertaining to the delivery of primary ballots under political party rule, when two or more ballots must be provided.

Section 1: (a) Presents findings that the emergency regulations for the primary election in 1992 directed the Division of Elections to send the open primary (statutory) ballot to those absentee voters failing to indicate a ballot preference. This, in turn, created a problem for those absentee voters who received the wrong ballot of their choice and option. The emergency regulations for distribution of statutory ballots for non-marked applications lapsed on November 7, 1992.

(b) Requires the Division of Elections to distribute all ballots an absentee voter is eligible to vote from (as per party rule) if that absentee voter failed to select the desired ballot choice on the absentee application.

(c) Amends the nominating process to take into account the Tashjian v. Republican Party of Connecticut decision requiring states to accommodate a party's decision to close its primary.

Section 2: This is the operative provision, stating that in the event a political party opts to close its primary, thereby compelling the director of Elections to use multiple ballots, a ballot would be sent as designated by the absentee voter. If the absentee voter fails to make the choice, or the choice is not provided, the appropriate ballot (s)* are to be distributed. If the individual votes both ballots, he/she may be charged with voter misconduct in the first degree, constituting a class C felony.

* Note: "appropriate ballot" in terms of the person's voter registration record.

Section 3: Changes the name of the primary ballot available to all qualified and eligible voters to the "statutory primary ballot".

Section 4: (b) Codifies the decision in the Tashjian case by adding this new subsection stating that a party can close its primary if: 1) it adopts the rule in its by-law; 2) its governing body delivers a copy of the rule to the director of Elections no later than March 1 of the year of the primary; and 3) the rule is submitted and approved by the Department of Justice. If all three steps are followed and approved, the director must make a primary ballot with only that party's candidates listed and it must be labeled "(name of party) party primary ballot".

(c) States that an in-person voter may only select one ballot and must be eligible for that ballot.

ance with a political party's constitutional associational rights. In *Zawacki v. State*, No. A-92-414 CIV, the United States District Court for the District of Alaska at Anchorage concluded that the lieutenant governor had the authority to file regulations to implement political party rules even though the legislature failed to pass legislation that was enacted into law to accommodate political party rules. (Eff. 10/23/93, Regis'er 128)

Authority: AS 15.15.010

6 AAC 28.110. PREPARATION OF BALLOTS FOR THE STATEWIDE PRIMARY ELECTION. In accordance with political party rules in effect on 10/23/93, the director of elections will prepare a statutory ballot that includes candidates of all political parties except the Republican Party, and a separate ballot that includes only the candidates who have filed for the nomination of the Republican Party in the statewide primary election. (Eff. 10/23/93, Register 128)

Authority: AS 15.15.010

6 AAC 28.120. BALLOTS. A voter who is eligible to vote in the statewide primary election may request either the statutory or Republican Party ballot. The voter may vote only one ballot. The voter's vote will be counted if the voter is eligible to vote the ballot under AS 15 and votes

- (1) the statutory ballot, regardless of the voter's political party affiliation; or
- (2) the Republican Party ballot, if the voter is registered Republican, undeclared, or non-partisan. (Eff. 10/23/93, Register 128)

Authority: AS 15.15.010

6 AAC 28.130. STATEWIDE PRIMARY ELECTION ABSENTEE VOTING. (a) The absentee ballot application for the statewide primary election will include instructions informing the applicant of the eligibility requirements for the statutory and Republican Party ballots. In addition to providing the information required by AS 15.20.081(a), the application will allow the applicant for an absentee ballot to change party affiliation and to indicate whether the applicant requests the statutory ballot or the separate ballot for Republican Party candidates.

(b) The director of elections will send an applicant for absentee voting by mail or personal representative the ballot requested by the applicant.

(c) If an applicant for an absentee ballot does not indicate a ballot preference on the absentee ballot application, the director of elections will send the applicant the statutory ballot. (Eff. 10/23/93, Register 128)

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

COPY

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 11, 1993

SUBJECT: Voter misconduct: voting two or more ballots in a single election. (HB 47)

TO: Representative Terry Martin
ATTN: Tom Anderson

FROM: Jack Chenoweth
Legislative Counsel

Casting multiple votes in a single election may constitute a class C felony. ^{1/} Under AS 15.56.040(a)(2):

(a) A person commits the crime of voter misconduct in the first degree if the person

...

(2) votes or attempts to vote more than once at the same election with the intent that the person's vote be counted more than once;

....

The key, of course, is whether or not there is evidence that the voter intended that his or her vote be counted more than once. For purposes of the state's Criminal Code, AS 11, an "intentional" violation is one in which "the person's conscious objective is to cause" the particular result that is sought. AS 11.81.900(a)(1).

I find it hard to believe that a voter would typically want to have more than one vote cast and counted in an election. Under the circumstances in which this question is raised--voting under the regular absentee procedure now in place and also by electronically transmitted facsimile vote--would more probably be treated as zealotry on the part of a voter that the voter's one vote be received by elections

^{1/} Classification of the penalty for the offense is set out in AS 15.56.040(b). Violation of the provision carries a sentence of not more than five years, AS 12.55.125(e), and a fine of not more than \$50,000 (AS 12.55.035(b)(2)).

DRAFT INSTRUCTIONS TO VOTERS

BALLOT CHOICES AVAILABLE
IN AUGUST 25, 1992 PRIMARY ELECTION

THE BALLOT EXAMPLES TO THE RIGHT DISPLAY THE BALLOTS AVAILABLE TO ALL ALASKA VOTERS, WHETHER REGISTERED TO SPECIFIC PARTIES, OR REGISTERED NON-PARTISAN, "OTHER," OR "UNDECLARED."

YOU MAY SELECT ONE BALLOT ONLY. YOU MAY VOTE FOR ONLY ONE CANDIDATE IN EACH CONTEST.

THE DEADLINE FOR VOTER REGISTRATION, INCLUDING AN ADDRESS CHANGE, IS 30 DAYS BEFORE ELECTION DAY, OR JULY 26, 1992, FOR THIS PRIMARY ELECTION.
AS 15.05.010

NOTICE:

ALASKA LAW PROHIBITS ELECTION BOARD WORKERS FROM DISCUSSING ANY POLITICAL PARTY, CANDIDATE OR ISSUE WHILE ON DUTY.
AS 15.15.160

FURTHER, DURING THE HOURS THE POLLS ARE OPEN, A PERSON WHO IS IN THE POLLING PLACE OR WITHIN 200 FEET OF ANY ENTRANCE TO THE POLLING PLACE MAY NOT ATTEMPT TO PERSUADE A PERSON TO VOTE FOR OR AGAINST A CANDIDATE, PROPOSITION OR QUESTION.
AS 15.15.170

ATTENTION VOTERS

PRIMARY ELECTION
TUESDAY, AUGUST 25, 1992

IF YOUR PARTY AFFILIATION ON YOUR VOTER REGISTRATION IS:


ALASKAN INDEPENDENCE
DEMOCRAT
GREEN
REPUBLICAN
UNDECLARED
NON-PARTISAN
OTHER

YOU CAN VOTE A BALLOT WITH CANDIDATES FROM THE FOLLOWING PARTIES:



IF YOUR PARTY AFFILIATION ON YOUR VOTER REGISTRATION IS:

REPUBLICAN
UNDECLARED
NON-PARTISAN

YOU CAN VOTE A BALLOT WITH CANDIDATES FROM THE FOLLOWING PARTIES:



 TOP C

OFFICIAL PRIMARY
ELECTION BALLOT





THIS SIGN TO BE REMOVED BY ELECTION BOARD

AKF01

STATE OF ALASKA Primary Election 8/25/92	
ALASKAN INDEPENDENCE	
DEMOCRAT	
GREEN	


 TOP C

OFFICIAL PRIMARY
ELECTION BALLOT



THIS SIGN TO BE REMOVED BY ELECTION BOARD

AKF01

STATE OF ALASKA Primary Election 8/25/92	
REPUBLICAN	

FISCAL NOTE

STATE OF ALASKA

BILL NO. CSHB 47

1994 LEGISLATIVE SESSION

Revision Date: _____

Department Affected: Office of the Governor

Title: "An Act relating to primary elections and to the delivery of the primary ballots to persons making application for them when, by operation of political party rule, two or more primary ballots must be provided to the public."

BRU: Division of Elections

Component: General and Primary

Sponsor: Representative Martin

Requestor: _____

COMPONENT SERIAL NO. 22

EXPENDITURES/REVENUES:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	7.9	0	7.9	0	07.9	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND &	0	0	0	0	0	0
GRANTS,	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL	7.9	0	7.9	0	7.9	0

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

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

FUNDING:

1002 Federal	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	7.9	0	7.9	0	7.9	0
1005 GF/Program	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	7.9	0	7.9	0	7.9	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 (FY94) impact: 0

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Joseph L. Swanson, Director
 Division: Division of Elections

Phone: 465-4611

Date: 1/24/94

Approved by Commissioner: John B. Coghlin, Lieutenant Governor

Agency: Office of the Governor

Date: _____

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 47

ANALYSIS:

Contractual (7.9)

Assumption: 10,000 absentee ballots are sent out for the primary election. 330,000 ballots cost \$165,000 or .50 per ballot. Therefore, absentee ballots for each party costs (10,000 ballots x .50) = \$5,000.00.

Postage for mailing absentee ballots for each party costs. (10,000 ballots x .29) \$2,900.00.

If a political party had their own designated absentee ballot, it would cost the State of Alaska \$7,900.00. This cost includes printing and postage. Each additional party ballot would increase the cost by 7.9

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155 SOUTH SEWARD STREET
JUNEAU, ALASKA 99801

January 27, 1994

Mr. Tom Anderson
The Office of Representative Terry Martin
Alaska State Legislature
State Capitol
Juneau, Alaska 99811

Dear Tom:

It was a pleasure to have the opportunity to meet with you about CS for House Bill No. 49 (STA).

Concern had apparently been raised that House Bill 49 would apply to municipal elections as well as state elections. In reviewing the bill, it applies only to Title 15, which is the State Election Code. Municipal election requirements are contained in Title 29 of Alaska Statutes. Municipalities generally adopt their own election ordinances and may pattern their election codes after State Statutes, however, there are no requirements for municipalities to adopt the State Code.

The City and Borough of Juneau revised its own election code about two years ago and now allows voters to request an absentee ballot by facsimile. The facsimile application must be received no later than five days before the date of the election. Our experience with the facsimile application is that it works well and voters have been pleased to have it as an option. At the time that the Assembly considered revisions to the City and Borough's election code, the facsimile transaction of ballots to the voters and of ballots returned from the voters was considered but not adopted.

If I may be of assistance or provide additional information, please do not hesitate to contact me.

Sincerely,

Patty A. Holley
Patty Ann Holley, CMC
Municipal Clerk

PAP:etp

STATE OF ALASKA

OFFICE OF THE GOVERNOR

DIVISION OF ELECTIONS
P.O. BOX AF
JUNEAU, ALASKA 99811-0105
PHONE (907) 465-4611

Position Paper
CS For House Bill No. 49 (STA)

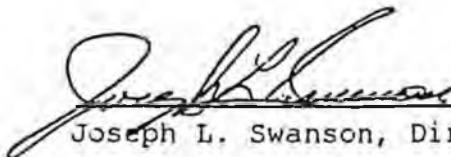
Section 1 of the bill finds that it would be beneficial for the Division of Elections to receive and to send by electronic transmission applications for absentee-by-mail ballots to qualified voters living outside of Alaska. The Division strongly supports this proposal. Currently, voters may request an application by mail, in person, or by phone (and fax), but the Division sends the application to the voter by mail. The voter then mails in the application. The Division then mails the ballot, and the voter returns it by mail. Using electronic transmission would allow the Division to fax the application to the voter and the voter to fax the completed application to the Division, thus saving considerable time, especially in areas not served by regular or frequent mail service. Speeding up the process would also reduce the possibility that the voter would fail to receive and execute an absentee ballot in a timely fashion to allow it to be counted.

Section 2 of the bill allows the Division to deliver and receive absentee ballots by electronic transmission. The Division supports the concept of utilizing electronic transmission to speed the process of absentee voting, but has reservations about the ability to maintain the confidentiality of the vote.

Section 3 allows for voters residing outside the United States to apply by electronic transmission for an absentee ballot. As stated above, the Division strongly supports this proposal.

Section 4 changes the date by which an application must be received by the Division from four to a requirement that the application be postmarked not less than seven days before the election. The Division is neutral on this section, but expresses a concern that, regardless of the postmark, an application cannot be processed until received. This section would require the Division to process applications regardless of the day of receipt, so long as the postmark is timely.

Section 5 allows the Division to send absentee ballots by electronic transmission. The Division supports the concept, as stated above. Sections 6-9 are miscellaneous adjustments supporting the addition of electronic transmission, and do not require specific comment.



Joseph L. Swanson, Director

ELECTIVE DISTRICT 14
ELMENDORF A.F.B.
EAST ANCHORAGE
GOVERNMENT HILL

REP. TERRY MARTIN

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ANCHORAGE, AK 99504
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DURING SESSION
P.O. BOX V
STATE CAPITOL BUILDING
JUNEAU, AK 99811
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Alaska House of Representatives

SPONSOR SUMMARY

CSHB 49 (STA)

An Act relating to absentee voting by electronic transmission.

Per a request by the Secretary of Defense, Federal Voting Assistance Program Director Phyllis J. Taylor, I requested LAA Legal Services to draft HB 49. With new committee changes resulting in CSHB 49 (STA), the intent is to allow residents of Alaska, outside the U.S., the opportunity to vote by electronic transmission (fax), if they prefer.

Need for Legislation

In consideration of the 1990 Desert Storm conflict, the difficulty in sending and receiving ballots from outside the U.S. has escalated through failures in our postal system, electoral regulation changes and misunderstanding by voters. With regards to the military, reports reveal that there are 26,281 Alaska residents serving in the Armed Forces alone, with over 19,000 spouses and dependents of voting age, and almost 5,750 residents not affiliated with the federal government, but eligible to vote in Alaska. These figures do not include all other Alaskan residents who vote out of state by absentee. In total, a good proportion of these absentee voters are outside of the United States and find the absentee voting process to have problems when mail service is the only means to apply and vote in an Alaskan election.

The national trend is to expand voting practices and allow those individual voting absentee the most expeditious means by which they can cast their ballot. In terms of Alaska's requirements, there is a 36-45 day ballot transmission time. Ballots are mailed 21-30 days before the election. Marked ballots mailed by voters within the United States will be counted if postmarked by the day of the election and if received by the Division of Elections by the tenth day following the election. Ballots returned by voters outside the United States must be received by

the Division of Elections by the fifteenth day following the election. Alaska also provides a Special Write-in Absentee Ballot, which is available 60 days before the election.

The purpose of CSHB 49 (STA) is to decrease lost, delayed, or denied absentee ballots from overseas (and in the U.S., in specific cases). The use of electronic transmission maintains confidentiality, while at the same time, is fast and efficient. In essence, it expands the use of alternative voting procedures which might otherwise disenfranchise an Alaskan resident voting absentee. In other states, such as Montana, the use of facsimile machines for absentee voting has been integrated into statute. Through a set of specific guidelines and a regulated procedure established in CSHB 49 (STA), those voters outside of the United States, unable to return to Alaska during a federal or state election, would also be afforded the opportunity to cast their vote via electronic transmission.

PRIMARY CHANGES IN THE LAW:

1. CSHB 49 (STA) categorizes three types of absentee voter and the corresponding requirements to vote absentee:

(1) **OUTSIDE THE U.S.** - Will be allowed to request an application and upon receipt from the Division of Elections (by mail), may send by electronic transmission the completed application. The division will then fax by electronic transmission the ballot and the absentee voter may return the marked ballot by fax to the division, but it must be returned by the close of the polls in the evening of the election.

(2) **OUTSIDE ALASKA (IN U.S.)** - Will be faxed a ballot on the occurrence that an application for an absentee ballot is received less than 7 days prior to the election by the Division of Elections (but postmarked prior to the 7th day before the election). The director will determine if the ballot may be faxed. If faxing the ballot is allowed, upon receipt and completion the absentee-voter must send the marked ballot to the Division of Elections by mail and it must be postmarked by the day of the election.

(3) **IN ALASKA** - No change. The absentee voter will be allowed to participate through the in-state absentee voter process which is very accommodating as the law exists today (e.g., the division provides in-person absentee voting at absentee voting stations throughout Alaska).

2. The bill requires the absentee voter, upon completion of the ballot, to accompany it with a statement, under oath, witnessed by: a commissioned or non-commissioned officer of the Armed Forces of the U.S., an official authorized by federal law or Alaskan law to administer an oath, or two United States citizens.

3. Finally, as noted, the bill changes the time period for the request of the delivery of an absentee ballot application from four (4) days prior to the election to seven (7) prior to the election.

The remainder of the changes are for clarity between mailing and faxing absentee applications and ballots.

ELECTIVE DISTRICT 14
ELMENDORF A.F.B.
EAST ANCHORAGE
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Alaska House of Representatives

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SECTIONAL ANALYSIS

CSHB 49 (STA)

An Act relating to absentee voting by electronic transmission.

Section 1.

- (1) References the untimely delivery and receipt of absentee ballots due to mailing and distance delivery problems.
- (2) Confirms that international postal service can be unreliable, other than for military personnel.
- (3) Notes that the use of electronic transmission would be an expeditious method of sending absentee ballots.
- (4) Promotes the use of electronic transmission in Alaska and clarifies the purpose of HB49 as allowing:
 - (b) (1) Voters outside of the United States to receive an absentee ballot by electronic transmission providing adequate security and secrecy exists.
 - (2) Voters outside the state, in the U.S., under time constraints, to have a ballot delivered providing adequate security and secrecy exists.
- (c) Maintains that the in-state absentee voting process will not be altered.

Section 2.

Adds a new section on voting by electronic transmission:

- (a) Allows for transmission of ballot to absentee voter outside of U.S.
 - (1) Requires the voter to continue complying with time deadlines.

- (2) Ensures accuracy and secrecy.
- (b) Requires statement of identification under oath, witnessed by:
- (1) Commissioned/non-commissioned officer of the Armed Forces in the U.S.
 - (2) Official of federal government or Alaska that can administer oaths.
 - (3) Two United States citizens.

Section 3.

Allows an absentee voter outside of the U.S. to apply for an absentee ballot by electronic transmission and requires the inclusion of the fax number in use.

Section 4.

Requires the request for the delivery of an absentee ballot to be postmarked or faxed not less than seven (7) days before the election. Prohibits the use of electronic transmission for voter registration.

Section 5.

States that the director of elections shall send the absentee ballot/materials by priority mail, unless the absentee voter resides outside of the U.S. and requests the delivery by electronic transmission. In addition, if an individual outside of Alaska, but residing inside the U.S., mails the request in the allotted time and the director concludes that the ballot's distribution may be delayed through mail, the use of electronic transmission may be utilized by elections, but the marked ballot must be returned by mail.

Section 6.

Requires the absentee ballot, whether mailed or faxed, to be postmarked (or faxed), by the close of the election day.

Section 7.

Adds that those who use electronic transmission must also be included on the division's absentee list of voters in the state.

Section 8.

States that the use of electronic transmission is not applicable in the use of the federal write-in absentee ballot for overseas voters (which involves a blank ballot with the list of candidates if certification has not occurred).

Section 9.

Allows the absentee voter to write-in candidates on the ballot if the wrong ballot is sent, but the candidates written in must be eligible.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB 49

Revision Date: December 22, 1993
Title: Absentee Balloting by FAX
Sponsor: Representative Martin
Requestor: _____

Department Affected: Office of the Governor
BRU: Division of Elections
Component: Primary and General
COMPONENT SERIAL NO. 22

EXPENDITURES/REVENUES:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL	7.8	0	7.8	0	7.8	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	20.0	0	20.0	0	20.0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	3.4	0	0	0	0	0
LAND &	0	0	0	0	0	0
GRANTS,	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL	31.2	0	27.8	0	27.8	0

CAPITAL	0	0	0	0	0	0
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REVENUE						
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FUNDING:

1002 Federal	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	31.2	0	27.8	0	27.8	0
1005 GF/Program	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	31.2	0	27.8	0	27.8	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	1	0	1	0	1	0

Estimate of current year (FY94) impact: 0

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Joseph L. Swanson, Director
Division: Division of Elections

Phone: 465-4611

Date: 12/29/93

Approved by Commissioner: John B. Coghill, Lieutenant Governor
Agency: Office of the Governor

Date: 1-2-94

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Bush Victory?

Noted forecaster Marvin Cetron, president of Forecasting International, was on the mark earlier this year when he predicted in *Washington Watch* that Bill Clinton would be the Democratic Presidential nominee because the party wanted a moderate who wouldn't lose the South to the Republicans.

Now Cetron looks at the presidential race.

Clinton's big issue is the economy, but Cetron insists it will work to the President's advantage. Although unemployment is around 8 percent, Cetron thinks most voters will look on the bright side—92 percent are working. Moreover, he says, inflation and interest rates are very low, the housing market is picking up, and the American people are leery of the Democratic Party tax and spending programs.

The economy plus other issues such as integrity and law and order add up to a George Bush victory Nov. 3, Cetron says. He predicts a small Bush win in the popular vote but a big victory in the Electoral College. Cetron, a Democrat, made this prediction back in August when Bush was 10 to 15 points behind Clinton in the polls.

Cetron also sees many new people in Congress—including more women—but no basic difference in the ratio of Democrats and Republicans.

Marines Vs. Cruise

Actor Tom Cruise didn't impress Marine Corps hard-liners with his portrayal of an alienated, disabled Vietnam vet in "Born on the Fourth of July," and his new film, "A Few Good Men," won't repair the damage. Coming this Christmas and co-starring Jack Nicholson, the movie is an adaptation of the stage play about a disciplinary action that results in the death of a young Marine.

New Russian Power

Experts say the new man to watch in Russia is Arkady Volsky, president of the Russian Union of Industrialists, who may join with Vice President Alexander Rutskoy in challenging President Boris Yeltsin's already tenuous authority. Volsky and Rutskoy are

Washington-based Cliff Kincaid writes for Human Events and other publications.



WASHINGTON WATCH

By Cliff Kincaid

partners in the Civic Union, representing the old Soviet military-industrial complex.

Meanwhile, the industry-based U.S. Space Transportation Association is warning that U.S. government plans to buy Russian space-launch hardware and technology could be damaging to American aerospace firms. The group says that Russian engineers and technicians may get jobs that belong to Americans.

New Defense Post

The Bush administration is expected to go along with a Congressional proposal to re-establish the office of Deputy Secretary of Defense for Equal Opportunity, a position used during the Carter years to promote expanded roles for women in the military. The office was dismantled under Ronald Reagan.

A Hit At Cheney

President Bush may have removed an embarrassing reference from the GOP platform that his 1990 tax hike was a "mistake." But his convention managers missed a subtle swipe at Defense Secretary Dick Cheney for not stopping the sales of so-called adult magazines such as *Playboy* and *Penthouse* at military bases. The plat-

form denounced unnamed "federal agencies" that refuse to "halt the sale, under government auspices, of pornographic materials." Some anti-porno activists think these magazines are related to harassment of women.

Iraq-gate

Attorney General William Barr's refusal to appoint a special prosecutor in Iraq-gate is expected to heat up considerably the charges that the Bush administration illegally assisted Iraq's military buildup before the Persian Gulf War.

The administration says that key congressmen approved the policy and that charges of illegality are too vague to take seriously. But with congressional leaders continuing to demand classified documents about U.S.-Iraq relations, the administration is counting on CIA director Robert Gates to publicly make the case that Congress can't be trusted because it has already publicized secret information dealing with Iraq's nuclear weapons development.

The Military Vote

DoD says that 200,000 military personnel who tried to vote in the 1988 presidential election were unable to do so because they received their absentee ballots too late or not at all. The problems are mainly delays in printing and mailing absentee ballots. But thanks to a group of volunteers led by Navy Reserve Commander Samuel F. Wright, that figure could decline dramatically this year. His "Wrighteous" campaign has resulted in 45 states making improvements in their election laws to accommodate military personnel. Some politicians believe these votes go heavily Republican.

Impeach Thomas?

Lawyers with the radical Center for Constitutional Rights are promoting a campaign to impeach Supreme Court Justice Clarence Thomas. They claim that Thomas, who has voted consistently conservative in his first term on the court, deliberately misled the Senate when he testified during his confirmation hearings that he had no ideological agenda. But political observers don't expect more than a few congressional liberals to join the campaign. □

VOTING INFORMATION

Prepared by: Federal Voting Assistance Program, Office of the Secretary of Defense, Pentagon, Washington, D.C. 20301-1155



NUMBER:

#109

DATE:

December 17, 1992

Absentee Votes Made a Difference

The Federal Voting Assistance Program (FVAP) announced that absentee votes, including those cast by persons covered by the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), played an important role in several contests around the nation. The FVAP handled over 6,000 calls relating to the absentee voting process from February to November 1992. A look at some of the close races throughout the country clearly shows that a few votes can make the difference in determining the outcome of any election.

In the November 24 Fowler-Coverdell runoff race for U.S. Senate in Georgia, Republican Paul Coverdell ousted incumbent Democrat Wyche Fowler with 634,208 ballots cast in his favor versus 617,283 for his opponent, a difference of only 16,925 in this statewide race. Because voter turn-out was only 39% for this election and because absentee voters who had requested ballots for the November 3 election were automatically sent ballots for the November 24 election, the absentee vote had a significant impact on the outcome of this race.

Similarly, the absentee vote swung the course of the race for U.S. House of Representatives in the 43rd District in Riverside county, California and was a critical factor in deciding a winner between front runners Mark Takano (D) and Kenneth Calvert (R). Before Saturday, November 7, 1992, Takano was ahead of Republican Kenneth Calvert by 1,234 votes. Following the tallying of absentee votes and a recount of all ballots cast, however, Calvert overtook Takano by a 519 vote margin. A total of 31,803 absentee ballots were cast in Riverside county, equivalent to 21% of all ballots cast.

The absentee vote accounted for 22% of the vote cast also in the race for the Golden State's 19th Congressional district seat between front runners Rick Lehman (D), an incumbent, and Republican challenger Tal Cloud (R). Lehman defeated Cloud by 1,030 votes, or 43.22% of the vote. Challenges from Dorothy Wells of the Peace and Freedom party and write-in candidate James Williams, Jr. prevented either front runner from obtaining an absolute majority of the vote.

In the race for the 11th District's Congressional seat in northern California's Sacramento and San Joaquin counties, freshman Republican Congressman Richard Pombo was victorious over Democrat Patricia Garamendi with 45.11% to 43.24% of the vote cast. As in the District 19 race, Libertarian Christine Roberts' 6.45% of the vote prevented either Pombo or Garamendi from obtaining an absolute majority of the vote cast. Absentee ballots cast in Sacramento county alone accounted for 18% of the total vote or 6,991 ballots out of a total 38,358 ballots cast in that county.

In the state of Washington's 4th Congressional district race between Democratic challenger Jay Inslee and incumbent Republican Richard Hasting, absentee ballots accounted for five percent of the 176,369 votes cast. While at first glance this may seem an insignificant figure, Inslee's two percent victory margin make the absentee vote a powerful force in determining the outcome of this race.

In Nevada, absentee ballots from 122 members of the Armed Forces and citizens overseas determined the outcome of the State Senate race in the eighth district which includes Las Vegas. Before the absentee votes were received, twenty-four votes separated Republican Mark James with 20,709 votes from Democrat Sandi Krenzer who was trailing with 20,685 ballots cast in her favor. When the absentee votes were counted November 17, James won by a 32 vote margin. Not only did these absentee voters determine the outcome of the James-Krenzer race, they also gave the Republican party the majority in the State Senate. Prior to this date, Republicans and Democrats had held ten seats each in the twenty-one member Senate.

INSIDE THE BELTWAY

Getting out the fax

Just as many recipients were about to declare Fax the biggest threat to sanity and human progress, what with unsolicited press releases and 27-page dissertations on Indonesian pottery overheating the machine, along comes someone with a socially redeeming value for the thing: "Vote by Fax."

The system, provided to the Pentagon by Election Technology Co. of Raleigh, N.C., will enable U.S. forces in Operation Desert Shield to vote in local, state and federal elections next month. Absentee ballots, provided by the GI's election board back home, will be faxed over to Saudi Arabia in a matter of minutes. The men and women fill out their ballots and either mail them back or, if they don't mind everyone along the way looking, can fax them back to election officials.

Ed Weems Jr., president of ETC, said 30 states and the District have already made use of "Vote by Fax" to send ballots over to the desert, and he expects the system eventually will be used by about 5,000 of the 200,000 troops there.

Lighten up

More than a dozen Republican members of the House crawled off to the Republican Cloak Room to try to unfrizzle themselves after too long a dose of Democrats debating the budget and taxes and how to spend more money. They have a television set with a VCR in there and amused themselves watching reruns of "12 O'Clock High." That's the series that Rep. Bob Dornan, back in his acting days, starred in as a co-pilot. In fact, as we hear it, Mr. Dornan was present during the showing of the reruns and provided a running commentary, pointing out eccentricities such as the scene in which a British Spitfire is shot down by American B-17s. Whoops.

Lend me an ear

Ted Turner gave a Brazilian reporter a hard time when asked about the political leanings of his Cable News Network. Mr. Turner asked the reporter to repeat the question in "better" English and claimed to be "hard of hearing."

stand. Then a British reporter asked in perfect king's English when Mr. Turner planned to marry Jane Fonda. "Sorry, I don't understand that one either," Mr. Turner said, according to a report in the New York Post.



Take care when tangling on the Senate floor with Robert Byrd.

Levels of the game

Sen. Robert Byrd, West Virginia Democrat, undoubtedly wears of being described as gentlemanly, courtly, old-school and all the other compliments that make him sound as if he belongs in a display case. But you get the picture. He's also a master of the game. Witness an exchange when he asked for a little more time to continue his comments on budget matters:

Mr. Byrd: "I ask unanimous consent to proceed for such time as I may need."

Presiding officer: "Is there objection?"

Sen. John Chafee: "Well, Mr. President."

Mr. Byrd: "Do not worry, this senator will end it."

Presiding officer: "Is there an objection? Hearing none, it is so ordered."

Mr. Byrd (to Mr. Chafee, who had reconsidered his objection): "I thank you for your nice card that I

with in the Interior appropriations bill." [This remark referring to some favor bestowed brought laughter from the assembled senators.]

Mr. Chafee: "I had that in mind as I rose to my feet. [More laughter.] The reason I rose was I thought I wanted to assist you in any way I could in an extension of the time you wanted. [Further laughter.]

Mr. Byrd: "I say to the senator, wait until next year and he will write me a bigger card. I thank the senator."

Way off base

The chap from the Pentagon who said he'd get back to us on the cost of the trip to South America for the Air Force's 65-piece Serenade in Blue brass band has done so. Our source estimated the cost of the expedition at \$500,000, but the spokesman said that's too high. It will cost \$170,000 to feed and lodge the musical crew. The aircraft in question would have to be flying anyway to log in the hours assigned to it, he said. But if the flight were billed at an estimated cost of \$2,650 per hour, that cost would come to about \$118,000.

So it won't cost nearly as much as we predicted. Of course, that's what they said about the Hubble, and the S&L bailout, and ...

Inscrutable Bill

Rep. Bill Alexander, Arkansas Democrat, happens to agree with President Bush on most points regarding dialogue and commerce with China, and he has some ideas about the difficulty of understanding that country: "One must visit China in order to fully understand the importance of this relationship," Mr. Alexander said on the House floor the other day. "About 10 years ago, I had the opportunity to travel to the People's Republic of China on four separate occasions. Prior to my travel, I had little or no knowledge of the Orient. When I arrived there, I found it such a contrast to the United States that I was reminded of the statement by Mark Twain that 'East is East and West is West.'"

And never the Kipling shall

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SUBMITTED BY: REP. MARTIN
REF: HB49
1/25/93

Washington Post
January 10, 1990

For the Record ^{Wash.}
^{Post}
Wed. 1/10/90

From the December issue of *Campaigns & Elections*:

If bureaucracy doesn't get in the way, some six million military and civilian voters stationed overseas may cast their next presidential votes by fax.

That high-tech forecast comes from Henry Valentino, director of the Defense Department's Federal Voting Assistance Program. He says that ultimately, the fax may be the only way to ensure fair absentee voting. "There is court precedence for [accepting] digitized [faxed] signatures," he says. "It seems like the next logical step, but it may not happen until 1996. It took us four years to get ballots in embassies."

Currently Valentino concedes, a combination of application deadlines and foreign postal service routinely conspire to subvert long-distance democracy.

"[T]here's a problem, primarily in the transit time needed for absentee ballots," Valentino says. . . .

Valentino's efforts to better the system have included making federal write-in ballots available at embassies and establishing the DoD Voting Information Center, a hotline through which voters can access campaign messages. The DoD service, which uses the military Autovon network and civilian long distance lines, has proven popular since its debut in August '88. In its first 72 days, the Voting Information Center logged 20,000 calls from potential voters and frequent messages from at least one presidential candidate.

"[Then Vice President] Bush recorded personal messages for the election. He changed his message weekly the month before the election and daily election week," Valentino says. "Dukakis made one message and never changed it."



SUBMITTED BY: REP. MARTIN
REF: HB49
1/25/93

December 1992

Voting Information News Vol. 2 No. 12

A roundup of voting news from the Federal Voting Assistance Program (FVAP) ✓ ✓ For voters, potential voters and those who assist voters.

In November 3 election

Electronic Transmission of Voting Materials

The electronic transmission service provided by the Federal Voting Assistance Program (FVAP) processed over 5,000 applications, ballots and other documents from voters and election officials. This alternate process of requesting registration and/or a ballot was first used during Operation Desert Shield in the Persian Gulf and has since been adopted by many States and localities around the nation.

While the method was available to all, it was invaluable for overseas citizens who would have otherwise been unable to

Last-minute voters . . . found this option to be the only alternative which allowed them to vote.

register or vote due to lengthy mail transit times from their country of residence. Also some last-minute voters who registered just a few days before the State deadline to request a ballot found this option to be the only alternative which allowed them to vote.

Voters using this alternate method should always consult Chapter 3 of the *Guide* as well as *Appendix I* to see if their State allows for the electronic transmission of materials and insure that the proper procedure is followed when faxing.

In This Issue

Close Elections in '92	p. 1
Electronic Transmission	1
The Electoral College Meets	2
FVAP says, "Thank you!"	2
Q & A Column	2
FVAP Ombudsman Service	3
DoD Voting Information Center	4

Increased participation reflects nat'l trend

Absentee Voters Make A Difference

Official results from the November 3 general election will not be available until later but absentee votes played an important role in several contests around the nation.

While the deadline for receipt of absentee ballots usually coincides with the close of polls on election day, several States and jurisdictions count ballots after November 3. In many instances, these absentee ballots can make a difference.

Take the case of the race for the U.S. House of Representatives seat in the 43rd District in Riverside, California. Absentee votes are the pivotal factor in deciding the winner. Before Saturday, November 7, 1992, Democrat Mark Takano was maintaining a 1,234 vote lead over Republican Kenneth Calvert. Following the count of absentee votes on that date, however, Calvert overtook Takano by a 397 vote margin. A total of 22,842 absentee ballots were cast in Riverside County. Presently, Calvert has 87,869 votes (46.4%) to Takano's 87,472 (46.4%). After official certification on November 25, 1992, candidates have five days to request a recount. The official result of this election will be declared after that date.

In Minnesota's 2nd Congressional district, less than 600 votes separated Republican Cal Ludeman from Democrat David Minge, out of a total of 263,000 votes cast. Ludeman conceded defeat on November 12.

In the eighth district race for State senate in Nevada, at last count, twenty-four votes separated Republican Mark James with 20,709 votes from Democrat Sandi Krenzer who was trailing with 20,685 ballots cast in her favor. However, the State had not received all absentee ballots and was counting on 122 absentee voting members of the Armed Forces and overseas citizens to determine the outcome of the race in this district which includes Las Vegas. All ballots received on or before November 17 at 5:00 pm will be counted.

Even more interesting is that not only will these absentee voters determine the outcome of the James-Krenzer race, they will also determine which party will have the majority in the Senate. Both Republicans and Democrats currently have ten seats each in the twenty-one member Nevada Senate, making participation by all 122 absentee voters even more critical. In another electoral cliff-hanger this year, the 18th district race between Lonny B. Winrick and Clare Carlson for the North Dakota State House of Representatives may be decided by a coin toss. The district, which includes part of Grand Forks Air Force Base, received a large number of absentee ballots.

Both contenders received an equal number of votes, 1,895. A date for a mandatory recount has not been assigned. However, if after the recount the contest is still tied, a coin toss will determine the winner.

In the Codington district race for State senate in neighboring South Dakota, out of 92,095 ballots cast, 1,238 were cast by absentee voters. In this race, Democrat Dale Howlett received 46,048 votes in his favor while his opponent, Republican Berdeter Solum received 46,047, a difference of only one vote.

Official canvassing (counting) for this race will be completed on November 18. At that time the losing candidate can accept the official results or choose to file a petition with the State. In the latter case, a presiding judge, a referee and two members of the elections commission will conduct an official recount.

Absentee ballots accounted for 32% of the total 24,448 votes cast in the race for the 38th State senate seat in Texas. Challenger Jim Solis, a Democrat, edged out Republican incumbent Ken Slunet by 34 votes. The 7,838 absentee ballots out of a total 24,448 votes cast proved that absentee voting again played a significant role.

H B

5 4

HOUSE COMMITTEE REPORT

(7)

Date Referred: March 17, 1993

FURTHER REFERRALS:

Finance

Date of Committee Action: 4-2-93

The JUDICIARY Committee considered:

HB 54

HOUSE BILL NO. 54

TELEPHONE CONSUMER PROTECTION

"An Act relating to eavesdropping, telephone caller identification, and telephone directory listings and solicitations."

RECOMMENDATIONS:

be replaced with _____

CS HB 54 (LDC)

the same title

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) DCED 3/17/93

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>		<input checked="" type="checkbox"/>	
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>		<input checked="" type="checkbox"/>	
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
<i>[Signature]</i>	<input checked="" type="checkbox"/>				

[Signature]
CHAIRMAN'S SIGNATURE

Rep. Brian Porter, Chairman

House Judiciary Committee

Date: April 2, 1993

Place: Capitol Room 120

HB 217 Native Corporation Dividends to Minors
 HJR 27 Desecration of U. S. Flag
 HB 231 Aggravating/Mitigating Factors/Sex Crimes

Subject of Meeting: HB 54 Telephone Consumer Protection; HB 212 Sentencing: Aggravating Factors

HB 214 Disclosure of a Minor's Record by Parent

Please Print Name	Representing	Business/Personal Mailing Address	Zip	(H) Phone	(W) Phone	Do you Want to Testify?	Which Subject/ Which Bill?
✓ Randall Hines	DHSS	Box 110630	99811	-	465-3187	(Y) N	HB 217
✓ Marcia McKenzie	CDVSA	Box 111200	99811		465-4356	(Y) N	HB 54
✓ Jean Foulk	Ombudsman	Box 113000	99811		5581	(Y) N	HB 214
✓ Kay Brown	bill sponsor					(Y) N	HB 54
✓ Margaret Knuth	Law - Organ	113000			4049	(Y) N	HB 212 HB 231
Janine Reep	Law - Civil				3603	to answer your question (Y) N	HB 214
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	

Representative Kay Brown

ALASKA STATE LEGISLATURE

Legislative Information Office
3111 C Street
Anchorage, Alaska 99503
(907) 561-5627

During Session
State Capitol
Juneau, Alaska 99801-1182
(907) 465-4998

MEMORANDUM

TO: Representative Brian Porter, Chair,
House Judiciary Committee

FROM: Representative Kay Brown

DATE: March 18, 1993

SUBJECT: Scheduling of the Committee Substitute for House Bill 54
(L&C) Telephone Privacy

I would like to request a hearing for **CS HB 54 (L&C), Telephone Privacy**, at the earliest convenience of the House Judiciary Committee.

Attached are:

1. Sponsor Statement
2. Sectional Analysis
3. Fiscal Note/Position Paper
4. Back Up--

"Caller ID Update."

Privacy Journal, November, 1992.

"Memorandum from New Jersey Coalition for Battered Women."

Barbara Price, Executive Director, March, 1991.

"Letter to the Honorable Ted Stevens, U.S. Senate."

Theda Pittman, Executive Director, Alaska Women's Resource Center, April, 1992.

DISTRICT 15

Downtown • Fairview • Northstar • Romig • South Addition • Spenard



printed on recycled paper



"Letter to Representative Kay Brown's Office."

Cindy Smith, Executive Director, Alaska Network on Domestic Violence and Sexual Assault, August, 1992.

"Privacy and Technology: A Workable Balance."

Daniel Patrick O'Tierney and Michael Tavella, Alaska Public Utilities Commission, The National Regulatory Research Institute
September, 1992.

"Overview of PTI Communications Class Services Trial, Gig Harbor, Washington."

PTI Communications, 1993.

"Letter to Representative Hudson, Chair, House Labor and Commerce Committee."

Theda Pittman, Alaska Women's Resource Center, March 12, 1993.

"Testimony of Cindy Smith, Alaska Network on Domestic Violence and Sexual Assault."

Before the House Labor and Commerce Committee, March 16, 1993.

"Letter from Representative Brown to Representative Hudson, Caller ID in Alaska."

Representative Kay Brown, March 16, 1993.

Legislative Information Office
3111 C Street
Anchorage, Alaska 99503
(907) 561-7627

During Session
State Capitol
Juneau, Alaska 99801-1182
(907) 465-4998

Sponsor Statement

CS HB 54 (L&C) addresses protection of Alaskan's right to privacy and personal safety:

- *Would provide Caller Identification "call blocking" or "line blocking" services without charge to telephone utility customers. This will protect those who for their own safety must keep their location confidential.*

Additions and amendments to Alaska Statutes provided by this legislation would make it clear that a citizen's right to individual privacy includes the right to prevent electronic identification of the subscriber's name, phone number, or address.



CS for House Bill 54 (L&C)
Telephone Privacy

Representative Kay Brown

Sectional Analysis

Section 1.

Adds a new section to Alaska Statute 42.05. **AS 42.05.335 CALLER IDENTIFICATION SERVICES AND CALL BLOCKING.** (a) If a telephone utility offers caller identification service to its customers, then it must also offer to its customers, without charge, "call blocking" and "line blocking" services. This would allow a subscriber the option of keeping their phone number, subscriber's name and address confidential.

(b) Defines "caller identification" as the unit that displays the telephone number of a calling party.

Section 2.

Immediate effective date.

MAR 11 1993

Bill No.: HB 54

Date: March 8, 1993

Contact: Marcia Lynn McKenzie
465-4356

POSITION PAPER - Council on Domestic Violence & Sexual Assault

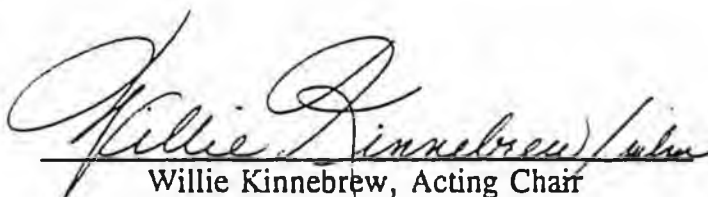
Title: "An Act relating to eavesdropping, telephone caller identification, and telephone directory listings and solicitations."

The Council on Domestic Violence & Sexual Assault supports HB 54 which would ensure that telephone caller identification (caller ID) service must be accompanied by a service, without charge to the customer, that prevents the caller's number from being read by the party with caller ID service.

The availability of unrestricted caller ID service would jeopardize the lives and safety of victims of domestic violence. A battered woman may have physically escaped her perpetrator but have need to contact him concerning child visitation or financial support. If the perpetrator subscribed to caller ID service, when a victim called him, he would easily be able to track down where she was through the use of a reverse telephone directory. This would not only endanger the victim herself, but could result in harassment or danger for those sheltering her, such as a safe home provider or shelter staff and other residents.

At least thirty-seven states have dealt with the issue of privacy and caller ID services. In New Jersey, which is one of only a very few states which allows caller ID service without blocking, shelters have reported that confidentiality of clients' whereabouts have been breached and that shelter staff have received abusive phone calls as a result of the caller ID service. Thus it is critical that caller ID service be accompanied by a blocking service.

The Council is also concerned that the blocking service be made available at no charge to the customer. Victims of domestic violence who flee their homes for protection often have little or no money. Also, shelter programs are non-profit community-based agencies with minimal financial resources. The additional financial burden of having to pay for caller ID blocking services will only reduce resources available for direct services for victims.



Willie Kinnebrew, Acting Chair
Council on Domestic Violence
& Sexual Assault

HB 54: "An Act relating to eavesdropping, telephone identification, and telephone directory listings and solicitations."

Most states have required utilities to provide free blocking of caller I.D. Free blocking is consistent with the commission's proposed statement of privacy principles. The commission has scheduled a workshop on the proposed privacy principles later in February and will work with the public and the utilities to refine those principles.

Eavesdropping: This section falls outside normal commission jurisdiction.

Telephone Solicitation: The commission has reviewed the proposed changes to AS 45.50.475 regarding telephone solicitation and believes the requirements are clearly outlined in statutes and, therefore, no regulations are necessary.

The commission would like the Legislature to consider amending 475(c) to give local exchange telecommunications companies the responsibility of informing parties of the telephone solicitation provisions of this section.

Section 475(c) could be amended as follows:

[THE ALASKA PUBLIC UTILITIES COMMISSION SHALL, BY REGULATION, REQUIRE THAT] Local exchange telecommunications companies are required to inform parties of the provisions of this section. Notification may be made by

- (1) annual inserts in the billing statements mailed to parties;
- (2) conspicuous publication of the notice in the consumer information pages of local telephone directories.

This change would effectively make enforcement of these provisions a matter for the Attorney General's office under fair trade practices.


Paul Fuhs, Commissioner

2.12.93
Date

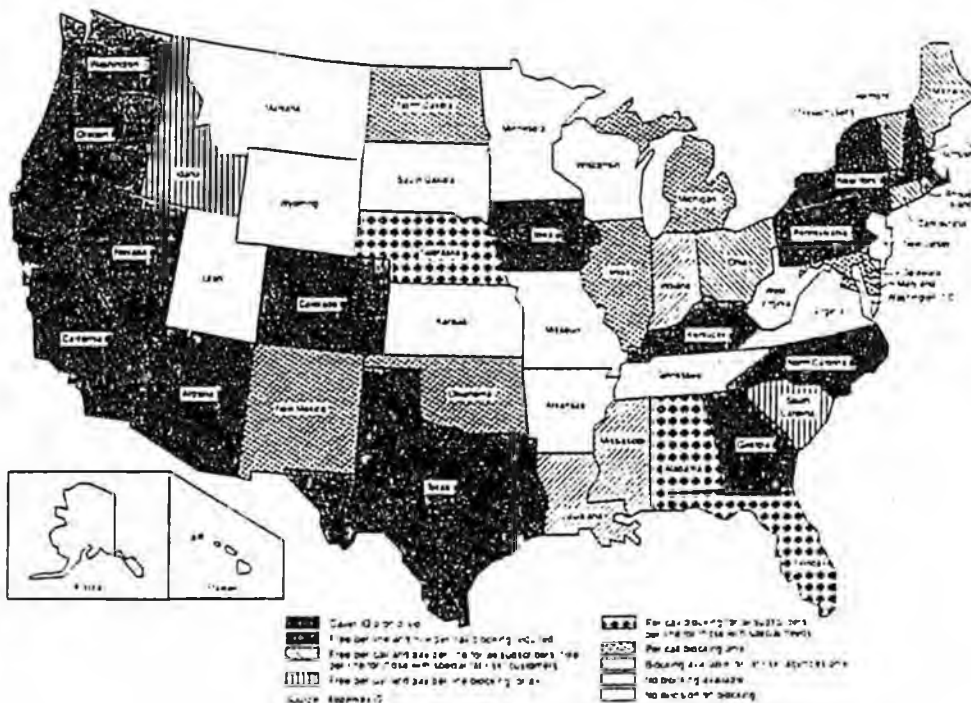
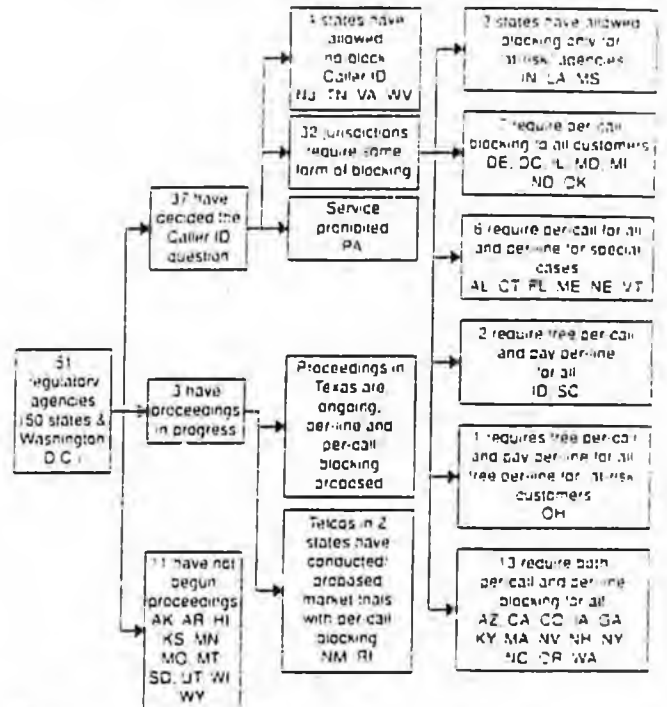
CALLER ID UPDATE

Only four states permit Caller ID without any accompanying blocking service, according to a comprehensive report by the National Regulatory Research Institute at Ohio State University. The District of Columbia and 31 states require some form of blocking, either per-call blocking (in which the caller activates a code each time he or she wishes not to have the number displayed to the recipient of the call) or per-line blocking (in which display is blocked on all calls from the line unless a non-blocking code is activated), or a combination.

The 250-page reference book provides the most complete available description of state regulatory action on Caller ID (as of August 1992). It goes far beyond Caller ID and the accompanying CLASS telephone services; it also describes public-service commission actions on other privacy-sensitive policies by telephone companies and other utilities.

The report concludes that Caller ID is only the tip of the iceberg, because telephone companies are handling more transaction-generated information and because "the utility culture is changing from one based on the public interest to one based on marketing."

"A utility is in the unique situation of having been granted a franchise area in which it is a monopoly....This provides the utility with a near-total population of consumers from which it can obtain information," say the authors, lawyer Robert E. Burns, communications specialist Rohan Samarajiva, and researcher Roopali Mukherjee. "An argument can be made that utilities must be held to a higher standard than that



contained in the common law of privacy." Utility Customer Information: Privacy and Competitive Implications is available for \$39.50 from NRRI Publications, 1080 Carmack Rd., Columbus, Ohio 43210-1002, 614/292-9404, fax 614/292-7196. New Jersey was the first state to approve Caller ID and gave it carte blanche -- no blocking at all. Now the ACLU has petitioned for a rehearing (No. TO 92070699). Bell Atlantic has moved to dismiss.

NEW JERSEY COALITION FOR BATTERED WOMEN
2620 WHITEHORSE-HAMILTON SQUARE RD., TRENTON, NJ 08690
609-684-8107

MEMORANDUM

DATE: March 13, 1991
TO: Advocates
FROM: Barbara Price, Executive Director
SUBJECT: Caller ID

By now many of you are aware that New Jersey has Caller ID. It has existed in New Jersey for over three years. As such we now have the dubious distinction of being the model for Caller ID in every other state. Bell Companies seeking to have Caller ID implemented in their states point with pride to New Jersey to prove the success of this new technology. They have documented many stories on how Caller ID has saved lives, cut down on bomb threats, saved business dollars, and reduced the complaints of harassing phone calls by fifty percent. We do not question the validity of these stories, however in all fairness, we feel we must present another view of the effects of Caller ID in New Jersey.

As I have stated in a previous memo, Caller ID is available in eighty percent of the state. Only three to four percent of New Jersey Bell's customers subscribe to the service which has risen to this level over a three year period. Many of the customers are police, fire departments and businesses. Without knowing the numbers involved, it is probably safe to assume that this group represents possibly one third to one half of the subscribers or one to two percent. This means the remaining 2 percent could be residential customers. If we assume that all of these residential customers are living with or involved with another person, and extrapolate from national domestic violence statistics, we could say that one half are possible abusers. The population in New Jersey is 7.7 million and the domestic violence programs in New Jersey responded to 53,706 hot line calls and provided shelter or outreach services to 13,589 victims in 1989. The probability that we are making contact with all Caller ID customers who are also abusers is minuscule. Given this limited statistical sample, the NJ Coalition for Battered Women feels strongly that it is impossible to accept the blanket statement by New Jersey Bell that Caller ID is a success.

Contrary to the picture painted by New Jersey Bell, there are problems with Caller ID. Some of these problems can be solved by the remedy suggested by the phone company which requires the placement of additional phones for special outgoing only lines wherever phones currently exist. Clients and staff alike would be asked to use the outgoing only phones when they do not wish to reveal their location. The phone number for this outgoing only phone would still go forward to the Caller ID phone. However anyone returning a call to that line would get a recording saying the number reached is not in service. NJ Bell offered these extra phones to all shelters, counselors in their homes, and even clients. After a test effort in one shelter, they have not continued to offer these phones to counselors or clients and have only responded to two other programs' inquiries. Both have had technicians in to look at wiring, and one received credit cards for two counselors to use. They have not contacted the Coalition about any further efforts. Since we are currently pursuing other means of resolving the Caller ID issue, we have made no further requests of NJ Bell.

The solutions suggested by New Jersey Bell are cumbersome and do nothing for individual women who don't contact our programs. Given the nature of domestic violence and the way victims respond, there is no way for the Coalition to know how many abusers are using Caller ID to isolate and control their victims. The following incidents have been reported by domestic violence programs in New Jersey since the summer of 1990.

- Hotlines are receiving calls from males wanting to know where the phone number they're calling originates. In the space of ten days, one shelter received three such calls. This program works with victims on a non-shelter basis who are still with their batterers. They have been forced to revise their intake procedures to include asking clients if they have Caller ID and if it is safe to call them at home. In addition they ask if they know how to erase the number from the tape and provide instruction on how to do so if they do not know. Many of our programs are now adopting this procedure.
- Several shelters have reported that men calling asking where this number originates have been very nasty and verbally abusive.
- A resident used the shelter phone to speak with her landlord. At some later point he called the shelter and asked to speak with her. He was told they could not confirm or deny her residence. He informed them he knew she was there because she had called him, and he had Caller ID. He also said he was a government worker and if they didn't let him speak with her, he could easily find the shelter and her. They did not comply.
- A volunteer made a personal call from one of the direct shelter lines that is unpublished. She called her son who was not home. When he returned, he called the number that showed up on his Caller ID tape. His mother answered the phone and was shocked to hear her son's voice. It became immediately apparent to one volunteer how dangerous Caller ID could be for the shelter. The program has now instituted a new policy that does not allow personal calls on the house phone.
- A student researcher from a local university contacted a client, with permission from the client and shelter, to interview her for a research project. When the woman's husband returned home, he found the number on the Caller ID tape. He called the number and told the student to leave his wife alone. He was very abusive and threatening. This program is near a major university and frequently has students involved as interns and researchers. Caller ID puts this work in jeopardy.
- Counselors from another program often call clients from home to cancel or re-schedule support groups or meetings with clients. A counselor did not know the client had Caller ID. Later that evening the client now having the counselor's home phone number, called her. While this situation did not present a particular problem for this counselor, it did illustrate the potential for possible abuse, harassment or disruption of the counselor's private life. This will certainly have a chilling effect on a program's ability to employ counselors who may not be able to do all their work from the program offices. New Jersey Bell has not given us any indication that they will change phone numbers for people caught in this situation for free.

Another program which offers batterers counseling had a man participating who had been referred by his employer. His wife was not part of the program for victims and may have been unaware that he was doing this. A counselor had occasion to call the man, and the program number showed up on the Caller ID machine. The wife called the number and upon discovering what it was, became very upset about what the program might be telling her husband. When her husband returned they got into an argument and a fight ensued. The police were called. Both husband and wife were arrested and now both are court ordered into counseling.



Alaska Women's Resource Center

111 W. 9th Avenue • Anchorage, Alaska 99501 • (907) 276-0528 • Fax: (907) 278-8944

April 27, 1992

The Honorable Ted Stevens
United States Senate
522 Hart Building
Washington, D.C. 20510-0201

Dear Senator Stevens:

I am writing to alert you to problems which I believe will be created for Alaska's substance abuse and domestic violence program providers under the provisions of S. 652, the Telephone Privacy Act of 1991.

Most people don't have a clue to the fact that when they call an 800 or a 900 number, the number they call from and the name/address of the phone they use are -- or soon will be -- readily available to the owner of the number.

I understand this is true even if the call is made from an 'unlisted' number and that the situation will get even worse if the only remedy for Caller ID is per call blocking as proposed in S. 652 for states like Alaska which have taken no action on such services.

Safety is the first and most important issue domestic violence victims must address for themselves and their children. It has been clearly documented that violence often increases when a victim first takes steps to prevent continued battering. The requirement to enter a special code prior to making any call in order to protect the privacy of the location from which one is calling (per call blocking) is an absurd concept for a victim of domestic violence. In addition, as a service provider, AWRC would have to start warning its clients that even incidental calls made from the Center might help their batterer to track them down.

Legally, the situation would be even worse for AWRC and its substance abuse clients. New Dawn, AWRC's halfway house for women in recovery and their children, presently has a pay telephone in the residence for the use of residential clients. Under federal law we are required to maintain the identity of such clients in absolute privacy and may not even acknowledge that someone is, or has been, a client.

The location of that phone (111 W 9th) and the name of the account, even if we managed to use a name less well-known than

"New Dawn," established through Caller ID would clearly undermine our efforts to comply with federal confidentiality requirements.

Caller ID is being promoted as a way to keep people safe, but I believe it will have just the opposite effect for a great many. The anecdote for Caller ID must not be costly or impractical to use. It appears that Alaska is in a particularly vulnerable position since there has been no regulatory debate on Caller ID or decision concerning its availability.

I urge you to examine the proposals of S. 652 carefully and work to assure that privacy interests are not sacrificed through it.

Sincerely,

A handwritten signature in cursive script that reads "Theda Pittman".

Theda Pittman
Executive Director

ALASKA NETWORK
ON
DOMESTIC VIOLENCE
AND
SEXUAL ASSAULT

419 6th Street, No. 116 • Juneau, Alaska 99801 • (907) 586-3650

Abused Women's Aid in Crisis (AWAIC); Advocates for Victims of Violence (AVV);
Aiding Women in Abuse and Rape Emergencies (AWARE);
Alaska Women's Resource Center (AWRC); Arctic Women in Crisis (AWIC);
Bering Sea Women's Group (BSWG); Emmonak Women's Shelter;
Kodiak Women's Resource & Crisis Center (KWRCC);
Marilaq Regional Women's Crisis Program; Parent Aid Family Support Center;
Safe & Fear-Free Environment (SAFE); Seward Life Action Council (SLAC);
Sikans Against Family Violence (SAFV); South Peninsula Women's Services (SPWS);
Standing Together Against Rape (STAR);
Tongass Community Counseling Center; Tundra Women's Coalition (TWC);
Unalaskans Against Sexual Assault & Family Violence (USAFV);
Valley Women's Resource Center (VWRC);
Women in Crisis Counseling & Assistance (WCCA);
Women in Safe Homes (WISH); Women's Resource & Crisis Center (WRCC)

AUG 31 1992

August 26, 1992

Rosemary Karish
Rep. Kay Brown
3111 "C" Street, Suite 435
Anchorage, AK 99503

Dear Rosemary:

Sorry for the delay in sending this material to you.

As I explained, Caller ID provides recipients of phone calls with the phone number of the caller through a device installed on the telephone. I understand that one company has begun listing the account name as well. This concerns the Network because it will place domestic violence victims in immediate danger. I've enclosed several statements and memos from other State coalitions on that point. Other groups, such as doctors, attorneys, and counselors, are also likely to oppose unrestricted Caller ID-- not to mention the great number of Alaskans that currently have unlisted numbers for privacy.

For some time, the Network has been following the problems raised by Caller ID for domestic violence victims. We were prompted to look into action here in Alaska when a piece of federal legislation was introduced which prevented State regulation of Caller ID more restrictive than that outlined in the bill. That legislation eventually stalled. It is only a matter of time before this service is marketed in Alaska.

Rosemary Karish
Page Two

The Network would like to look at legislation that, at a minimum, requires companies marketing Caller ID in Alaska to provide free per call and per line blocking. This solution was adopted by the Oregon Utilities Commission after hearings on the issue there. I have asked Fran Ulmer's staff to see if she might be interested in sponsoring such legislation, and have not yet heard back from them. I'll let you know as soon as I hear anything.

I hope you're having a great summer!

Best wishes,



Cindy Smith
Executive Director

Michael Tavella

PATENT AGENT

FEB 9 1993

6900 ROVENNA STREET
ANCHORAGE, ALASKA 99518

(907) 349-2495

February 4, 1993

The Honorable Kay Brown
Pouch V
Juneau, Alaska 99811

The Honorable Mike Navarre
Pouch V
Juneau, Alaska 99811

Dear Representative Brown and Navarre:

I have recently reviewed a copy of HB 54, involving, among other things, telephone caller ID. I am the co-author of a paper on the subject of caller ID, entitled: Privacy and Technology: A Workable Balance. This paper was presented at the eighth Biennial Regulatory Information Conference sponsored by the National Association of Regulatory Utility Commissioners (NARUC). I believe this paper may be of interest to you.

I hope you find this paper useful as HB 54 moves through the legislature.

Yours truly,



Michael Tavella, P.E.

**PROCEEDINGS OF THE EIGHTH
NARUC BIENNIAL REGULATORY INFORMATION
CONFERENCE**

Volume III: Multi-Utility

**The National Regulatory Research Institute
The Ohio State University
1080 Carmack Road
Columbus, Ohio 43210**

**September 9-11, 1992
Fawcett Center for Tomorrow
Columbus, Ohio**

1

PRIVACY AND TECHNOLOGY: A WORKABLE BALANCE

By
The Honorable Daniel Patrick O'Tierney, Esq.
And
Michael Tavella, P.E.
Alaska Public Utilities Commission¹

Technological advances often affect privacy. At times, technological change has outpaced the legal parameters of privacy or has, otherwise, presented a dilemma for policy makers. Ironically, the very technology that threatens privacy rights can engender related technology to protect or enhance privacy. The current state of the evolution of Caller ID² technology is an example of that dynamic.

Caller ID has created controversy involving the use, ownership and control of telephone numbers. With the announcement last November of proposed FCC rules on Caller ID, this controversy reached federal proportions. Caller ID represents an ongoing attempt to achieve a balance between competing expectations of privacy - between telephone callers and those who are called. This paper will explore that balance by considering a fundamental question: Does a caller have a legal right to prevent his or her identity from being transmitted to the call recipient by transmitting the caller's phone number to the recipient?

Introduction

Although people are social beings, individuals require and value privacy in their lives. Society's view of what is considered private has changed considerably over time. Technology has reduced distances between continents and the time needed to send information. Facsimile machines and cellular phones now enable almost continuous accessibility to anyone in the world. As access is increased, many people feel pressured by the seemingly constant information flow, as well as disturbed by the proliferation of detailed marketing databases. Thus, while people seek greater accessibility through improved communications, they also seek to restrict access to their identities. One might say that people desire some type of anonymous accessibility.

¹The views and opinions of the authors do not state or reflect the views, opinions, or policies of the Alaska Public Utilities Commission, the NRRI, NARUC, or other NARUC member commissions.

²Caller ID is a system that provides the caller's telephone number to the receiving telephone. A translator device can then display this number to the call recipient prior to answering the phone. Some systems include a database that will also give the name of the caller.

Historically, the telephone has been strongly associated with privacy by its users. To a large extent, perhaps, telecommunications technology is representative of the general concern about the (mis) uses of individual personal information by businesses and the government.

Clearly people have a sense of privacy about their affairs. The right to privacy, however, is bounded by the law of privacy. Thus, an examination of the basic tenets of privacy law is in order. As part of that analysis, we will initially consider the idea of property rights associated with a phone number. Further, we will examine the constitutional aspects of privacy with respect to a caller's expectation of privacy regarding his phone number. This is the pivotal issue in Caller ID cases: does the person making a call have an absolute right to anonymity so as to prevent involuntary transmission of his phone number?

Another issue that may emerge is the possibility of federal preemption on Caller ID. The FCC has issued proposed Caller ID regulations that will seek to create some uniformity among the states. At this point, the proposed regulations conflict with some state decisions with respect to acceptable blocking methods.

When the Abstract for this paper was prepared, we intended to explore the diversity of opinion on these issues. At that point, only a handful of state public utility commissions had addressed them. Today, 23 commissions have issued orders approving Caller ID. Essentially, these commissions have uniformly addressed privacy concerns through a technological means: call blocking. In most of the cases decided to date, commissions found that the best way to balance the need for the service provided by Caller ID and the need for customer privacy is to simply provide the customers with the ability to block calls from being identified. This can be accomplished by either per-call blocking or by per-line blocking³ and the respective requirements of the state commissions differ in this regard. Four commissions have approved caller ID without mandating blocking.⁴

In view of the number of decisions that have been forthcoming, this paper will consider whether an emerging *de facto* Caller ID policy is discernible from the various state commission decisions.

³Per-call blocking is a system that permits the caller to enter a code that prevents her number from being transmitted to a person with a Caller-ID device for that call. Per-line blocking automatically prevents the caller's number from being transmitted on every call made.

⁴Status of Caller ID Service and Privacy 1992 Telecom Publishing Group, Briefing Report, p. 2.

Property Rights of a Phone Number

One preliminary question that should be examined is whether a telephone subscriber has a proprietary interest in his phone number. If that were the case, the subscriber would have some legal rights regarding whether his phone number can be disseminated to others without consent. Phone numbers are typically issued by the phone company upon subscription and are retained by the company after the customer ceases service.

The question of whether a phone company has a copyrightable interest in the white page listing of phone numbers was addressed in Feist Publications, Inc., v. Rural Telephone Service Co.⁵ Feist Publications sought to publish a regional phone book that contained subscriber telephone numbers of several telephone companies. Rural Telephone refused to give Feist the numbers of its subscribers. Feist used Rural's numbers anyway by copying them and Rural sued Feist for copyright infringement. The United States Supreme Court held that the mere alphabetical listing of names, addresses and phone numbers in a telephone white pages directory is a non-copyrightable compilation of facts. In so holding, the court characterized the alphabetical compilation, as well as the information contained in the white pages (including telephone numbers) as ordinary:

As mentioned at the outset, Rural's white pages are entirely typical. Persons desiring telephone service in Rural's service area fill out an application and Rural issues them a telephone number. In preparing its white pages, Rural simply takes the data provided by its subscribers and lists it alphabetically by surname. The end product is a garden-variety white pages directory, devoid of even the slightest trace of creativity.

Rural's selection of listings could not be more obvious: it publishes *the most basic information -- name, town, and telephone number --* about each person who applies to it for telephone service. (Emphasis added; citations omitted.)⁶

In Feist, the U.S. Supreme Court rejected a telephone company's claim that compilation of telephone white page information into a directory was entitled to protection under copyright law. The Court did so on the basis that such a compilation was not sufficiently original or creative. As such, the court rejected an alleged proprietary interest by a third party in, among other things, subscriber telephone numbers. Although Caller ID clearly has nothing to do with copyright law, the Feist court's characterization of telephone subscriber numbers as "the most basic

⁵ ___ U.S. ___, 111 S.Ct. 1282. (1991)

⁶Id. at 1296.

information" certainly does not suggest any particular significance would necessarily be given to a telephone number in and of itself.

In the case of Caller ID, the question is whether the telephone subscriber, as opposed to the telephone company, has any proprietary interest in her telephone number which would entitle the subscriber to control over involuntary display of that number to the person called. Arguably, there is a closer nexus between a telephone subscriber and her telephone number than between a telephone company and the numbers it issues to its subscribers.⁷ Telephone subscribers already have the option to elect to have their number treated in a more private manner as an unpublished number. It may be unlikely that a subscriber has a property right in a telephone number. However, it is also unclear whether the Feist copyright decision is necessarily relevant to whether there exists a proprietary relationship between a telephone subscriber and his telephone number.

The Right of Privacy and Caller ID

Until recently, existing telephone technology could not transmit any information as to the phone number or identity of a caller. Thus a caller has enjoyed the ability to remain anonymous while making a call. For the vast majority of calls, this anonymity is unimportant. People call others to pass information and, usually, they want the receivers to know who they are. This is true when calling friends and relatives or when calling to transact business, schedule appointments, and to gather information. However, the 1980's saw a great increase in phone calls from total strangers, largely because of the growth in telemarketing technology and the possibility that businesses would collect, process and resell calling number information without the caller's consent.⁸

For subscribers that consider cold sales calls over the telephone to be intrusive, Caller ID can alert them to the telephone number of the caller before they answer, enabling them to refuse to take the call. Similarly, Caller ID (without blocking) can effectively curtail the practice of obscene or harassing telephone calls. On the other hand, use of Caller ID (without blocking) can jeopardize police investigations and threaten the safety of victims of domestic abuse who seek to maintain the anonymity of their place of refuge.

⁷See Kester v State, 291 S.E.2d 497,504 (Ga 1982) (no expectation of privacy in telephone toll or billing records because records belong to telephone company, not defendant).

⁸Status of Caller ID Service and Privacy 1992 Telecom Publishing Group, Briefing Report, p. 2.

These competing concerns inform the perceptions of what "rights" one possesses when using a telephone. They are bounded, however, by the law of privacy. We must then ask: does a caller have a legal right to prevent his or her identity from being transmitted to the call recipient by the Caller ID display of the caller's phone number to the recipient?

Common law privacy rights have evolved under both federal and state law.⁹ The U.S. Constitution does not explicitly provide for the right of privacy. However, the Supreme Court has recognized that a right of personal privacy or a guarantee of certain areas or zones of privacy, does exist under the Constitution. This federal constitutional right to privacy emanates from the penumbra of certain guarantees provided by specific amendments to the Constitution.¹⁰ This source of the right to privacy has not been explicitly defined, other than on a case by case basis. The Supreme Court has noted, however, that "personal rights found in this guarantee of personal privacy must be limited to those which are fundamental or implicit in the concept of ordered liberty."¹¹ Where competing privacy interests are at issue, the legitimacy of those interests must be weighed in the balance.¹²

To date, the U.S. Supreme Court has not had occasion to review the privacy issues specifically related to Caller ID. However, in Smith v. Maryland¹³ the Court addressed the privacy expectations of a caller relating to disclosure of the caller's phone number in the context of constitutional search and seizure law.¹⁴ Smith involved a robbery where the victim later began receiving threatening and obscene calls from a man identifying himself as the robber. The telephone company, at police request, installed

⁹Federal and state statutory bases for privacy protection are beyond the scope of this paper and, therefore, are not discussed.

¹⁰See Roe v. Wade, 410 U.S. 113 (1973).

¹¹Paul v. Davis, 424 U.S. 693, 713 (1976).

¹²See Whalen v. Roe, 429 U.S. 589 (1977)

¹³442 U.S. 735 (1979)

¹⁴The Fourth Amendment to the U.S. Constitution provides that "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

a pen register¹⁵ at its central offices to record the numbers dialed from the telephone at the defendant's home. Using the pen register, the police were able to obtain sufficient evidence linking the defendant to the robbery. The defendant was tried and convicted.

On appeal, the defendant argued that the use of the pen register constituted an illegal search under the Fourth and Fourteenth Amendments. The court rejected the defendant's privacy arguments in holding that the defendant caller had no reasonable expectation of privacy in relation to the phone number of the victim he had called.

In examining the privacy questions, the Court cited a two-part test: "first is whether the individual, by his conduct, has exhibited an actual (subjective) expectation of privacy . . . whether . . . the individual has shown that he seeks to preserve [something] as private The second question is whether the individual's subjective expectation of privacy is one that society is prepared to recognize as 'reasonable' . . . whether . . . the individual's expectation, viewed objectively, is justifiable under the circumstances."¹⁶

The Court then reviewed the use of pen registers in terms of a Fourth Amendment search and found that

"[g]iven a pen register's limited capabilities, therefore, [defendant's] argument that its installation and use constituted a 'search' necessarily rests upon a claim that he had a 'legitimate expectation of privacy' regarding the numbers he dialed on his phone. *First, we doubt that people in general entertain any actual expectation of privacy in the numbers they dial. All telephone users realize that they must 'convey' phone numbers to the telephone company, since it is through telephone company switching equipment that their calls are completed. All subscribers realize, moreover, that the phone company has facilities for making permanent records of the numbers they dial, for they see a list of their long distance (toll) calls on their monthly bills.*" (Emphasis added.)¹⁷

The court went on to add that " it is too much to believe telephone subscribers, under these circumstances, harbor any general

¹⁵A pen register is a mechanical device that monitors the electrical impulses produced by a rotary or pulse type dialer, records these impulses, and translates them into the numbers dialed.

¹⁶442 U.S. 735, 740 (citations omitted).

¹⁷Id. at 742.

expectation that the numbers they dial will remain secret."¹⁸

In rejecting the petitioner's argument that he had a reasonable expectation of privacy in making a call from the privacy of his own home, the Court noted that his conduct may have been calculated to keep the contents of his conversation private, but added that his conduct "was not and could not have been calculated to preserve the privacy of the number he had dialed."¹⁹ The Court then found that even if the petitioner had held an expectation of privacy this expectation was not one that society recognized as "reasonable."²⁰

In the criminal procedure circumstances of this case, the Smith court did not find any reasonable expectation of privacy in a phone number dialed by a caller for the purpose of Fourth Amendment protection. It seems apparent that the Court did not view phone numbers as generally having any special quality that entitled the defendant to constitutional protection of his alleged privacy related to the phone number he had dialed.

The operation of Caller ID is different, however, from the situation involving the pen register in Smith. Smith involved, among other things, the question of privacy expectations regarding the number dialed by a caller. Caller ID involves the privacy interests in the number that the caller dials from. Nevertheless, the stated rationale of the Smith court may well be relevant to Caller ID. In Smith, the court indicated that subscribers realize that the phone company keeps permanent records of the numbers dialed for billing purposes and, therefore, they do not generally entertain an actual expectation of privacy in the numbers they dial. By the same token, the number of the dialer must also be transmitted to enable the phone company to allocate the bills to the proper customers. To that extent, the Smith rationale would argue against the reasonableness of the caller's expectation of privacy regarding Caller ID transmission of her number.

In any event, while Smith is certainly not dispositive of the questions involving Caller ID privacy, it offers little to support the notion that one's telephone number is afforded special constitutional protection.

State Constitutional Protection

Most state constitutions follow the federal model. A minority of state constitutions, however, provide explicit privacy protection.

¹⁸Id. at 742.

¹⁹Id.

²⁰Id. at 743.

For example, the Alaska Constitution, provides that:

The right of the people to privacy is recognized and shall not be infringed.²¹

This provision is not absolute, however, and courts have defined limits to that privacy right. For example, in a recent criminal case²², the Alaska Court of Appeals reversed the court below in holding that the defendant had no "reasonable expectation of privacy which society is prepared to recognize in his name and address and the locations where he received utility services."²³

The trial court found that the defendant had a reasonable expectation of privacy partially because the utility had a written policy that prohibited disclosure of the name, address or telephone number of a customer absent his consent, a subpoena or a court order. The Alaska Court of Appeals found, however, that the disputed information "was information which was available because Chryst [the defendant] was a consumer of a public utility. Few people would regard the fact that they are consumers of the services of a public utility to be private information."²⁴

The Court noted "what appears to be the majority rule that a person's name and address, by themselves, do not constitute information about which a person can have a reasonable expectation of privacy which society is willing to recognize."²⁵ Of course, the facts of this case dealt specifically and exclusively with the consumer's name and address, not his telephone number. The question remains whether the Alaska court would hold that a caller has an expectation of privacy in his or her telephone number when making a call.

Similar explicit privacy protection is found in the constitutions of other states. Arizona's privacy provision was recently examined in a Caller ID proceeding.²⁶ The Arizona Commission found that there are no constitutional impediments to the

²¹Constitution of the State of Alaska, Article I, Section 22.

²²State v. Chryst, 793 P.2d 538 (Alaska Ct. App., 1990).

²³Id. at 542.

²⁴Id.

²⁵Id.; Contra People v. Chapman, 679 P.2d 62 (1984); State v. Butterworth, 737 P.2d 1297 (1987).

²⁶See Re U.S. West Communications, Inc., 131 PUR4th 486, 502 (Arizona Corporation Commission, March 27, 1992).

provision of Caller ID in Arizona.²⁷

Many other Commissions have decided that Caller ID, when some type of blocking is available, does not present a constitutional problem.²⁸

Therefore, it appears that Caller ID, offered with blocking options, will be found constitutionally sound in nearly all state jurisdictions, at least at the administrative agency level.²⁹

The Federal Preemption Question

The Federal Communications Commission (FCC) has announced that it intends to promulgate regulations regarding the provision of Caller ID.³⁰ There is apparently some federal concern about state regulations which would prohibit Caller ID unless customers have the option of per-line (as opposed to per-call) blocking. The proposed FCC regulations which have been noticed for comment do not provide for per-line blocking on demand where the phone company would automatically be required to block a customer's number from being displayed at any time. If this remains the case, there will be a direct conflict between the states that provide for per-line blocking and a national policy that excludes per-line blocking. At this time, the FCC has received over 130 comments that cover a wide range of opinions. The FCC is expected to complete work on these regulations this year.

Conclusion

Throughout history, technology has helped form society and its institutions. From the first tools of agriculture to satellite communications, our institutions have evolved to address the impact that technology has had on society. Likewise, over time, the law has been modified to address new technologies and the effects of those technologies on privacy rights. Often, the issues developed in these cases have ethical and moral, as well as, legal implications. Suicide machines and test tube babies are often sensationalized, contemporaneous examples of technology clashing with societal norms, as reflected in current legal doctrine. Caller ID is only one small link in a chain of technological innovations that are rapidly changing the fabric of the telecommunications industry.

²⁷Id. at 503.

²⁸See, e.g., Re U.S. West Communications, Inc., 133 PUR4th 326 (Colorado PUC, May 20, 1992).

²⁹ The Pennsylvania Supreme Court struck down a Caller ID offering as being illegal under a state wire-tapping statute. Barasch v. Penn. P.U.C., 576 A.2d 79 (Pa. Commw. Ct. 1990)

³⁰See FCC Docket CC 91-281.

Changes in telecommunication technology are not merely the stuff of academics or engineers. Caller ID is a perfect example of the fact that these changes are staring consumers in the face. In the case of Caller ID - it is the electronic display of the number of the incoming telephone caller.

From our review, call blocking options provide a simple technological solution that should forestall, if not eliminate, many of the current privacy problems associated with Caller ID. The use of blocking, however, is not without cost. The value of Caller ID is reduced with each customer that subscribes to blocking. Nevertheless, call blocking provides a simple technological solution that balances the privacy needs of the caller and recipient. The provision for blocking varies by state.³¹

The clear trend among state utility commissions over the past year has been to approve Caller ID service, so long as blocking is readily available (and, in some cases, available without cost to the consumer). The federal scheme is still under review. It appears that the current controversy regarding Caller ID privacy is being adequately resolved by blocking technology. In that respect, related technology has provided the resolution to the privacy issue that the introduction of Caller ID technology created.

³¹See fn. 4, supra.

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Appendix A

Overview of PTI Communications CLASS Services Trial

I. Introduction

PTI Communications seeks authority from the Washington Utilities and Transportation Commission (Commission) to offer, on a trial basis, several exciting new telecommunications services. As described in more detail in Section III, the new services are Last Call Return, Continuous Radial, Calling Number Identification, Calling Name and Number Identification, Selective Call Forwarding and Call Trace. All the new services are commonly referred to in the telephone industry as Customized Local Area Signalling Services, or CLASS. The Company is proposing its service area in Gig Harbor as the site of a one-year trial.

The new CLASS services will be offered to customers under the product name "Custom Calling II." Many customers are familiar with existing custom calling features known as Call Forwarding, call Waiting, Three Way Calling, and Speed Calling. The new CLASS services are the next generation of central office based services available in the emerging world of intelligent telecommunications networks. The Company hopes to gain useful experience and information from the trial, with the eventual goal of introducing these services throughout its service areas.

II. Public Interest Benefits

Custom Calling II services provide customers with new options and increased flexibility in managing telephone calls. They also offer customers' greater convenience in placing calls. Many customers may already be familiar with the advanced telecommunications services and features that are commonly available in the workplace. Now, residential customers can have some of the more powerful, convenient, and flexible telecommunications features as well.

Some of the Custom Calling II services enable called parties to identify in advance, and temporarily retain, information about calls placed to their telephone line. As discussed in Section IV, PTI Communications is proposing to provide two blocking options as part of the trial offering of these services.

III. Custom Calling II Services

Last Call Return

This service allows customers to place a call to the telephone number of the last incoming call without having to know the actual telephone number associated with the call. Customers initiate Last Call Return by dialing the short activation code *69 (1169 for rotary lines). A benefit of Last Call Return is the inclusion of a two-level activation process that gives customers increased flexibility for returning calls. After dialing the activation code customers receive the telephone number (unblocked only, of the last incoming call. Customers then have the option of dialing "1" which initiates Last Call Return. If the called number is busy, processing of the call attempt continues until the called line is idle. Continual processing of calls placed using Last Call Return can be deactivated by dialing the code *89 (1189 for rotary lines). If customers do not want to place a call to the telephone number of the last incoming call, after identifying that number using Last Call Return, they may simply hang up and terminate use of the service. Thus, flexibility is provided to customers who, for example, may not want to return calls to certain parties.

Continuous Redial

This service allows customers to automatically place a call to the last dialed telephone number without having to redial that number. Customers initiate Continuous Redial by dialing the short activation code *66 (1166 for rotary lines). The service enables customers to contact parties they have been unable to reach or re-initiate interrupted conversations. The service works regardless of whether the last number dialed is answered, unanswered, or busy. If, when placing a call using Continuous Redial, the called line is busy, processing of the call attempt continues until the called line is idle. When both lines are idle, the calling party will be prompted by a special ring and,

when the calling party picks up the line, the called line rings. Continual processing of calls placed using Continuous Redial can be deactivated by dialing the code *86 (1186 for rotary lines)..

**Calling
Number
Identification**

This service allows customers to identify, and temporarily store telephone numbers of incoming calls. Depending on the capability of the telephone set or separate display unit, the date and time of incoming calls are also displayed which enables customers to determine the order in which calls are received. Calling number information is displayed on telephone sets or adjunct display devices capable of displaying incoming numbers.

**Calling
Name and
Number
Identification**

This service allows customers to identify the listed name associated with the telephone number of incoming calls. Calling Name and Number Identification allows faster recognition of the source of incoming calls and gives customers more information as they determine whether to answer calls.

**Selective Call
Forwarding**

This service allows customers to designate that incoming calls from up to 31 telephone numbers be automatically forwarded to another location. Customers activate forwarding of the designated incoming telephone numbers by dialing the code *63. The deactivation code is *83. Customers also have the ability to change the designated numbers at any time.

Call Trace

This service allows customers who have been receiving harassing or obscene calls to place an immediate trace of the last incoming call. The service may be accessed by customers by dialing the activation code *57 (1157 from rotary lines). Upon activation, customers will be informed that there is a charge (\$1.50 for residential customers and \$3.00 for business customers) if they wish to proceed with the trace. Information from successful traces will be produced on an output report which will be held in confidence by PTI Communications and will

only be forwarded to law enforcement agencies pursuant to the arrangement discussed in Section VIII. For each successful trace, the calling party's telephone number, blocking status, date, and time of call will be specifically recorded.

IV. Privacy Considerations and Special Customer Notification

The Company will provide customers with Per Call Blocking or, when requested, All Call Blocking. Both blocking services will be available to all customers at no charge. Per Call Blocking allows calling parties to enter the code *67 (1167 for rotary lines) which instructs the telephone central office to block transmission of the telephone number (and name) to the receiving telephone line for a single call. All Call Blocking allows calling parties to block the transmission of the telephone number (and name) for all calls made from a particular line. Per Call Blocking is more flexible than All Call Blocking.

The Company will provide all customers with an initial option to select All Call Blocking without incurring a recurring or non-recurring charge. This option may be exercised at any time by present and future customers. There will be no charge for removal of All Call Blocking, however subsequent requests for All Call Blocking will incur a modest non-recurring charge to recover administrative costs. This arrangement is similar to the manner in which 900 service blocking is now being provided.

Because it is important to provide notice to all customers of the blocking options for the new CLASS services before implementation of the services, PTI Communications proposes the following implementation schedule:

March 9	Date of Tariff Filing
March 20	Special Customer Notice Mailed to All Customers
April 22	Commission Approves Trial Tariff
May 1	Tariff Becomes Effective and Implementation Begins

In response to the special customer notice, all customers will be able to call PTI Communications toll-free to learn more about the service options that are available. Furthermore, customers that desire All Call Blocking will be able to designate verbally their choice through the Company's customer service representatives. No written notice or special form will be required.

Calls placed by a calling party that is using either blocking option will not be identified on the CLASS-based CPE used by customers of Last Call Return, Calling Number Identification, and Calling Name and Number Identification. Instead the words "Private Caller" are shown on the display device. Additionally, it should be noted that for all the identification related Custom Calling II services, only unblocked calls which both originate and terminate within the trial service area will be displayed. Long distance calls from outside the Company's Gig Harbor service area or miscellaneous calls (including cellular), will be shown on the display device as "Out of Area" or "Unknown Caller".

Calls placed to E-911 systems will not be affected by either Per Call Blocking or All Call Blocking. Additionally, Per Call Blocking or All Call Blocking does not affect the provision of automatic number identification (ANI) used by other telecommunications companies for identification and billing purposes.

To prevent possible problems with telephone lines that are normally used in a transitory fashion, the Company is proposing to bar both forms of blocking from semi-public lines, public access lines (PAL lines) and its own public telephone lines. Because there is not a compelling privacy interest attached to public and semi-public pay telephone lines the Company believes that in the interest of curbing or eliminating the possibility of harassment from such lines, blocking in either form should be prohibited.

V. Trial Length

The Company is proposing a one-year trial to obtain practical experience with the services on a manageable basis. Implementation is contingent on approval of the proposed tariff by the Commission. Assuming a successful trial, PTI Communications will file tariff revisions to continue the services on a permanent basis.

The concept of a trial is not unusual for new telecommunications services. There have been many CLASS trials across the country. The useful experience from a limited market trial will provide the information ultimately necessary to introduce these services statewide.

VI. CLASS Based Customer Premises Equipment (CLASS-based CPE)

Because some of the new services require special Customer Premises Equipment (CPE), and because the Company is initially proposing a trial, CLASS-based CPE will only be available on a lease basis from PTI Communications (with an option to apply lease payments towards purchase if the services become permanent) for customers who subscribe to Custom Calling II services. PTI Communications will not be selling CLASS-based CPE during the trial. The leasing approach addresses any concern that customers could be stranded with unnecessary equipment in the event that the services are discontinued at the end of the trial period. The leasing approach also ensures that customers will be able to return the CPE to PTI Communications at no additional charge. Equipment obtained from any other vendor will not be covered by the Company's offer. PTI Communications may also elect to offer special equipment promotions from time to time for CLASS-based CPE.

VII. Location

The trial will be conducted in the Company's Gig Harbor service area which encompasses the communities of Gig Harbor, Arletta, Burley, Fox Island, Key Center, Purdy and Lakebay. All the communities covered by the trial are PTI Communications' service areas and long distance charges do not apply to calling within and between each community (i.e., calling within the entire trial area is toll-free). There are approximately 22,700 residential and business customers in these communities.

VIII. Community Issues

PTI Communications has been working with various community organizations in the Gig Harbor area to help them understand the Company's proposal. Formal presentations were made to the following organizations; Gig Harbor Rotary Club, Gig Harbor Chamber of Commerce, Gig Harbor Business Association, and Gig Harbor Kiwanis Club.

The Company has also discussed the new service offerings with law enforcement agencies and other potential emergency related organizations. The Company's goal was to identify and solve any problems associated with the services in advance to address as many concerns as possible in advance of the trial.

For Call Trace, the Company has developed the following arrangement with the Pierce County Sheriff's Department and Gig Harbor Police Department. Customers who successfully place a trace using Call Trace, will be instructed to call a special telephone number for further information. The recorded message on that number and all further procedures that must be followed by customers in pursuing obscene or harassing telephone calls will be the responsibility of, and will be provided by, those law enforcement agencies.

The distinct advantage of Call Trace is the ability to generate permanent information about a call without going through the current and costly process which requires manual intervention by telephone operating company personnel. Use of the information generated by Call Trace will be restricted. PTI Communications will not release this information without an appropriate court order. However upon request, the Company will confirm to law enforcement agencies that a successful trace has occurred.

IX. Conclusion

The digital age of telecommunications enables companies like PTI Communications to offer services that allow people to communicate as never before. The Gig Harbor trial is a small yet notable step forward for enhanced communications capabilities for all consumers. PTI Communications is pleased to be taking that step.



Alaska Women's Resource Center

111 W. 9th Avenue • Anchorage, Alaska 99501 • (907) 276-0528 • Fax: (907) 278-8944

MAR 15 1993

March 12, 1993

Bill Hudson, Chairman
House Labor & Commerce
State Capitol
Juneau, AK 99811-1182

Dear Representative Hudson,

I am writing to support the CS HB 54 on telephone caller identification which was discussed yesterday in your committee. I was at the teleconference site in Anchorage and was unable to testify because of the time constraints.

I urge the committee to move the bill out, preferably with favorable recommendations. In addition I hope that members of the committee will consider co-sponsoring this legislation and work for passage during this year's Session.

Prompt enactment of this proposal -- especially the section 1 provisions on caller identification - is essential in order for you to assure that Alaskans' privacy interests are protected. Absent such a provision, the telephone companies will buy whatever equipment they want (especially now that they are aware of the restrictions we seek). Once that happens, any effort to protect us will be drowned out by cries, "we've already made a substantial investment -- it's too late to change it now."

It offends me that the industry wants to, in Mr. Roy's words, "aggressively market" my identity and address simply because I have a telephone. Mr. Roy's testimony to the effect that caller ID could never be a reality under the proposed legislation is alarmist rhetoric. Perhaps the service will not be quite as profitable, but the technology can certainly be arranged to accomplish the necessary service. Why should the phone companies be allowed to double dip by charging you for subscribing to caller identification and then charging me to keep my name out of your hands?

Those who testified yesterday concerning the safety concerns of women and domestic violence victims covered those topics quite well. AWRC also serves domestic violence victims by providing outpatient counseling. Many times victims do not want us to even try to call them at home for fear the abuser

Representative Bill Hudson, Chairman
Page 2
March 12, 1993

will simply find out that they're talking to someone at AWRC. Even in cases where we have arranged to call at a specific time, a system which allowed our business line number to be displayed (or recorded it if the phone is not answered) would create additional risk for these victims.

There is an additional category of telephone users for whom caller identification could pose serious difficulties. AWRC has a residential program for women recovering from substance abuse. We are required by federal law to maintain confidentiality concerning the identity of these clients. They don't have phones in their rooms and we don't even provide them with free local phone service. We do provide a pay phone in the residence. Without an effective system for blocking identification on that line, allowing a client to use the pay phone jeopardizes her confidentiality rights.

I think this last example is important because it highlights the fact that we aren't discussing only individual subscribers or only private (as opposed to pay) telephones.

~~-----~~ I am grateful to you and the Committee for giving this important subject a hearing -- I urge you to move the bill promptly and will be happy to answer any questions.

Sincerely,



Theda Pittman
Executive Director

cc: Committee Members
Rep. Kay Brown ✓

Good job yesterday!

3/16/93

ALASKA NETWORK
ON
DOMESTIC VIOLENCE
AND
SEXUAL ASSAULT

419 6th Street, No. 116 • Juneau, Alaska 99801 • (907) 586-3650

Abused Women's Aid in Crisis (AWAIC); Advocate for Victims of Violence (AVV);
 Aiding Women in Abuse and Rape Emergencies (AWARE);
 Alaska Women's Resource Center (AWRC); Arctic Women in Crisis (AWIC);
 Barrow Sea Women's Group (BSWG); Emmons Women's Shelter;
 Kotlik Women's Resource & Crisis Center (KWRC);
 Matanuska Regional Women's Crisis Program; Parents Aid Family Support Center;
 Safe & Fear-Free Environment (SAFE); Seward Life Action Council (SLAC);
 Sitka Against Family Violence (SAFV); South Peninsula Women's Services (SPWS);
 Standing Together Against Rape (STAR);
 Tongue Community Counseling Center; Tundra Women's Coalition (TWC);
 Unalaska Against Sexual Assault & Family Violence (USAFV);
 Valdez Women's Resource Center (VWRC);
 Women in Crisis Counseling & Assistance (WCCA);
 Women in Safe Homes (WISH); Women's Resource & Crisis Center (WRCC)

HOUSE BILL 54
 CALLER*ID TECHNOLOGY

The Alaska Network on Domestic Violence and Sexual Assault is a statewide coalition of nonprofit programs which provide services to victims of domestic violence and sexual assault throughout Alaska. The Network currently has a membership of 22 programs which offer shelter, counseling and assistance on a statewide basis. Last year, programs served over 9000 victims and minor children.

The Network has been following the development and introduction of Caller ID technology in the lower 48 for some time, and with increasing concern. One of the most frightening threats that a victim of domestic violence hears from the perpetrator is "If you leave me, I'll find you. If I find you, I'll kill you." In seeking help, in arranging for shelter, in finding support and assistance, one of the most important facilities a victim has at her disposal is the telephone. With a telephone, a victim can safely -- and up until now, anonymously -- arrange for shelter with our program or a friend or relation. She can safely make the necessary contacts with the batterer regarding finances, issues about the children, or any of the myriad of issues that come up during separation. She can call a relative or be called by a counselor and not fear exposure and resulting punishment.

When Caller ID and connected services are marketed in a state, all that changes profoundly. Caller ID is a service whereby when you call me, your phone number is made available to me. It doesn't matter if your number is unlisted as about 30% of Alaskan telephones are. You won't know that I have this service, and so won't necessarily know that I have your phone number. It won't matter if you're a doctor returning an emergency weekend call, or a psychiatrist returning a call to a disturbed patient, or just a consumer asking about or ordering a product. If the recipient of your call has Caller ID, they have your number. In Alaska's small towns, having your number is often the same thing as knowing exactly where you are.

Unregulated Caller ID will have a tremendous adverse impact on our programs' ability to serve victims, and on victims themselves. Domestic violence victims often cannot initiate calls but can tell us when it's safe to call them, and during these times we're able to provide safety checks, counseling and assistance. In addition, some of our hotlines are fielded in off-hours by a third party, such as a hospital or police department, and volunteers then return the call. Under Caller ID, these calls can be traced by the batterer. It's important to understand that domestic violence and sexual assault programs rely heavily on volunteers such as these. Programs generated over \$1 million in volunteer hours last year. In other states Caller ID has affected the willingness of people to provide the services I've described.

In many smaller communities in Alaska, families open their homes to domestic violence victims on a volunteer basis. These "safe homes" rely on confidentiality, not just to protect the victim but for the very safety of the family itself. With Caller ID, a phone call by a victim, not just to the batterer but even to an unwary relative, can result in disclosure of a victim's location.

We know this to be so because we've seen it happen in other states, where shelter counselors have been harrassed and threatened at home after performing victim safety checks, where shelters have received obscene or abusive phone calls from batterers, and where women seeking assistance have dropped out of sight after communications with shelter staff were discovered.

The Network does not oppose marketing of this service, but believes that Alaskans should be given a choice as to whether their telephone numbers are released under the service, and that the cost of the service should be born by the parties who want it. Utilities should not be able to charge both the customers who want the service and the customers who don't. About a dozen states require free per-line and per-call blocking. These include Washington, Oregon, California, Nevada, New York, Arizona, Wyoming, North Carolina and Georgia. Several states require all unpublished numbers to be blocked.

The Network believes that there are other, important consumer issues presented by caller ID that merit attention, including the use of Caller ID by businesses to retrieve names, addresses and demographic information on unknowing consumers (e.g., Metronet handout), but the primary issue that concerns our programs is the immediate safety and privacy of the 9,000 victims and children we see each year. The Network urges your support for section 1 of House Bill 54 so that as Caller ID is introduced in Alaska, it will not endanger our efforts to end domestic violence.

Representative Kay Brown

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March 16, 1993

Representative Bill Hudson
Chair, House Labor and Commerce Committee

Dear Chairman Hudson:

At the last hearing on HB 54, Telephone Privacy, you asked me to provide written testimony on some pertinent facts concerning "Caller ID." I hope this letter adequately addresses your questions.

How many states currently have Caller ID and offer free per-line and per-call blocking?

Utilities in 26 states provide Caller ID. Of those, only 6 states do not require some form of call blocking. 13 states require free per-line and per-call blocking. Those states are: Washington, Oregon, California, Nevada, Wyoming, Arizona, North Carolina, New Hampshire, Vermont, Massachusetts, Georgia, New York, and New Mexico.

If Caller ID is marketed in Alaska, will unlisted telephone numbers be available to persons and businesses with Caller ID?

Yes. Caller ID will, in effect, nullify the privacy provided by unlisted numbers. Currently about 30% of all Alaskans have unpublished numbers. Several states have required that unpublished phone numbers be automatically blocked under Caller ID in order to protect these consumers.

What is the average cost to consumers of Caller ID in states in which it is offered?

Cost varies by state, but averages between \$4 to \$8 per month for residential customers. There is no apparent increased cost to customers in states which require free per-line and per-call blocking. For instance, in Washington, PTI markets Caller ID at around \$4 per month (with free blocking), while New Jersey residents, with no blocking, are paying \$6.50 per month.

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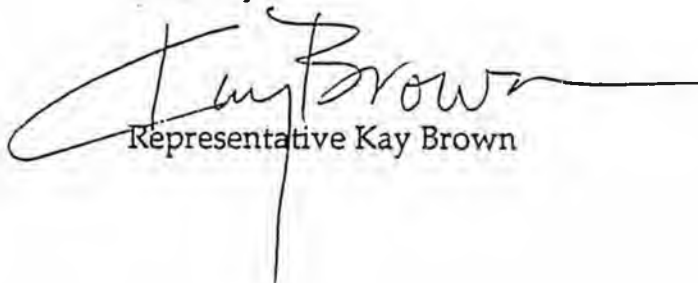
HB 54
3/16/93
page 2.

What percentage of the population subscribes to Caller ID in states which offer the service?

Around 2% to 5% . For example, in New Jersey out of 3 million customers, about 200,000 have Caller ID. It isn't clear how many of these are business customers rather than residential. It means that over 90% of the population, which does not want the service, has its privacy circumscribed by the 2% to 5% who do.

Thank you for your consideration of House Bill 54, Telephone Privacy.

Sincerely



Representative Kay Brown