

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8136 HOUSE STATE AFFAIRS

401

04/15/93
14:15:23

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Ms. Susan Archer
6745 Downy Finch Ln.

Anchorage

AK 99516

Tel: 345-1030

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: THE WORKERS MUST STAY UNDER PERA AND BE ALLOWED TO COLLECTIVELY
BARGAIN. THANK YOU.

Entered By: LIOCLAN on 4/15/93 PomID 13397 Distribution 7

MSG:

Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4B

LINE 1 COL 1

04/15/93
14:15:47

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Ms Robin Snyder
Box 1501

Ward Cove

AK 99928

Tel: 247-8502

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: PLEASE OPPOSE HB 255. DO NOT STRIP ME OF MY RIGHT TO COLLECTIVELY
BARGAIN.

Entered By: LIOCROB on 4/15/93 PomID 13404 Distribution 12

MSG:

Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4B

LINE 1 COL 1

04/15/93
14:19:37

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Ms. Shirley Braspenninckx
4242 Apollo Dr.

Anchorage AK 99504 Tel: 333-4063

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: PLEASE OPPOSE HB 255. DON'T STRIPE WORKERS OF THEIR RIGHTS TO
COLLECTIVE BARGIN. SHIRLEY/VICE PRESIDENT/ANCHORAGE COUNCIL OF
EDUCATION/ACE/AFT

Entered By: LIOCBBN on 4/15/93 PomID 13474 Distribution 7
MSG:

Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4B LINE 1 COL 1

04/15/93
14:20:26

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Mr. Raymond Smith
13221 Reef Pl.

Anchorage AK 99515 Tel: 345-4019

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

message: PLEASE DO NOT PASS THIS BILL OUT OF COMMITTEE. IT IS A RIDICULOUS
ATTEMPT TO TAKE AWAY POWER OF NEGOTIATION FROM EMPLOYEES EFFECTED BY THIS BILL.

Entered By: LIOCCRI on 4/15/93 PomID 13501 Distribution 7
MSG:

Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4B LINE 1 COL 1

04/15/93
14:15:54

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Ms Julie Hargraves
526 Hill Rd.

Ketchikan

AK 99901

Tel: 225-2050

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: PLEASE DON'T STRIP US OF OUR RIGHT TO BARGAIN.

Entered By: LIOCROB on 4/15/93 PomID 13406 Distribution 12

MSG:

Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4B

LINE 1 COL 1

04/15/93
14:16:18

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Ms Sharon Burford
626 Dock St. #5

Ketchikan

AK 99901

Tel: 225-7677

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: PLEASE DON'T STRIP US OF OUR RIGHT TO BARGAIN.

Entered By: LIOCROB on 4/15/93 PomID 13407 Distribution 12

MSG:

Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4B

LINE 1 COL 1

04/15/93
14:17:21

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Ms Kelly Boehlert
Box 1361

Ward Cove

AK 99928

Tel: 225-6694

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: DON'T STRIP US OF OUR RIGHT TO BARGAIN. VOTE AGAINST HB 255.

Entered By: LIOCROB on 4/15/93

PomID 13414

Distribution 12

MSG:

Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4B

LINE 1 COL 1

04/15/93
14:17:38

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Ms Sandy O'Neill
706 Chatham

Ketchikan

AK 99901

Tel: 225-6343

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: DON'T STRIP US OF OUR RIGHT TO BARGAIN. VOTE AGAINST HB 255.

Entered By: LIOCROB on 4/15/93

PomID 13415

Distribution 12

MSG:

Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4B

LINE 1 COL 1

04/15/93
14:17:07

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

PCMS100
LHSCALL

From: Ms Darlene Price
1251 Millar St.

Ketchikan

AK 99901

Tel: 247-1311

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: DON'T STRIP US OF OUR RIGHT TO BARGAIN. WE WORKED HARD FOR THIS.

Entered By: LIOCROB on 4/15/93

PomID 13412

Distribution 12

MSG:

Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4B

LINE 1 COL 1

04/15/93
14:17:12

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Mr. Jim Connelly
88 Pond Reef

Ketchikan

AK 99901

Tel: 247-2631

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: DON'T STRIP US OF OUR RIGHT TO BARGAIN. VOTE AGAINST HB 255.

Entered By: LIOCROB on 4/15/93

PomID 13413

Distribution 12

MSG:

Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4B

LINE 1 COL 1

04/15/93
14:19:05

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Ms. Lucy Hope
Box 870887

Wasilla

AK 99687

Tel: 376-4796

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: URGE YOU TO VOTE AGAINST HB255. THIS WOULD TAKE AWAY MY RIGHTS TO
COLLECTIVE BARGAINING AS A PUBLIC EMPLOYEE.

Entered By: LIOCMAK on 4/15/93 PomID 13447 Distribution 12
MSG:
Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4B LINE 1 COL 1

04/15/93
14:19:27

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Ms. Thais Thomas
Box 93003

Anchorage

AK 99509

Tel: 243-1666

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: DON'T STRIPE WORKERS FROM THEIR RIGHT TO COLLECTIVE BARGIN.

Entered By: LIOCBBN on 4/15/93 PomID 13469 Distribution 7
MSG:
Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4B LINE 1 COL 1

04/15/93
14:17:48

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Mr. Terrence Robbins
3442 Denali Ave.

Ketchikan

AK 99901

Tel: 225-4232

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: PLEASE DON'T STRIP ME OF MY RIGHT TO BARGAIN. VOTE AGAINST HB 255.

Entered By: LIOCROB on 4/15/93 PomID 13416 Distribution 12
MSG:
Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4B LINE 1 COL 1

04/15/93
14:18:03

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Mr. Terry O'Hara
Box 883

Ward Cove

AK 99928

Tel: 247-0883

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: DON'T STRIP ME OF MY RIGHT TO BARGAIN. VOTE AGAINST HB 255.

Entered By: LIOCROB on 4/15/93 PomID 13417 Distribution 12
MSG:
Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4B LINE 1 COL 1

04/15/93
14:16:40

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Ms Christie Willett
Box 6893

Ketchikan

AK 99901

Tel: 225-5052

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: VOTE AGAINST HB 255. DON'T STRIP US OF OUR RIGHT TO BARGAIN.

Entered By: LIOCROB on 4/15/93

PomID 13408

Distribution 12

MSG:
Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4B

LINE 1 COL 1

04/15/93
14:16:45

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Ms Helen Lashua
Box 8936

Ketchikan

AK 99901

Tel: 225-8936

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: DON'T STRIP US OF OUR RIGHT TO BARGAIN.

Entered By: LIOCROB on 4/15/93

PomID 13411

Distribution 12

MSG:
Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4B

LINE 1 COL 1

04/15/93
14:20:46

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Ms Judy Jenkinson
Box 5342

Ketchikan

AK 99901

Tel: 225-5839

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: THE RIGHT TO BARGAIN ALLOWS US TO NEGOTIATE CONTRACTS IN GOOD FAITH,
MAKES THE BARGAINING PROCESS SERIOUS, AND ALLOWS US TO SETTLE NEGOTIATIONS
MORE PROMPTLY WITHOUT CONFLICT. PLEASE VOTE AGAINST HB 255. IT WAS NICE TO
MEET YOU PERSONALLY AND SEE YOU IN ACTION. PLEASE PROTECT THE RIGHTS OF PUBLIC
EMPLOYEES TO BARGAIN.

Entered By: LIOCROB on 4/15/93 PomID 13505 Distribution 13
MSG:
Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4B

LINE 1 COL 1

04/15/93
14:21:08

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Ms. Kathy Grabowski
12141 Jerome Rd.

Anchorage

AK 99516

Tel: 345-4620

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: DON'T TAKE AWAY FROM WORKERS THEIR RIGHT TO COLLECTIVE BARGAINING.

Entered By: LIOCLAN on 4/15/93 PomID 13551 Distribution 7
MSG:
Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4B

LINE 1 COL 1

04/15/93
14:14:26

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Ms. Mary Murphy
4200 Rabbit Creek Rd.

Anchorage AK 99516 Tel: 345-6664

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: I OPPOSE HB 255. I REQUEST THAT YOU VOTE AGAINST THIS BILL. IT IS
UNFAIR TO PUBLIC EMPLOYEES.

Entered By: LIOCLAN on 4/15/93 PomID 13390 Distribution 40
MSG: 50 TOTAL POMS SELECTED FOR VIEWING
Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4B LINE 1 COL 1

04/15/93
14:14:38

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Mr. Ned Lewis
9300 Campbell Ter.

Anchorage AK 99515 Tel: 243-5322

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: PUBLIC EMPLOYEES SHOULD HAVE A RIGHT TO STRIKE OR HAVE BINDING
ARBITRATION.

Entered By: LIOCLAN on 4/15/93 PomID 13392 Distribution 40
MSG:
Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4B LINE 1 COL 1

04/15/93
08:32:11

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Mr. Jim
Box 1042

Mathewson

Valdez

AK 99686

Tel: NONE

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: PLEASE DO NOT PASS THIS BILL. VOTE NO!

Entered By: LIOCDJG on 4/14/93

PomID 13355

Distribution 7

MSG:

Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4B

LINE 1 COL 1

DALLAS

PASS MESSAGE

04/15/93
08:32:28

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Ms. Marge
Box 1522

France

Valdez

AK 99686

Tel: 835-5269

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: I AM AGAINST HB 255. PLEASE VOTE NO.

Entered By: LIOCDJG on 4/14/93

PomID 13359

Distribution 7

MSG:

Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4B

LINE 1 COL 1

04/15/93
08:31:45

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Mrs. Lynn
Box 1691

Garrison

Valdez

AK 99686

Tel: 835-4728

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: DO NOT SUPPORT HB 255.

Entered By: LIOCDJG on 4/14/93

PomID 13327

Distribution 7

MSG:

Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4B

LINE 1 COL 1

04/15/93
08:33:00

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Mr. Larry
Box 1691

Garrison

Valdez

AK 99686

Tel: 835-4728

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: I OPPOSE HB 255. PLEASE VOTE NO.

Entered By: LIOCDJG on 4/14/93

PomID 13363

Distribution 7

MSG:

Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4B

LINE 1 COL 1

04/15/93
08:33:19

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Ms. Barbara Jones
Box 2737

Valdez

AK 99686

Tel: 835-2182

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: I AM OPPOSE TO HB 255. PLEASE VOTE NO!

Entered By: LIOCDJG on 4/14/93 PomID 13387
MSG:

Distribution 7

Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4B

LINE 1 COL 1

Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4A

LINE 1 COL 1

04/15/93
08:41:44

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Mr. John Bhend
8410 Majestic Dr.

Anchorage

AK 99504

Tel: 333-5722

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: I URGE YOU TO STRONGLY OPPOSE HB 255. THIS LEGISLATION IS A DIRECT
ABROGRATION OF THE INTENT OF PERA. IT DIRECTLY THREATENS AND STRIPS LOCAL
PUBLIC EMPLOYEES OF THEIR RIGHTS TO COLLECTIVELY BARGAIN.

Entered By: LIOCCRI on 4/13/93 PomID 13070

Distribution 7

MSG: 8 TOTAL POMS SELECTED FOR VIEWING

Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4B

LINE 1 COL 1

04/15/93
08:34:23

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Ms. Brenda Martin
2616 Garnet Dr.

North Pole

AK 99705

Tel: 488-9511

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: VOTE AGAINSTS HB 255 DON'T STRIP ME OF RIGHT TO BARGAIN.

Entered By: LIOCCHR on 4/13/93

PomID 13112

Distribution 7

MSG:
Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4B

LINE 1 COL 1

04/15/93
08:34:52

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Ms. Shannon Gackstetter
1201 Helder St.

Fairbanks

AK 99709

Tel: 474-4037

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: I WANT YOU TO VOTE AGAINST HB 255. I WISH TO RETAIN MY RIGHT TO
BARGAIN.

Entered By: LIOCMEJ, on 4/13/93

PomID 13137

Distribution 7

MSG:

Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4B

LINE 1 COL 1

04/15/93
08:35:25

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Ms. Bobby Boyd
Box 58241

Fairbanks

AK 99711

Tel: 488-1594

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLIATION

Message: VOTE AGAINST HB 255. DO NOT STRIP ME OF MY RIGHT TO BARGAIN. A LOT OF TIME AND EFFORT WAS PUT IN FOR US TO GET THIS. DON'T NULLIFY THE TIME PREVIOUSLY SPENT.

Entered By: LIOCMELE on 4/13/93

PomID 13141

Distribution 7

MSG:

Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4B

LINE 1 COL 1

04/15/93
08:36:03

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Ms. Juliene Larson
1164 Kodiak St.

Fairbanks

AK 99709

Tel: 479-6582

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: PLEASE DON'T STRIP ME OF MY RIGHT TO BARGAIN. PLEASE VOTE AGAINST HB
255.

Entered By: LIOCCHR on 4/14/93

PomID 13179

Distribution 40

MSG:

Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4B

LINE 1 COL 1

04/15/93
08:37:08

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Ms. Stephanie Winsor
Box 624

Bethel

AK 99559

Tel: 543-2663

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: VOTE AGAINST HB255. DON'T STRIP ME OF MY RIGHT TO BARGAIN.

Entered By: LIOCCJC on 4/14/93

PomID 13257

Distribution 12

MSG:

Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4E

LINE 1 COL 1

04/15/93
08:52:25

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Mrs. Bertha Underwood
Box 576

Bethel AK 99559 Tel: 543-3991

Bill# HB 255 Title: LOCAL EXEMPTION FROM PERA
Subject

OPPOSES THIS LEGISLATION

Message: PLEASE VOTE AGAINST SB255. DON'T STRIP ME OF MY RIGHT TO BARGAIN.

Entered By: LIOCCJC on 4/14/93 PomID 13373 Distribution 8
MSG:
Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4B LINE 1 COL 1

04/15/93
08:52:52

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE OLB Olberg

POMS100
LHSCALL

From: Mrs. Kim Rampmeyer
13250 Ridgewood Cir.

Anchorage AK 99516 Tel: 345-5051

Bill# HB 255 Title: LOCAL EXEMPTION FROM PEPA
Subject

OPPOSES THIS LEGISLATION

Message: PLEASE OPPOSE HB 255. DON'T STRIP WORKERS OF THEIR RIGHTS TO
COLLECTIVELY BARGAIN.

Entered By: LIOCCRI on 4/14/93 PomID 13265 Distribution 7
MSG:
Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4B LINE 1 COL 1

HB

256

Alaska State Legislature

House of Representatives



Official Business

State Capitol
Juneau, Alaska 99801-1182
(907) 465-3718

House Majority Leader

DATE: March 31, 1993

TO: Representative Al Vezey *Al*
Chair, House State Affairs Committee

FROM: Representative Gail Phillips *Gail*

RE: House Bill 256

Would you please schedule a hearing for House Bill 256 which relates to the legislative internship program. I would appreciate your scheduling a hearing as soon as possible.

Thank you.

**SPONSOR STATEMENT FOR
HOUSE BILL 256**

LEGISLATIVE INTERNSHIPS

Presented to the House State Affairs Committee
on _____

Since the development of the Internship Program sponsored by the University of Alaska, students have been working in legislative offices here in Juneau for one semester earning credit toward their ungraduate or graduate degrees. This opportunity has given valuable experiences to these students, and many have gone on to work as staffers in the offices of svarious representative and senators.

In addition to the students deriving substantial benefits from their internships, the offices for whom these students have worked have also derived substantial benefits.

In the past, however, the interns have not been equally divided among the various parties represented in the legislature. House Bill 256 proposes to offer a solution to, what has in the past, been an inequitable division of available interns.

The bill before you amends AS 24.20.060 to give the additional power to the legislative council to assign interns to legislators as well as to standing committees as exists in current law. In addition, it amends AS 24.20.062 to provide that ". . . placement of legislative interns in the offices of legislators who are members of different political parties must be in proportion to the representation in the legislature of membership in the political parties."

While this bill does not assure that each political party will receive an intern, it does assure that there will be a more equitable assignment of students working under this program.

Alaska State Legislature

House of Representatives

Official Business



State Capitol
Juneau, Alaska 99801-1182
(907) 465-3718

House Majority Leader

SPONSOR STATEMENT FOR HOUSE BILL 256

LEGISLATIVE INTERNSHIPS

Presented to the House State Affairs Committee

Since its inception, the Internship Program, sponsored by the University of Alaska, has placed several students in legislative offices here in Juneau for one session to earn credit toward their ungraduate or graduate degrees. This opportunity has given valuable experiences to these students, and many have gone on to work as staffers in the offices of various representatives and senators.

In addition to the students deriving substantial benefits from their internships, the offices for whom these students have worked have also derived substantial benefits.

In the past, however, the interns have not been equally divided among the various parties represented in the legislature. In fact, of the 56 students who have held internships, only 12 have been placed in Republican legislators' offices. House Bill 256 proposes to correct what has, in the past, been an inequitable division of available interns.

HB 256 amends AS 24.20.060 to give the additional power to the legislative council to assign interns to legislators as well as to standing committees as exists in current law. In addition, it amends AS 24.20.062 to provide that ". . . placement of legislative interns in the offices of legislators who are members of different political parties must be in proportion to the representation in the legislature of membership in the political parties."

While this bill does not assure that each political party will receive an intern, it does assure that there will be a more equitable assignment of students working under this program.

SPONSOR STATEMENT

UNIVERSITY OF ALASKA
STATEWIDE LEGISLATIVE INTERNSHIP PROGRAM

PROGRAM OVERVIEW

To: House State Affairs Committee

From: Clive S. Thomas,
Professor of Political Science, UAS
and
Statewide Internship Program Coordinator

Date: April 2, 1993.

Purpose of the Program

This is a non-partisan, educational program enabling students to combine practical experience in a legislative office with academic classroom work provided through a seminar which runs concurrently with the seventeen week legislative session.

To meet the primary educational goal of the program the University desires that interns obtain a wide range of experiences during their placement. These include: working on bills, attending committee hearings, conducting research, and answering constituent letters, as well as pitching in with the mundane day-to-day functions of the office.

Origins and History

The program was established in 1987 through consultation with the leadership of the House and Senate and by working with the Legislative Council. The three major concerns of the legislature at the time were: (1) That the program be non-partisan; (2) that those chosen as interns be capable, self-starting individuals, with good writing and speaking skills, who would need minimum direction from their offices; and (3) that all interns have a basic understanding of the practical aspects of the legislative process before taking up their placement. The faculty made these three concerns paramount in designing the program.

The program is now in its sixth year. During that time 56 students have participated. Of these there have been 32 females and 26 males, 7 Native Alaskans and 1 African American. Many interns have returned to the legislature as staffers, approximately 15 over the last five years. In addition, one intern, Tom Brice, was elected to the House of Representatives in 1992.

PROGRAM HISTORY

Who is Eligible to be an Intern?

Any University of Alaska student from any of the system's campuses regardless of discipline, who meets the following criteria: (1) Are registered for courses at a University of Alaska campus at the time of application; (2) are registered in a four year or graduate degree program at the University of Alaska or at any other university; (3) are at least of junior standing at the time of taking up the internship; (4) have taken at least a 3 credit course in political science during the past five years; (5) have not held a paid position with the Alaska Legislature during the past two years; and (6) are selected through interview by a selection committee.

Do All Students Who Apply Get Selected?

No. This is partly because there are only a small number of openings in the program--usually 10 slots statewide (four each for UAA and UAF, two for UAS). And also because, in order to maximize both their contribution in the legislature and the educational benefit from the placement, only students with the requisite background and skills are chosen.

Who Selects the Interns?

Each campus selects its own interns. These are chosen by a selection committee of faculty on that campus, with input from the Statewide Program Coordinator. If the applicant pool does not contain enough qualified students, some intern slots go unfilled.

Selection Criteria

In selecting the interns the committee is concerned primarily with the needs expressed by the legislature at the time the program was created. Academic achievement is also an important criteria, given the rigor of the academic requirements of the program. Every effort is also made to include students from a wide range of academic disciplines, and to ensure a balance of gender, and racial and ethnic background.

The Placement Process

The University does not participate directly in placing interns; it acts as a facilitator to bring interns and legislators together. In essence, interns and legislators determine who will work for whom. The intent is to ensure the maximum amount of flexibility to both legislators and interns. This is also the most effective way to ensure compatibility between the personalities and needs of the legislator and his/her staff on the one hand and those of the intern on the other. The placement process works as follows:

CORRECTION

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

Who is Eligible to be an Intern?

Any University of Alaska student from any of the system's campuses, regardless of discipline, who meets the following criteria: (1) Are registered for courses at a University of Alaska campus at the time of application; (2) are registered in a four year or graduate degree program at the University of Alaska or at any other university; (3) are at least of junior standing at the time of taking up the internship; (4) have taken at least a 3 credit course in political science during the past five years; (5) have not held a paid position with the Alaska Legislature during the past two years; and (6) are selected through interview by a selection committee.

Do All Students Who Apply Get Selected?

No. This is partly because there are only a small number of openings in the program--usually 10 slots statewide (four each for UAA and UAF, two for UAS). And also because, in order to maximize both their contribution in the legislature and the educational benefit from the placement, only students with the requisite background and skills are chosen.

Who Selects the Interns?

Each campus selects its own interns. These are chosen by a selection committee of faculty on that campus, with input from the Statewide Program Coordinator. If the applicant pool does not contain enough qualified students, some intern slots go unfilled.

Selection Criteria

In selecting the interns the committee is concerned primarily with the needs expressed by the legislature at the time the program was created. Academic achievement is also an important criteria, given the rigor of the academic requirements of the program. Every effort is also made to include students from a wide range of academic disciplines, and to ensure a balance of gender, and racial and ethnic background.

The Placement Process

The University does not participate directly in placing interns; it acts as a facilitator to bring interns and legislators together. In essence, interns and legislators determine who will work for whom. The intent is to ensure the maximum amount of flexibility to both legislators and interns. This is also the most effective way to ensure compatibility between the personalities and needs of the legislator and his/her staff on the one hand and those of the intern on the other. The placement process works as follows:

Each fall all legislators are sent an announcement about the program and a short application form to complete if they are interested in participating for the up-coming session. A list of legislators, including any special requirements that they may have, is then developed (an average of 30 legislators a year express an interest in participating in the program).

After selection, a list of students, including relevant details about each, is also compiled.

The list of legislators is sent to all interns, and the list of interns circulated to all interested legislators. It is then the responsibility of each student to approach any legislator with whom he/she wishes to be placed; and for each legislator to approach interns who interest them.

The only two stipulations in the process are: (1) That each legislator have no more than one intern; and (2) that the interns receive only the standard stipend of \$3,000 while placed in the legislature. These two stipulations were also concerns expressed by the legislature when the program was developed.

How the Program Operates During the Legislative Session

The Office Placement: Each legislator who has secured an intern appoints a person in his/her office to act as the student's office supervisor. At the beginning of the placement the legislator, the intern, and the intern's office supervisor work together to plan the duties and work schedule of the intern during his/her placement. The ideal situation is that the intern perform all duties undertaken by a regular staffer. Many interns have taken on major responsibilities and performed them admirably. Interns are required to work a minimum of 30 hours per week for a total of 510 hours during the session. Most work many more hours than this.

The Academic Component: The internship seminar, which runs concurrently with the placement, consists of a two and a half day orientation prior to the session and seven bi-weekly seminars. These seminars involve discussion of the placement experience and the presentation of papers on a range of subjects related to the legislative process. Attendance at these seminars is compulsory.

Undergraduates receive a total of 12 upper division credits for the combined practical and academic components of the program; graduate students receive 9 hours of credit.

END OF DOCUMENT

List of Interns 1988-93
with Campus Affiliations, Legislative Placement
and Present Occupation, If Known:

1988:	Intern	Legislator	Occupation in 1993
	<u>Univ. of Alaska, Anchorage</u>		
	Kim Hansen	Sen. Pat Rodey	
	Larry Hayden	Sen. Mike Szymanski	
	Ed Tucker	Sen. Jay Kerttula	Aide, AK State House
	Leola Weimar	Rep. Johnny Ellis	Special Asst. to the Governor
	<u>Univ. of Alaska, Fairbanks</u>		
	Tom Brice	Rep. Mark Boyer	Member, AK State House
	Malinda Chase	Rep. Adeleid Herrmann	
	Valerie Davidson*	Sen. Johne Binkley	
	Patricia Lukin	Sen. Fred Zharoff	School Teacher
	Kristin Nowaczyk	Rep. C. E. Swackhammer	
	<u>Univ. of Alaska, Southeast</u>		
	Rod Mourant*	Sen. Arliss Sturgulewski	Special Ass't. to the Commissioner, AK Dept. of Revenue
	Cecilia Watson	Rep. John Sund	
	Mike Young	Sen. Jim Duncan	Catering Director, AK State Division of Marine Transportation
1989:			
	<u>Univ. of Alaska, Anchorage</u>		
	Chad W. Holt	Rep. H. A. (Red) Boucher	Univ. of Arizona Law School
	Diana K. Rhodes	Rep. Dave Donley	Aide, AK State Senate
	Kirsten Schenker	Sen. Drue Pearce	
	<u>Univ. of Alaska, Fairbanks</u>		
	Leland R. Bowman	Rep. Niilo Koponen	
	Elizabeth M. Knight	Sen. Bettye Fahrenkamp	
	James Posner	Rep. Kay Brown	
	<u>Univ. of Alaska, Southeast</u>		
	Wendy P. Blake	Rep. C. E. Swackhammer	
	Dean Rasmussen	Rep. Lyman Hoffman	Federal Executive Service

10
44
50

1993:

Univ. of Alaska, Anchorage

Mary Bogard Sen. Loren Leman
Maxx Whitaker Sen. Dave Donley

Univ. of Alaska, Fairbanks

Joelle Hall Rep. Fran Ulmer
Jolene John Sen. Fred Zharoff
Martha King Sen. Georgianna Lincoln

Univ. of Alaska, Southeast

Debra L. Banaszak Rep. Bettye Davis
Connie L. Dunphy Sen. Drue Pearce
Tina C. Paige Sen. Jim Duncan

*Valerie Davidson and Rod Mourant participated in the program but did not receive funds from the Legislative appropriation.

FISCAL, NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO: HB 256

Revision Date: _____
Title: "An Act relating to the legislative
internship program."
Sponsor: Representative Gail Phillips
Requestor: Representative Gail Phillips

Department Affected: Legislative Affairs Agency
BRU: Legislative Council

Component: Council & Subcommittees

COMPONENT SERIAL NO:

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

REVENUE FUND SOURCE	0	0	0	0	0	0
----------------------------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary)

Zero fiscal impact.

Prepared By: Pamela A. Stoops, Director
Division: Administrative Services

Pamela A. Stoops

Phone: 465-3850
Date: 4/1/93

Approved By: Warren W. Endicott, Executive Director
Agency: Legislative Affairs Agency

Warren W. Endicott

Date: 4/1/93

Distribution (by preparer) _____ Gov. , & Impacted Agency(ies).

LAA FISCAL NOTE

FISCAL NOTE

**STATE OF ALASKA
1993 LEGISLATIVE SESSION**

BILL NO. HB 256

Revision Date:
Title: "An Act relating to the legislative internship program."

Department Affected: University of Alaska
BRU:
Component:

Sponsor: Rep. Phillips
Requestor: Rep. Phillips

COMPONENT SERIAL NO.

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

REVENUE FD SOURCE						
-------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:						
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Allison Elges, Associate Director
 Division: Statewide Budget Office
 Approved by: Brian Rogen, Vice President for Finance
 Agency: University of Alaska

Phone: 474-7593
 Date: 4/5/93
 Date: 4/5/93

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

HB

277

B

HOUSE COMMITTEE REPORT

1/26/94

(7)

Date Referred: April 7, 1993

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: 1-25-94

The STATE AFFAIRS Committee considered:

HB 277

HOUSE BILL NO. 277

INDEMNIFICATION OF PUBLIC EMPLOYEES

"An Act relating to public employers defending and indemnifying public employees with respect to claims arising out of conduct that is within the scope of employment."

RECOMMENDATIONS:

the same title

be replaced with CS HB 277 (STA)

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) _____

(2) zero fiscal note Administration

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
Robert Kott Kott	✓	Harley Olberg		✓	
Herbert G. Davis G. Davis	✓	Al Jezzy		✓	
Betty Davis	✓				
Wilmer Ulmer	X				
_____		_____			
		Jerry Salton		✓	
	(4)			(3)	

Al Jezzy
CHAIRMAN'S SIGNATURE Jezzy

ATTACHMENT A

ALASKA PEACE OFFICERS ASSOCIATION

State APOA Office • P.O. Box 240106 • Anchorage, Alaska 99524-0106 • (907) 277-0515

JAN 20 1994

January 18, 1994



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Wrangell
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Representative Brian Porter
State Capitol
Juneau, AK 99801

Dear Representative Porter,

The Alaska Peace Officers Association supports House Bill 277. We believe that government must be held responsible for its actions. When someone is wrongly harmed through the actions of government, injured parties should be able to make claims as appropriate. However, we believe very strongly that government employees should be defended and protected when their actions are made in good faith and without malice.

Generally when a lawsuit is filed, employees are listed as parties to the action. In the past, employees have not been held personally liable for actions taken at the behest of their employer, unless they were clearly working outside the scope of their authority. This seems to be changing. Recent court rulings imposing personal punitive damages are placing the livelihoods of our public employees in jeopardy.

The trend where public employees are being held personally liable places employees in a position where their own personal assets are at risk. All government employees are in danger, from the highest level policy maker to the lowest level of workers where those policies are carried out. The social worker, the road maintenance supervisor, the police officer, the medic, the fire fighter, and elected officials are all vulnerable.

We in law enforcement believe this is an undue burden upon the state's public employees, It carries great potential for the workings of government to become bogged down because employees fear that decisions they make in good faith may result in the loss of their assets. I encourage you and your colleagues to support House Bill 277.

Sincerely,

Michael A. Grimes, Statewide President
Alaska Peace Officers Association

FISCAL NOTE

**STATE OF ALASKA
1994 LEGISLATIVE SESSION**

BILL NO. HB 277

Revision Date: _____ Dept. Affected: Administration
 Title: "Public employees defending and indemnifying BRU: Risk Management
public employees . . . within scope of employment.." Component: Risk Management
 Sponsor: Porter
 Requestor: (H) STA COMPONENT SERIAL NO. 71

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
-----------------------------	------------	------------	------------	------------	------------	------------

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
Total	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year (FY94) cost: zero

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

The Division of Risk Management, as a matter of policy, already practices the defense and indemnity provisions now being committed to statute.

Prepared by: Brad Thompson, Director
 Division: Risk Management

Phone: 465-2180
 Date: _____

Approved by Commissioner: Nancy Bear Usera
 Agency: Administration

Date: 1/13/94

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB 277

Revision Date: _____ Dept. Affected: Administration
 Title: "Public employees defending and indemnifying BRJ: Personnel/OEEO
public employees . . . within scope of employment.." Component: Personnel/OEEO
 Sponsor: Porter
 Requestor: (H) STA COMPONENT SERIAL NO. 56

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
Total	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year (FY94) cost: zero

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Kevin C. Ritchie, Director
 Division: Personnel/OEEO

Phone: 465-4430
 Date: _____

Approved by Commissioner: Nancy Bear Usual
 Agency: Administration

Date: 1/13/94

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Anchorage Telephone Utility

Executive Offices

JAN 20 1994

January 20, 1994

Representative Brian Porter
Room 122
State Capitol
Juneau, Alaska 99801-1182

Dear Representative Porter:

I want to express my appreciation to you for introducing H.B. 277. This legislation would allow public entities to indemnify employees from personnel liability resulting from honest and efficient accomplishment of their job responsibilities. ATU fully supports this bill and urges its speedy approval.

Our society is seeing increasing numbers of former employees arguing wrongful discharge cases in front of juries. Without regard to the merits of such cases, our system of justice places public employees in a precarious position. Plaintiffs in such actions can not gain punitive damages from a public entity; punitive damages may only be applied to a private entity. Given this, plaintiffs' attorneys will often name an individual as defendant in order to establish a party with punitive liability or, as may be the case, simply to provide leverage.

While individuals so named, more often than not, eventually are relieved of liability, their lives in the meantime can be dramatically impacted. An individual so named will have all credit suspended pending outcome of the case. Simply put, the individual is unable to buy a house, a car or even a large appliance through normal credit channels until the case is settled. In many instances, such cases take years to resolve.

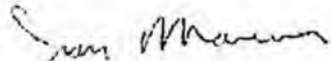
Representative Brian Porter
January 20, 1994
Page 2 of 2

Our concern in rectifying this unfair situation stems from our desire to have effective employees carrying out their responsibilities in a competent and efficient manner. Clearly, an employee who must consider his/her personal fortunes and those of his family each time he makes a decision will find his thinking swayed by this potential threat. We ask for this legislation to be passed so that our employees may work in an atmosphere free from the threat of personal reprisal.

Again, thank you for your efforts. If you need anything further from ATU regarding this legislation, please let me know.

Sincerely,

ANCHORAGE TELEPHONE UTILITY



James G. Morrison
General Manager



Anchorage Telephone Utility

Executive Offices

January 17, 1994

Representative Brian Porter
Room 122
State Capitol
Juneau, Alaska 99801-1182

Dear Representative Porter:

As one of many employees who would be effected by the passage of House Bill 277, I appreciate the opportunity of conveying to you how important I believe this legislation to be, and how strongly I support its passage.

As the Director of Human Resources for Anchorage Telephone Utility, I typically must make the final decision regarding employee terminations. Increasingly, that decision is based not only on "is this the appropriate action for the employee", but also "how likely are we to convince a jury that this is fair".

The number of these cases which go to jury trial is increasing, as is the frequency with which specific individuals are being named as defendants. Consequently, those who must make these critical employment decisions are becoming more and more cautious about their involvement, often to the detriment of the organizations for which they work.

This concern is not hypothetical. A recent experience at ATU was neither particularly unique nor particularly onerous, but it does serve as a good example of why this legislation is so timely and so important.

A number of months ago, a significant amount of money became unaccounted for in our Customer Service area. Following extensive investigation, it became apparent that specific procedures had not been followed, and the Supervisor of the Cash function was identified as responsible for the missing money. While careful not to suggest that this individual had taken the money, we felt that it was while under her responsibility and due to her failure to follow procedures that the cash disappeared. After the investigation and significant deliberations, I determined that termination was the appropriate action.

Representative Brian Porter
January 17, 1994
Page 2 of 3

A few months later, this former employee filed a wrongful termination suit against the Utility, and I was named as a co-defendant. There were no particular reasons given for me being included, other than an allegation that I may have defamed her by telling others that the employee had stolen the money. My own opinion as to the reason I was named is that a former employee cannot be awarded punitive damages when suing a public employer. However, punitive damages can be awarded against an individual. By naming me as co-defendant, this former employee was keeping the option of punitive damages available to the future jury.

The consequences of being named as defendant or even co-defendant in this type of suit are significant. Any financial or real estate transaction I might have attempted would have been thwarted by an honest answer to the standard question on an application: "Are you currently involved in any type of civil litigation?" Since wrongful termination cases can drag on for several years, that limitation could have been a significant and enduring problem.

Of greater concern would be the legal fees, which as defendant or even co-defendant, might have been my personal responsibility. With current estimates of approximately \$200,000 in defense costs in a typical wrongful termination, the implication is obvious.

And of greatest concern is the potential finding and award of the jury. With back pay, future pay, emotional and physical distress claims, and conceivably punitive damages, the personal consequence to one who must make a termination decision without some kind of indemnification can be devastating.

In the ATU example I used, the outcome has been positive. Although the case has not been resolved, following early depositions and some legal work by defense counsel, I was dropped as a defendant. However, every employment decision is clouded by the thought that next time I may not be as fortunate.

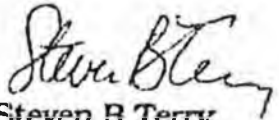
Ultimately, without the type of protection provided by House Bill 277, those who make employment decisions may determine that doing the "right" thing is not worth the risk, and workplace situations which should be addressed will instead be ignored. At that point, everyone loses.

Representative Brian Porter
January 17, 1994
Page 3 of 3

Public employers need individuals in decision making positions who will make careful and frequently difficult decisions. Those individuals need an employer who will stand by them and support them when those decisions are challenged. House Bill 277 provides just that type of support. I very much appreciate and endorse your support of this bill.

Sincerely,

ANCHORAGE TELEPHONE UTILITY



Steven B Terry
Director, Human Resources

Alaska Association Chiefs of Police



January 17, 1994

Received

JAN 19 1994

REP BRIAN PORTER

Representative Brian Porter
House of Representatives
State Capital
Juneau, Alaska, 99811

Dear Representative Porter:

Two years ago the Alaska Association of Chiefs of Police, the Alaska Peace Officers Association, and the FBI National Academy Associates identified the indemnification of public employees as their number one legislative priority. This issue is even more timely and critical now. The following is the combined statement and position of the three professional law enforcement associations concerning indemnification.

"We believe that government must be held responsible for its actions. When someone is wrongly harmed through the actions of government, injured parties should be able to make claims as appropriate. However, we believe very strongly that government employees should be defended and protected when their actions are made in good faith.

Generally when a lawsuit is filed, individual employees are listed as parties to the action also. In the past, employees have not been held personally liable for actions taken at the behest of their employer unless they were clearly working outside the scope of their authority. This seems to be changing. Recent court rulings imposing personal punitive damages are placing the livelihoods of public employees in jeopardy.

The trend to hold public employees personally liable places employees in a position where their own personal assets are at risk. This means that all government employees are in danger, from the highest level policy maker to the level of worker where the policy is implemented. Even elected officials are vulnerable today.

We in law enforcement believe this is an undue burden upon the public employees of this State. It carries the potential for the workings of government to become bogged down because employees fear that decisions they make in good faith may result in the loss of their assets.

When employees are doing the work of the government, within the scope of their authority, and without malice, they should not be held personally liable when they are named as parties to law suits.

Legislation should be passed that indemnifies public employees and frees them from the burden of working under the constant threat that their good faith judgments can result in the loss of their homes, their cars, or their savings."

If we can be of any assistance in the passage of your bill please let me know.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Ronald L. Otte".

Ronald L. Otte
President

RLO/lp



ANCHORAGE POLICE DEPARTMENT

4501 SOUTH BRAGAW STREET ♦ ANCHORAGE, ALASKA 99507-1599
TELEPHONE (907) 786-8500



Tom Fink, Mayor

Service since 1921

Received

JAN 19 1994

R.F. BRIAN PORTER

January 18, 1994

Representative Brian Porter
House of Representatives
Alaska State Legislature
Juneau, Alaska 99801-1182

Dear Representative Porter,

I am writing this letter in support of House Bill 277, which would require public employers to indemnify public employees with respect to law suits and legal claims made against employees who are working within the scope and authority of their position. I can safely represent that the subject of indemnification is very important to all public employees.

Law enforcement over the years has identified indemnification as a top legislative priority. Our premise is simple. We believe that when a public employee is working at the behest of their employer, and they operate in good faith and within their proper authority, employees should be indemnified.

This is not an argument for protection of bad employees. It is a request that, as a matter of law, employers protect employees who are doing the work of the government. Threatened or actual legal action has a very chilling effect on any employee. If personal assets or wealth are unfairly at risk, employees are discouraged from making decisions or taking action.

We are happy to work with you and the Legislature in the passage of this bill. If you have any questions, please contact me at 786-8552.

Sincerely,

Duane S. Udland, Deputy Chief
Anchorage Police Department
4501 South Bragaw
Anchorage, Alaska 99507



217 Second Street, Suite 200 ■ Juneau, Alaska 99801 ■ Tel (907) 586-1325, Fax (907) 463-5480

January 24, 1994

JAN 23 1994

TO: Representative Al Vezey, Chair
and
Members, House Committee on State Affairs

FROM: Kent E. Swisher, Executive Director

RE: **HB 277 - Indemnification of public employees**

It has been brought to my attention that your committee is considering **HB 277- Indemnification of public employees**, which would amend AS 39.90 to require public employers, including municipalities, to provide defense and indemnification of employees for actions or omissions that occurred during the course and within the scope of the employee's employment, except in cases of gross negligence or intentional or wilful misconduct. The bill allows for collective bargaining agreements to supersede state law with regard to defense and indemnification.

It is the understanding of the Alaska Municipal League that it is already common practice for municipalities to indemnify employees for actions/omissions taken during the course and scope of their employment and that such indemnification is included within most, if not all, collective bargaining agreements.

The League has no objection to the current draft of HB 277, or to the proposed Committee Substitute dated 1/20/94. It appears to codify existing common practice, to provide reasonable protection for employers by requiring the employee to keep the employer informed and to cooperate in the defense, and to provide equal treatment of all types of employees.

cc: Representative Brian Porter

Att: AL Vezie

Association. This section shall not apply to appointed employees or to employees designated in subsections 2.24.021A 1-4.

B. Managerial/professional employees against whom disciplinary action other than dismissal is taken or proposed shall have the right to request a hearing before the borough disciplinary review board. The employees shall serve written demand for said hearing on the mayor or his or her designee not later than ten days following the employee's receipt of written notice of the disciplinary action. Failure to serve demand for a hearing within said time limit, or to appear at a hearing scheduled in response to such a demand, shall constitute a waiver by the affected employee of the right to said hearing. The mayor or his or her designee may, but is not required to, suspend imposition of the disciplinary action pending review by the board.

C. All managerial/professional and classified employees against whom dismissal action is proposed shall be suspended from a pay status on the date on which the affected employee receives written notice of the proposed dismissal action. Said employees shall have the right to request a hearing before the borough disciplinary review board. The affected employee shall serve written demand for said hearing on the mayor or his or her designee not later than ten days following the employee's receipt of written notice of the proposed dismissal action. Failure to serve demand for a hearing within said time limit, or to appear at a hearing scheduled in response to such a demand, shall constitute a waiver by the affected employee of the right to said hearing. If the employee demands a hearing as specified above he shall continue in a non-pay status until the board's decision is issued or the case is otherwise concluded. Dismissal shall become effective:

1. If the employee fails to timely demand a hearing, upon the expiration of the ten day time limit set forth above; or

2. If the employee timely demands a hearing, upon the date the employee waives the hearing by failing to attend or upon the date on which the board issues a decision affirming the dismissal action, whichever shall first occur.

D. The disciplinary review board shall consist of a managerial/professional employee of the borough appointed by the mayor, who works in a division of the borough administration different from the division in which the affected employee works; a private citizen appointed by the mayor, who is neither employed by nor under contract to the borough; and a member of the borough assembly appointed by the presiding officer. The board shall conduct a hearing on the matter as soon as reasonably practicable after service of demand for said hearing upon the mayor or his or her designee. The board shall provide the affected employee with at least ten days' notice of the date and

place of hearing and shall provide both the affected employee and a representative of borough management with an opportunity to exercise the following rights at the hearing:

1. To testify;
2. To present witnesses and other evidence;
3. To cross-examine witnesses;
4. To be represented by a person of his choice.

The board shall conduct the hearing as specified above and, after considering the evidence presented at said hearing, shall determine whether the disciplinary action imposed or proposed, or the severity thereof, is arbitrary, capricious or contrary to law. The board may affirm the disciplinary action, impose a lesser disciplinary action, or prohibit the imposition of discipline against the employee for incidents examined at the hearing. The affirmative vote of two members shall constitute the decision of the board which shall be in writing and shall be issued as soon as reasonably practicable following termination of the hearing. If an employee has been suspended from a pay status pending the hearing, said suspension shall continue until the board's decision is issued. If the board determines that dismissal would be arbitrary, capricious, or contrary to law, the employee shall be returned to a pay status and shall receive all pay to which he would have been entitled during the period of the suspension, unless the board directs otherwise.

E. The disciplinary review board shall deliver or mail its decision to the affected employee, and the decision of the board is final unless the affected employee appeals said decision to the Superior Court not later than thirty days after the date on which the decision was delivered or mailed to the employee. The Court shall review the matter on the record and shall determine whether the board abused its discretion. The case shall not be tried de novo. The Rules of Appellate Procedure of the State of Alaska shall apply to the case. (Ord. 85-137 § 5, 1985)

2.24.331 Safety.

A. It is the responsibility of all levels of borough management to ensure that prudent safety rules and precautions are developed, implemented and observed.

B. Failure of borough employees to comply with safety requirements and regulations shall be just cause for disciplinary action to include dismissal. (Ord. 84-102 § 2 (part), 1985)

2.24.341 Indemnification.

A. Indemnity. The borough shall indemnify any employee of the borough against any claim, demand, suit or judgment arising out of his employment by the borough if the borough employee, at the time of occurrence, was acting in good faith and within the scope of his duties.

C. Defense. The borough shall provide an employee with independent legal counsel:

1. When the employee requests and the assembly concurs;
2. When the borough mayor or borough attorney determines that there may be a conflict of interest between the borough and the employee.

The borough shall provide the employee with independent legal counsel when the liability of the employee involves claims or defenses not reasonably related to the claims or defenses of the borough. (Ord. 88-026 § 3, 1988)

2.24.351 Employee separations.

A. Resignation. To resign in good standing, an employee shall give the appointing authority or his designee not less than ten working days' notice prior to the action date of severance, unless the borough mayor or his designee agrees to permit a shorter period for extenuating circumstances. The employee notice of resignation shall be in writing and shall contain the reason for resignation. Failure to comply with this provision shall be entered in the employee's personnel file, and will be just cause for denying future reemployment.

B. No managerial/professional or classified employee shall be dismissed unless the provisions of Section 2.24.321 have been followed. Appointed employees and employees designated in Section 2.24.021A4 shall be dismissed in the manner described in Section 2.24.021 for each such employee. (Ord. 85-137 § 6, 1985; Ord. 84-102 § 2 (part), 1985)

2.24.361 Position descriptions.

The borough shall maintain a position classification (job description) for the various occupations authorized by the organization's staffing structure. This document will reflect the job title, representative functions of the position, minimum job requirements, and be coordinated with the borough's classification plan (Section 2.24.091).

A. Reclassification. Positions may be reclassified with authority of the borough mayor whenever the duties of the position have substantially and materially changed.

B. New Positions. The appointing authority (borough mayor) may create new positions, change the classification designations and salaries, provided such actions can be accomplished within the limitations of the current borough budget. (Ord. 84-102 § 2 (part), 1985)

2.24.371 Salary plan.

A. The borough shall publish a salary schedule each year in conjunction with the publication of the borough annual budget. Delays caused by extraordinary circumstances such as collective bargaining are excepted.

B. Normally, newly hired employees will be employed at the beginning rate of the appropriate salary range. However, in cases where unusual difficulty has been experienced in filling a vacancy, or when the applicant is exceptionally qualified, the borough mayor may direct the starting salary above the minimum. (Ord. 84-102 § 2 (part), 1985)

2.24.381 Payday.

Normally, borough employees shall be paid every other Friday of each month for the preceding two-week pay period. If these days fall on a holiday, the employees shall be paid on the last working day preceding the holiday. (Ord. 84-102 § 2 (part), 1985)

2.24.391 Overtime.

A. The borough's normal scheduled workweek encompasses forty hours' work within one week (Monday through Sunday). Employees, permanent or term-permanent, who are directed to work hours in excess of forty in one week shall be paid overtime calculated at a rate of one and one-half times the employee's base hourly rate for overtime worked during the period Monday through Saturday. Overtime worked on Sundays or holidays shall be compensated at a rate of double time (two times the employee's base hourly rate).

B. Temporary employees shall be compensated at a rate of one and one-half times their base hourly rate for all hours worked in excess of forty in one week.

C. No employee shall work overtime unless directed to do so by a supervisor empowered to give such direction.

D. For some positions, overtime work is considered a normal part of the job and does not justify overtime pay. Overtime compensation shall not be granted to:

1. Appointed employees;
2. Managerial/professional employees;
3. Persons occupying positions which qualify as supervisors under the criteria of the Fair Labor Standards Act, as interpreted by U.S. Department of Labor and the Alaska Department of Labor. (Ord. 86-017 § 15, 1986; Ord. 84-102 § 2 (part), 1985)

2.24.401 Holidays.

A. All borough employees, excluding temporaries, shall be entitled to the holidays listed below with pay. Full-time employees shall receive regular straight-time compensation; part-time employees shall be paid straight-time compensation in proportion to the number of hours regularly scheduled to work:

1. New Year's Day (January 1st);
2. Washington's Birthday (third Monday in February);
3. Memorial Day (last Monday in May);
4. Independence Day (July 4th);

STATE OF ALASKA

DEPARTMENT OF LAW

Received

JAN 14 1994

REP BRIAN PORTER

OFFICE OF THE ATTORNEY GENERAL

January 14, 1994

WALTER J. HICKEL, GOVERNOR

PLEASE REPLY TO:

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The Honorable Brian Porter
House of Representatives, Room 118
State Capitol
Juneau, AK 99801-1182

Re: Defense and indemnification of
state employees

Dear Representative Porter:

Your aide, Eric Musser, has asked me to provide a statement of the state's policy regarding defense and indemnification of state employees when they are sued for civil damages. As I explained to Mr. Musser, there is no generally applicable defense and indemnification provision in state law and no written policy document on the subject. However, many of the state's collective bargaining agreements do include defense and indemnification clauses that apply to employees who are union members. For those not covered by a collective bargaining provision, the state has a longstanding practice of providing defense and indemnifying under certain circumstances, explained below.

As a general matter, the state provides defense to executive branch employees who are sued for damages, where the act or omission at issue is within the course and scope of state employment. In addition, the state indemnifies employees and pays settlements or adverse judgments against them so long as there is no finding that the act or omission was outside the course and scope of state employment or amounted to gross negligence or intentional misconduct. The state is statutorily immune from liability for punitive damages (see AS 09.50.280) and therefore does not generally indemnify employees for punitive damages awards made against them.

The effect of this practice is that the state usually provides legal defense for state employees when they are sued about a matter that relates to their jobs. The state routinely reserves rights with respect to indemnification where it is possible that the trier of fact may determine they acted outside the scope of their employment, were grossly negligent or engaged in intentional misconduct, or are liable for punitive damages. This means that,

in some cases, the extent of the state's indemnification is not determined until the case is over.

The special litigation section in the Department of Law is the entity that handles personal injury and property damage claims against the state and state employees, as well as some civil rights litigation against state employees. Our section, along with our client agency, the division of risk management, contributed to the bill drafting that resulted in HB 395 in 1992. We understand the last committee version of that bill was the model for the bill you filed in this legislature: HB 277. For the most part, we were and are satisfied with the bill's attempt to create a workable, codified defense and indemnification provision for public employers. However, Mr. Musser invited us to share our comments or suggestions on the bill as drafted, so we offer the following ideas for your consideration.

The first paragraph of the proposed AS 39.90.160 sets out the general obligation of public employers to defend and indemnify their employees, unless a collective bargaining agreement includes a provision on that subject. Proposed AS 39.90.160(a). To make it perfectly clear that this bill is not intended to affect union members whose collective bargaining agreements cover this subject, we believe it would be preferable to delete the introductory clause in (a) on page 1, line 7 and half of line 8, and add a separate statement to AS 39.90.160(b), which lists the circumstances in which the statutory defense and indemnification obligations do not apply. Such a change would be consistent with the legislative intent, as we understand it.

Proposed AS 39.90.160(b)(1) makes it incumbent on the public employee to timely notify the employer when served with a claim or lawsuit, in order to qualify for employer provided defense and indemnification. Specifically, the bill requires the employee to notify the employer in writing within 10 days, unless the employee has good cause for failing to provide timely or proper notice and the employer is not materially prejudiced. Although the 10-day period for notice to the employer is longer than currently allowed in some state collective bargaining agreements, it is acceptable. However, we believe the "good cause" exception to the notice requirement should be deleted (page two, lines 3 and 4). The exception guts the rule, and makes every late notice arguable.

Paragraphs (e) and (f) of proposed AS 39.90.160 cover the situation where an employer denies indemnification to an employee. They distinguish between situations in which the public employer is a co-defendant with the employee and situations in which the employer is not named as a co-defendant, or has been dismissed from the case. In the former situation, an employee who has been denied indemnification must file a cross-claim against the employer in the underlying action. Proposed AS 39.90.160(e). Where the employer is not a party to the suit, the employee must wait until the underlying case has ended, then file an action against the employer for indemnification within one year. Proposed AS 39.90.160(f).

The Honorable Brian Porter

January 14, 1994
Page 3

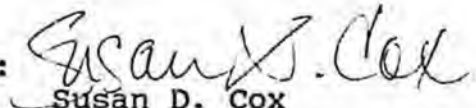
These sections need to clarify what is meant by "denying" indemnification: do they only apply where the employer refuses to indemnify at all, or do they also cover the "reservation of rights" situation where an employer may conditionally agree to indemnify, pending the outcome of the case? If they apply only to outright denial of indemnification, we have no objection to the substance of (e) and (f) as written. However, if they cover the reservation of rights situation as well, we do not agree that employees should cross-claim against their employers during the underlying litigation. All would be best served by awaiting the outcome of the litigation to determine to what extent the employee is entitled to indemnification; if there is some dispute at that point, the employee should be able to file suit as provided in proposed AS 39.90.160(f).^{*} In summary, we recommend that (e) and (f) be clarified so as not to apply to a "reservation of rights" or partial denial of indemnification; alternatively, we suggest that (e) be deleted and (f) be revised to apply to all situations where indemnification is denied by an employer, regardless of whether the employer is a party to the underlying litigation or not.

There is one other suggestion, that is more of a housekeeping nature. In proposed AS 39.90.160(i), on page 3 at line 20, the bill talks about an employee "on whose behalf a public employer has undertaken representation." To be consistent throughout the bill, that phrase should be replaced with "for whom a public employer has provided legal defense."

Thank you for your consideration of these proposals. Please do not hesitate to contact me or Brad Thompson, director of risk management, if you would like to discuss this subject.

Very truly yours,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: 
Susan D. Cox
Assistant Attorney General

SDC:pch

cc: Deborah Behr
Raga Elim

* Outright denial of indemnification by the state is very rare. However, there are many times in which reservation of rights is warranted.

Alaska State Legislature

Representative Brian S. Porter

CHAIRMAN
HOUSE JUDICIARY COMMITTEE

MEMBER
HOUSE LABOR & COMMERCE COMMITTEE
SELECT COMMITTEE ON LEGISLATIVE ETHICS

MEMBER
FINANCE SUBCOMMITTEES
DEPARTMENT OF LAW
DEPARTMENT OF PUBLIC SAFETY
COURTS



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SPONSOR STATEMENT

HB 277 requires the state and municipalities to indemnify public employees who are sued for acts or omissions occurring during the performance and within the scope of the employee's job. The statute would **NOT** require employers to indemnify an employee for acts of intentional or willful misconduct or to pay an award of punitive damages.

The bill is based on the current state policy for defense and indemnification of state employees. A copy of this policy is attached, along with a memorandum from the Attorney General's Office explaining the policy reasons why indemnification of public employees is a good idea. In addition to enumerating the benefits to the employer of indemnification, the Department of Law explanation points out the "widely felt" belief "that where an employee acting in good faith injures a person within the performance and scope of employment, the employer should indemnify the employee." This bill will codify this policy and extend it to borough, municipal and city employees.

HB 277 is currently supported by the Alaska Peace Officers Association and The Association of Chiefs of Police.

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

(907) 465-3867 or 465-2450

FAX (907) 465-2029

Mail Stop 3101

130 Seward Street, Suite 409

Juneau, Alaska 99801-2105

MEMORANDUM

April 13, 1993

SUBJECT: Sectional Summary of HB 277. (Defense and indemnification of public employees)

TO: Representative Brian Porter

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill is not considered an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

Section 1 adds a new section to the title that applies to public officers and employees. Subsection (a) provides that a public employer shall provide legal defense and pay settlements and judgements for a public employee when the acts or omissions that form the basis for the claim or judgement occurred during the course of and within the scope of the public employee's employment. This requirement applies unless a collective bargaining agreement that covers the public employee includes a provision for defense and indemnification.

Subsection (b) limits when a public employer's obligation to defend and indemnify arises and requires the public employee to provide notice and make a good faith effort to cooperate in the defense. The public employer is not required to defend and indemnify if the act or omission was the result of the employee's gross negligence or intentional or wilful misconduct.

Subsections (d) - (f) address how the employer may refuse to provide legal defense and indemnification and the employee's remedies for the refusal.

Subsection (g) sets out circumstances in which the public employer does not have an obligation to provide legal defense and indemnification and subsection (h) permits the employer to commit itself to provide them under circumstances in which the employer would not have an obligation to do so.

Representative Brian A. Lister

April 13, 1993

Page 2

Subsection (i) addresses what happens if a public employee settles a claim or action before requesting the public employer to defend and indemnify or after the employer has declined to do so.

Subsection (j) permits the public employer to provide a legal defense while contesting the employer's obligation to indemnify the employee.

Section (k) defines "employee" and "employer" for the section.

TC:pl

93-293.plm

HB

280

Alaska State Legislature

Representative Carl E. Moses

REC'D 1 2 REG



CHAIRMAN
HOUSE RULES COMMITTEE

CHAIRMAN
HOUSE SPECIAL FISHERIES COMMITTEE

MEMBER
FINANCE SUBCOMMITTEES
FISH AND GAME
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MEMORANDUM

DATE: April 12, 1993

TO: Representative Al Vezey
Chair, House State Affairs Committee

FROM: Representative Carl E. Moses *CEM*
Chair, House Rules Committee

RE: Request for Hearing

I would like to request a committee hearing for HB280 at your earliest convenience. HB 280 would adopt the Uniform Custodial Trust Act.

The Uniform Custodial Trust Act (UCTA) offers everyone a chance to establish a kind of trust that guarantees control of property at a time when a person becomes incapacitated, and that may also be used to pass on property at death without probate. The act is designed to offer a new, very simplified custodial trust, making the benefits of trusts available to people without extensive financial assets.

The UCTA was inspired by the Uniform Transfers to Minors Act, and the highly useful concept of a custodian for property of a minor under the terms of that act.

The state of Alaska should consider adoption of the UCTA. Custodial Trusts are inexpensive to create, they can be set up by a simple language reference in statute, the person who creates the trust retains control over it until incapacity or death and the trusts are comprehensive - that is they can contain real or personal property, tangible or intangible.

This legislation was introduced during the 17th legislature, and due to a lack of time during the last session, CSHB 509(L&C) did not pass the house.

HB280 is a non-controversial bill and I would appreciate prompt scheduling in the State Affairs committee. If you have questions, please contact Karen Brand of my staff at 3765.

SPONSOR STATEMENT
UNIFORM CUSTODIAL TRUST ACT

If enacted, HB 280 would adopt the Uniform Custodial Trust Act into Alaska Statute.

The Uniform Custodial Trust Act (UCTA) makes the benefits of trusts available to people without extensive financial assets. It offers everyone a chance to establish a kind of trust that guarantees control of property at a time when a person becomes incapacitated, and that may also be used to pass on property at death without probate. The act is designed to offer a new, very simplified custodial trust.

The UCTA was inspired by the Uniform Transfers to Minors Act, and the highly useful concept of a custodian for property of a minor under the terms of that act.

The UCTA is also endorsed by the American Bar Association

The state of Alaska should consider adoption of the UCTA. Custodial Trusts are inexpensive to create, they can be set up by a simple language reference in statute, the person who creates the trust retains control over it until incapacity or death and the trusts are comprehensive - that is they can contain real or personal property, tangible or intangible.

The most frequent users of this trust will most likely be senior citizens who want to provide for the management of assets in the event of future incapacity. Persons leaving the country temporarily can also place their property with another for management without relinquishing permanent control of their property.

HB 280 is a non-controversial bill and I would appreciate consideration and affirmative action by the committee.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 280

ANALYSIS (Continued):

The Custodial Trust Act is designed to provide a statutory standby *inter vivos* trust for individuals who typically are not very affluent or sophisticated, and possibly represented by attorneys engaged in general rather than specialized estate practice. The most frequent use of this trust would be in response to the commonly occurring need of elderly individuals to provide for the future management of assets in the event of incapacity.

Although the most frequent use probably will be by elderly persons, it is also available for a parent to establish a custodial trust for an adult child who may be incapacitated; for adult persons in the military, or those leaving the country temporarily, to place their property with another for management without relinquishing beneficial ownership of their property; or for young people who have received property under the Uniform Transfers to Minors Act to continue a custodial trust as adults in order to obtain the benefit and convenience of management services performed by the custodial trustee.

The objective of the statute is to provide a simple trust that is uncomplicated in its creation, administration, and termination. Consequently, the statute should also serve to avoid unnecessary administrative and legal costs and to conserve the corpus of individual trusts. These are transactions involving private persons, and the bill will therefore not have an impact on the Department of Law or state government.

CHANGING TIMES

LAST TRUSTS

Now there's an inexpensive and relatively painless way to put your property into a living trust, a legal device that lets you control your assets and appoint a trustee who can manage when you can't (see "Trusts You Can Change at Will," Nov.). The only catch is that your state must adopt the new Uniform Custodial Trust Act.

The UCTA was drafted by the Uniform Law Commissioners, a group of state-appointed lawyers, judges and law professors that drafts laws to solve problems common to all states. It lets you create a trust as easily as setting up a custodial account for a minor under the Uniform Transfers to Minors Act, the inspiration for the new act. You don't even need a written trust agreement. All you have to do is change the name on your bank accounts, for instance, to that of your chosen trustee.

A UCTA trust can cover any kind of property, real or personal, tangible or intangible. You cannot be your own trustee, but you can name a family member, friend or institution to become the owner of your stocks, bank accounts or other assets you designate. As the beneficiary, you have the right to direct the management of the assets, to receive income and principal, and to cancel the

trust whenever you want to. If you become incapable of handling your own affairs, the trustee takes over and manages the trust according to the very broad powers built into the statute. You can also use the trust as a will because you can direct what happens to the assets after your death.

According to Lawrence Bugge, a Madison, Wis., lawyer who headed the drafting committee, both the UCTA trust and a durable power of attorney (which gives the person you name the power to act for you if you are incapacitated) get around the need for a costly, distressing court proceeding to appoint a court-supervised conservator or guardian. But the trust, he says, is better than a durable power because the safeguards against mishandling of your assets, such as periodic accounting and penalties for misappropriation of funds, and the details of the fiduciary relationship between you and the trustee are clearer and more elaborate than those surrounding durable powers.

Older people who want to maintain control over their assets will probably benefit most, but someone who is going abroad temporarily or is a parent of an incapacitated child can set one up, too.

It is too early to tell how much interest there will be in the act; to date, no states have adopted the UCTA. If you are interested in encouraging its adoption in your state, write to your state legislator.

DEC 27 1987



JANE BRYANT QUINN

Proposed 'custodial trust' is cheap, easy way to avoid probate

Everybody hates probate. A few years ago, Americans rushed to buy books of legal forms by author Norman Dacey, for their do-it-yourself trusts to avoid probate (which is the process of approving the legality of your will at death).

But there were a couple of problems with these trusts.

First, they didn't provide any other important protections — like naming a trustee to manage your money if you become senile.

Second, Dacey trusts simply weren't accepted by many stock-transfer agents, insurance companies and title companies. Sometimes the forms were filled in wrong. Sometimes title in the property hadn't been properly passed to the trustee. Sometimes, even when the paperwork was done right, it looked fishy. Reasonably or not, many agents simply decided it was safer not to transfer property ownership based on a hand-drawn trust.

So Dacey trusts faded. But the need for a similar — and better-recognized — document persisted. And finally, one is on the horizon.

A proposed new "custodial trust" has been created by the National Conference of Commissioners on Uniform State Laws. It still has to be approved by the American Bar Association and then presented to each state for adoption. But if accepted, it will be a cheap and easy way of avoiding probate — and more. Among the trust's virtues:

- You can set it up yourself, by signing a standard document established by law. There don't have to be any legal fees, although you may want a lawyer to answer questions about the trust.

- It names a trustee to manage your money in case you become mentally incompetent. But until that moment arrives (if it ever does), "you have total control over your assets," said Madison, Wis., attorney Lawrence Bugge, chairman of the committee that drew up the trust. A wife can be her husband's trustee and vice versa. You can cancel the trust any time you want.

- By naming a beneficiary for the trust's assets, you can keep them out of probate.

- You can arrange to have the money managed for the joint lifetimes of yourself and your spouse. The surviving spouse, too, can effectively manage the money or even take it out of trust (as long as he or she is mentally competent).

- The trust sets up tests to determine mental incompetence. Your family won't face the expense and embarrassment of having you declared bonkers in court. (However, if for some reason you think that your trust has mistaken your mental condition, you yourself can force the issue into court.)

- You can use a custodial trust to provide money management for an adult child who may be retarded or otherwise incapacitated.

- It's a good device for short-term money management. Says Eugene Scoles of the University of Illinois: "If I'm out of the country for eight months and want some of my property administered for my kids in college, I could use the custodial trust." A durable power of attorney could achieve the same thing. But the power of attorney stops if you die, whereas the custodial trust can continue.

Also, some insurance companies resist the durable power-of-attorney, if it's used to change beneficiaries or cash in a policy, says Richard Wellman of the University of Georgia's law school.

A custodial trust doesn't handle complicated jobs. It can't be used to pass money in trust from one generation to another, or restrict access to assets. It's not a discretionary trust that might work, in some cases, to provide extra money to a person living on Medicaid in a nursing home or mental hospital. For that, you need a lawyer.

I see only one problem with the proposed new trust. Despite all the labor that has gone into it, it truly cannot be made so simple that the average person can understand it. You face some of the same risks you did with a Dacey trust: mistakes in filling in the documents, not getting your property properly transferred to the trustee, and neglecting the trust's tax forms.

I'll be pleased to have a simple trust on the market. ■

FISCAL NOTE

BILL NO. HB 280

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Revision Date: April 12, 1993
Title: An Act adopting the Uniform Custodial Trust Act
Sponsor: House Rules Committee
Requestor: House Rules Committee

Department Affected: Department of Law
BRU: Legal Services
Component: Operations
COMPONENT SERIAL NO. 0093

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING:

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 Grant/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

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

Estimate of current year (FY93) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Richard I. Peques

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

Phone: 465-3672
Date: April 12, 1993

Richard I. Peques / RUP

Approved by Commissioner: Charles E. Cole, Attorney General
Agency: Department of Law

Date: April 12, 1993

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FISCAL NOTE

**STATE OF ALASKA
1993 LEGISLATIVE SESSION**

Bill No. HB 280

Revision Date: _____ Department Affected: Alaska Court System
 Title: An Act adopting the Uniform Custodial BRU: Trial Courts
 Trust Act Components: _____
 Sponsor: House Rules
 Requestor: _____ COMPONENT SERIAL NO. 768

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

REVENUE						
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

1002 FEDERAL RECEIPTS						
1003 GF MATCH						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/PROGRAM RECEIPTS						
1006 GF/MHTIA						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY 93) Impact: None

ANALYSIS: (Attach a separate page if necessary)
 No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel Phone: 284-8228
 Division: Alaska Court System Date: 04/19/93
 Approved by: Arthur H. Snowden, II, Administrative Director Date: 04/19/93
 Agency: Alaska Court System

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

DIVISION OF LEGAL SERVICES

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Juneau, Alaska 99801-2105

MEMORANDUM

April 18, 1993

SUBJECT: Sectional Summary of HB 280

TO: Representative Carl Moses
Chair
House Rules Committee

FROM: Theresa L. Bannister *TB*
Legislative Counsel

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

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1. Contains the entire bill. Adds a new chapter, the "Alaska Uniform Custodial Trust Act."

Sec. 13.60.010 authorizes a person to create a custodial trust of property by a written transfer of the property to another person or by a written declaration. Places title to the custodial trust property in the custodial trustee and the beneficial interest in the beneficiary. Prohibits termination of a custodial trust by the transferor except as provided in the section. Terminates the trust on the beneficiary's death. Authorizes a person to augment existing custodial trust property. Authorizes the transferor to designate, or authorize the designation of, a successor custodial trustee in the trust instrument. States that the chapter does not displace or restrict other means of creating trusts.

Sec. 13.60.020. Authorizes a person to create a custodial trust upon the occurrence of a future event. Authorizes the designation of a substitute or successor custodial trustee. Identifies the documents that can be used to make a designation; otherwise, requires the designation to be registered with or delivered to a specified person.

Sec. 13.60.030. States that the obligations of a custodial trustee arise when the trustee accepts the custodial trust property. States how the acceptance may be

evidenced. States that upon acceptance the trustee is subject to the personal jurisdiction of the court with respect to a matter relating to the trust.

Sec. 13.60.040. Unless otherwise directed by an instrument designating a custodial trustee under sec. 13.60.020, authorizes a person holding the property of, or owing a debt to, certain incapacitated individuals to make a transfer to certain persons as custodial trustee for the incapacitated individuals. Transfers over \$20,000 must be authorized by the court. States that a written acknowledgement of delivery signed by the custodial trustee constitutes a sufficient receipt and discharge for the transferred property.

Sec. 13.60.050. States that beneficial interests in a custodial trust created for multiple beneficiaries are separate trusts of equal undivided interests for each beneficiary. Indicates when a right of survivorship exists. Authorizes administration as a single custodial trust for custodial trust property held by the same trustee for the same beneficiary. Requires separate accounting to each beneficiary with regard to custodial trust property held for more than one beneficiary.

Sec. 13.60.060. Establishes the general duties of, and the standard of care to be exercised by, the custodial trustee. States that the exercise of a durable power of attorney for an incapacitated beneficiary is not effective to terminate or direct the administration or distribution of a custodial trust.

Sec. 13.60.070. Establishes the general powers of a custodial trustee. Indicates that the section does not relieve a custodial trustee from liability for a violation of sec. 13.60.060.

Sec. 13.60.080. Establishes how the custodial trustee may use custodial trust property.

Sec. 13.60.090. Determines when the custodial trustee may administer a custodial trust as for an incapacitated beneficiary. Establishes what a custodial trustee may rely on to determine that the beneficiary is incapacitated. Indicates when a custodial trustee for an incapacitated beneficiary can administer the trust as for a beneficiary whose incapacity has ended or changed. On petition of certain persons directs the court to determine whether the beneficiary is incapacitated. Directs a custodial trustee to administer the custodial trust as for an incapacitated beneficiary under other given circumstances if there isn't a determination of incapacity under (b) or (d) of this section. States that the incapacity of a beneficiary doesn't terminate the trust, a successor trustee designation, the trustee's rights or powers, or the immunities of certain third persons.

Sec. 13.60.100. Exempts a third person who deals with a custodial trustee in good faith and without a court order from being held liable for dealing with the custodial trustee in certain circumstances.

Sec. 13.60.110. Authorizes a third person to bring certain claims against the custodial trust property by proceeding against the trustee in a fiduciary capacity. States that a custodial trustee is not personally liable to a third person on certain contracts and for certain obligations. States that a beneficiary is not personally liable to a third person for certain obligations or torts unless certain circumstances exist. States that (b) and (c) of the section do not preclude proceedings to establish the liability of the trustee or beneficiary to the extent the person sued is protected as the insured by liability insurance.

Sec. 13.60.120. Addresses the declination, resignation, incapacity, death, and removal of custodial trustees. Addresses the designation and succession of successor custodial trustees. Addresses the handling of trust property and records in these circumstances.

Sec. 13.60.130. States that, except as otherwise provided in the custodial trust instrument, in an agreement with the beneficiary, or by court order, the custodial trustee is entitled to reimbursement for reasonable expenses, may charge a reasonable compensation for services, and does not need to furnish security.

Sec. 13.60.140. Addresses the reporting and accounting requirement for the custodial trustee. Authorizes certain persons to petition the court for an accounting or approval of final accounts. Authorizes the court to require or permit the custodial trustee or the custodial trustee's legal representative to account. If a custodial trustee is removed, directs the court to require an accounting and to order delivery of the trust property and records to the successor custodial trustee and the execution of certain instruments. Authorizes the court under certain circumstances to issue instructions to the custodial trustee or to review the acts of the trustee or the compensation determined by the custodial trustee for the services of the custodial trustee or others.

Sec. 13.60.150. Indicates when actions against a custodial trustee are barred.

Sec. 13.60.160. Indicates how the custodial trustee is to distribute the custodial trust property when the custodial trust is terminated. Provides for continuation of the trust if the distributee is incapacitated and until certain circumstances occur. Prevents the death of the beneficiary from terminating the custodial trustee's power to discharge certain obligations.

Sec. 13.60.170. Establishes methods and forms for creating custodial trusts.

Sec. 13.60.180. Indicates what law applies to transfers or declarations creating custodial trusts.

Sec. 13.60.190. Directs how the chapter is to be applied and construed.

Theresa L. Bannister
April 18, 1993
Page 4

Sec. 13.60.900. Defines the terms used in the chapter.

Sec. 13.60.990. Gives the chapter a short title.

If I may be of further assistance, please advise.

TLB:lmb
93-127.lmb

UNIFORM CUSTODIAL TRUST ACT

We are perfectly free to be irresponsible with the property that we accumulate. We can dissipate it, abandon it, or ignore it. Most of us choose to be more responsible, however. We tend to accumulate property for the economic security it provides ourselves and our families. It comes as a great shock, therefore, when we find that controlling and protecting it at key moments in our lives is much harder than we imagined. What happens if we become incapacitated? Guardianships and conservatorships are expensive last resorts that mean total loss of control. What happens when we die? Wills and the probate process offer some solace, but probate becomes more onerous and expensive than helpful. Extensive estate planning with its panoply of generation-skipping devices, such as trusts, is expensive and beyond the resources of most people. The search for a better way continues.

The Uniform Law Commissioners' Uniform Custodial Trust Act, promulgated in 1987, offers some needed help. Inter vivos and testamentary, discretionary trusts are too complicated to meet certain needs. But the trust form of ownership, simplified and carefully prescribed in a statute, can meet them - thus the Uniform Custodial Trust Act (UCTA).

A trust is, simply, a legal structure for organizing the ownership and management of property for its preservation on behalf of specified individuals. A trust involves three fundamental participants: a donor who puts property in a trust; a trustee who owns and manages the trust; and beneficiaries who receive the financial benefit of the trust and for whom the property is preserved. A trust arises in a trust agreement or instrument (a document) in which the donor names the trustee and beneficiaries. The donor also establishes the trustee's powers over the property and the beneficiaries' rights to principal and income in the trust instrument. The donor then transfers property to the trustee, who owns it for the benefit of the beneficiaries. The trustee is also a fiduciary, meaning that he or she is subject to special rules and standards of care when managing the trust's assets. All trusts have these characteristics, and a custodial trust is but one of a number of kinds of trusts.

The UCTA allows any person to create a custodial trust by executing a simple statement (it may be a separate document or merely a notation on an existing title document) that the property is being placed in trust under the Act. The trustee's obligations arise upon acceptance of the property. That is all that is necessary to create the trust.

The UCTA permits a kind of springing trust too - a trust that arises upon the happening of a future event. Any person can create such a trust with respect to specific property by executing a simple statement, indicating that the trust will be established upon the happening of the event.

The UCTA also allows anybody obligated to an incapacitated person, without a conservator (a conservator is a court-appointed manager of an incapacitated person's property), to establish a custodial trust into which property satisfying the obligation is placed for the incapacitated person as beneficiary. If the value of the property so placed exceeds \$20,000, however, a transfer into such a trust must be approved by a court.

What distinguishes a custodial trust from other kinds of trusts? To begin with, the UCTA governs all aspects of the trust relationship, including a trustee's powers and obligations. Therefore, elaborate trust documents are not needed. Second, a custodial trust exists at the will of its beneficiaries. Any beneficiary can terminate his or her share of the trust. Third, trust beneficiaries can direct the trustee's payment of income to themselves. Fourth, the beneficiaries can direct the trustee's investment and management of the trust property. Fifth, at a beneficiary's incapacity, the trust continues as a discretionary trust, with the trustee as a full fiduciary. Therefore, no conservator needs to be appointed for the purposes of managing the trust property. Sixth, a beneficiary may direct the trustee by a simple writing to distribute the trust property in any fashion the beneficiary desires at the beneficiary's death. The writing is not a will unless the beneficiary makes it one, and the distribution is a non-probate transfer of the property.

These powers of beneficiaries distinguish a custodial trust from all other trusts. Trustees under the common law are not subject to the direction of beneficiaries. The powers of the beneficiaries in the UCTA suggest why such a trust is called "custodial" and suggest the values of a custodial trust, as well as its limitations.

A trust is custodial because the trustee's powers are limited by the beneficiaries - the trustee is a custodian for the beneficiaries' interests. The trustee is a custodian until such time as a beneficiary becomes incapacitated. The custodial trust is an ideal form of ownership for anyone who wants to make sure property is properly managed before incapacity and protected afterwards. A person with property merely conveys the property to a trustee, naming himself or herself as beneficiary. While there are no questions of capacity, the beneficiary retains significant powers over the property. At incapacity, his or her appointed trustee continues to manage the property and use it for the beneficiary. If incapacity is temporary, the beneficiary reasserts his or her powers when capacity returns. If at any time a beneficiary with capacity desires to terminate the custodial trust, he or she simply terminates it.

Who will use the trust? Older people who want to make sure they control who manages their property when they are incapacitated, are the most likely users of the UCTA. People who go on long trips and who want to assure proper management while they are gone or who want protection if they become incapacitated while traveling can use a custodial trust rather than a power of attorney if it suits their needs. These are examples of people and situations for which the UCTA was created.

At the same time, people who need discretionary trusts for estate planning and tax purposes will continue to turn to traditional trust law. The control provided to beneficiaries in the UCTA and the ability to terminate a custodial trust do not make it suitable for these purposes.

The UCTA fills very particular needs of ordinary people. It should be considered strongly by any state or jurisdiction conscious of the difficulties an ordinary person has in preparing for personal incapacity and death.

THE UNIFORM CUSTODIAL TRUST ACT

CONTENTS

- * Fact Sheet - Custodial Trust Act

- * Why states should adopt the Custodial Trust Act

- * Summary of the Custodial Trust Act

- * Media Coverage: Jane Bryant Quinn, "Proposed Custodial Trust is cheap, easy way to avoid probate," in Los Angeles Herald Examiner, December, 1987.

- * Media Coverage: "Easy Trusts," in Changing Times, January, 1988.

- * A Tradition of Excellence - A History of the Uniform Law Commissioners

- * Uniform State Laws - How a Uniform Act is Created

A Few Facts About
THE UNIFORM CUSTODIAL TRUST ACT

PURPOSE: To make the benefits of trusts available to people without extensive financial assets.

ORIGIN: Completed by the Uniform Law Commissioners in 1987.

ENDORSED BY: American Bar Association

STATE
ADOPTIONS: Arkansas
Hawaii
Idaho
Minnesota
New Mexico
Rhode Island
Virginia
Wisconsin

1993
INTRODUCTIONS: Massachusetts

For any further information regarding the Uniform Custodial Trust Act, please contact John McCabe or Katie Robinson at 312-915-0195.

(1/15/93)

WHY STATES SHOULD ADOPT THE
UNIFORM CUSTODIAL TRUST ACT

The Uniform Custodial Trust Act (UCTA), promulgated by the National Conference of Commissioners on Uniform State Laws in 1987, offers everyone a chance to establish a kind of trust that guarantees control of property at a time when a person becomes incapacitated, and that may also be used to pass on property at death without probate. The act is designed to offer a new, very simplified custodial trust, making the benefits of trusts available to people without extensive financial assets.

The UCTA was inspired by the Uniform Transfers to Minors Act, and the highly useful concept of a custodian for property of a minor under the terms of that act. But why should minors be the only beneficiaries of a good idea?

There are many reasons why every state should consider and adopt the Uniform Custodial Trust Act.

INEXPENSIVE

A custodial trust is inexpensive to create. Fees for consultation and drafting will be minimum - and non-existent in many cases. In addition, the UCTA provides an alternative to a costly court-supervised conservator or guardian. It can be used to avoid the costs and delays of probate proceedings at death. Economies can accrue broadly with the use of custodial trusts.

SIMPLE

A custodial trust can be set up by simple language referencing the statute. No elaborate trust document is necessary. Rights and obligation are derived directly from the statute.

CONTROL

Any person who creates a custodial trust retains complete control over it until incapacity or death. The named trustee manages the property in the case of incapacity, but until then, control remains with the beneficiary - the creator of the trust. The beneficiary directs the management of the property, receives income and principal, and can cancel the trust at any time.

COMPREHENSIVE

Any kind of property, real or personal, tangible or intangible, can be put in a custodial trust. Anybody can be made a beneficiary. Any legally competent person or entity can be appointed as trustee.

The Uniform Custodial Trust Act is simple, inexpensive, comprehensive, and complete. The most frequent users of this trust will most likely be senior citizens who want to provide for the management of assets in the event of future incapacity. It is also available for a parent to establish a custodial trust for an adult child who may be incapacitated. Those leaving the country temporarily can also place their property with another for management without relinquishing permanent control of their property.

The Uniform Custodial Trust Act should be adopted in every state. Although it meshes with the Uniform Probate Code (UPC), it is appropriate in states which have not adopted the UPC.

Uniform and Model Acts

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

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

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

Why the Conference Works

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

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

A Two-Part Job

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

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

For example, there were a number of real estate law experts appointed to the committee responsible for preparing preliminary drafts of the land transactions package, which includes the Uniform Land Transactions Act (ULTA), Uniform Simplification of Land Transfers Act (USOLTA), Uniform Condominium Act (UCA), Uniform Planned Community Act (UPCA),

Model Real Estate Cooperative Act (MRECA), and finally the Uniform Common Interest Ownership Act (UCIOA). These drafters included Commissioners who were law school professors as well as practicing lawyers specializing in real estate law. Outside lawyer and non-lawyer experts were invited to provide specialized knowledge to the drafting committee. These advisers represented associations of lenders, builders, sellers, lawyers and consumers. But all decisions were made by Commissioners who represent only the people of their state.

The Drafting Ordeal

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

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

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

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

The Conference Proposes — The State Disposes

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

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