

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8297

SENATE JUDICIARY



Alaskans for Life, Inc.

... Our First Inalienable Right

P.O. Box 32186
Juneau, AK 99803-2186

January 26, 1993

TESTIMONY PRESENTED TO SENATE HESS COMMITTEE, JANUARY 27, 1993
REGARDING SENATE BILL NO. 53, AN ACT ANNULING DH&SS REGULATIONS
RELATING TO FUNDING OF ABORTION SERVICES

Alaskans For Life is a non-sectarian organization with the primary goal of promoting respect for human life. Our organization supports the concept that innocent human life must be protected by government. As such, Alaskans For Life recommends that you support the administration's regulations which limit abortion funding to therapeutic abortions only.

It is our view that the regulations which were adopted by the Department of Health and Social Services cover every possible reason for justifying abortion based on health concerns. The regulations give the broadest possible definition for therapeutic abortion which includes mental, physical and psychological considerations. Furthermore, the regulations do not even require that the abortion be performed by someone other than the physician certifying that the appropriate health reasons are met for State payment. This is a clear conflict of interest. Left uncovered by the general relief medical program are only those abortions which are clearly elective in nature.

It is not appropriate for the GR Med program to be covering voluntary, elective medical procedures. Normal pregnancy is not a disease and it is wrong to treat it as such. Poor women need help, but convincing them to destroy their children is not

TESTIMONY

compassion. Also, the wealthy can afford many harmful practices but it does not mean that the State must then pay for the same practices for the poor.

Since the regulations allow payment for all therapeutic abortions only elective abortions are left. Therefore, annulment of these regulations would indicate a clear disregard on the part of the Alaskan legislature for the dignity and respect due to the child in the womb. Not only does it say that the life of the child may be ended without reason but the State would pay for it as well.

We ask that some semblance of civility be restored to our State policy on abortion funding. Therefore, we object to the annulment of the subject regulations. Doing so returns the State to the previous policy which promotes abortion on demand. We think State policy should support life not death.

January 27, 1993

L. Merrill Lowden
736 W. 12th Street
Juneau, Alaska 99801

Steve Rieger, Chair
Senate Health, Education and Social Services committee
State Capital - Room 516
Juneau, Alaska 99801-1182

Re: SB 53 - Repeal of Regulations

Dear Senator Rieger:

I write to express my strong support for passage of SB 53 which would repeal the Governor's regulations to halt state funding of abortions for poor women. The regulations obviously discriminate against poor women, and will inevitably condemn many (with their offspring) to a life of poverty. The regulations violate the right to privacy, a right so highly regarded by Alaskans that it is expressly protected by our constitution. Moreover they reflect the current administration's hostility to the civil rights, equality and well-being of women in general.

The administration has stated that the regulations were proposed for moral, rather than budgetary, reasons. This is a strange morality, in light of the exceptions nevertheless provided for women who were the victims of rape or incest. If abortion is murder, then abortion of a fetus from rape or incest is murder. I am convinced that the hypocrisy of ~~these~~ exceptions evidences a broader purpose behind promulgation of the regulations. ~~The~~ regulations are a preliminary step towards achieving an outright ban on abortion, but ~~the~~ motivation is ~~not~~ pro-life.

The imposition of compulsory motherhood is a political goal to keep the nation's largest underclass group in their traditional "place," hindered from realizing true political and economic equality because they are denied the autonomy of their own bodies. The policy makers who title themselves "pro-life" have often displayed an icy indifference to the "right to life" of the afterborn. They are not equally motivated to advocate on behalf of the homeless, the undernourished, or our citizens too poor to afford basic health care.

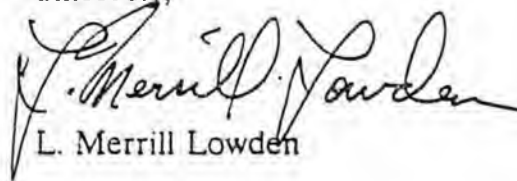
Steve Rieger, Chairman
HESS Committee
Page 2

The majority of women in this state, and the country, realize that to secure the promise of liberty in the 14th Amendment, to be free to run their own lives, they must have reproductive choice. The terribly difficult choice between terminating or continuing a pregnancy must remain with the woman in private consultation with her physician, with no undue influence from the state.

There is not much difference between a government which dictates motherhood without consent and one which, like China, can dictate an abortion without consent.

SB 53 must be passed and these regulations discarded.

Sincerely,



L. Merrill Lowden

I am Ruth Ewig, reading this for Director John Harbaugh, Assistant Director Jonathan Ewig, Treasurer David Stach, myself as Secretary of Citizens for Excellence in Education (NACE/CEE) and 1500 concerned citizens in the Tanana Valley which include Fairbanks, North Pole, Fox, Two Rivers, Salcha, Esther, and the rest of the valley. We are alarmed at the legislators who have acted to create SB53, SB55 and HB9 which further enlist the state of Alaska as an accomplice in the torture and killing of pre-born babies by abortion.

Statistically 97-98% of pre-born babies have been killed for reasons of birth control. By changing our education system to character development curriculum which is in use in different parts of the country and which has reduced teen pregnancies to zero in California you, as legislators, could serve this state well by using our limited financial resources most profitably and investing in true ABSTINENCE education with the advantages emphasized leading to responsible planning that does not butcher babies. Excellent abstinence programs through education are encouraging responsible living and ARE working to improve our nation.

The argument of "wantedness" is an unstable marker not to be trusted to decide whether we kill our babies or not, anymore than it should decide for our elderly. The Netherlands has now graduated from voluntary to involuntary disposal of preborn babies as well as elderly.

Cultural elitists such as doctors and lawyers having been seduced by a lifestyle are not taking a stand against the slaughter of our babies. Will you as legislators be trapped in the same way or be willing to restore our state to a standard to match that of our Founding Fathers?

Since the day of *Roe v. Wade* 28,000,000 babies have been butchered. "The 1960s gave birth to a feminist movement that imbued women with new ideas of personal 'freedom' and 'power'. Abortion advocates found natural allies in the feminist camp, for they promised women sexual freedom through abortion and the power of 'self determination'. Little mention was made that women were also being given power over whether their own children would live or die." (FAMILY VOICE, Jan. 1993, pg. 5)

It is acknowledged that there are a few difficult situations that media hyp and popular culture enlarge on, but pulling a baby apart does not justify crime and leads to twice the trauma.

The question really is life vs. lifestyle. Once the baby is born no woman can be, has been or will ever be compelled to raise a child she brings to full term. We identify two sets of rights: 1) the rights of the preborn babies and they ARE alive, or 2) the rights of the woman in a crisis pregnancy, to tear apart the baby relieving the burden, that is, destroying a life, saving a lifestyle.

Education is the key. News media and entertainment media have educated by creating an imaginary aura around abortion. An educational film shown to students shows how an abortion is done over a lunch hour in a record 1 minute, 50 seconds with the lady having a friendly chat with another. The baby is demolished into the consistency of tomato sauce by suctioning her out of her mother and spreading her around on a counter to show the camera audience that there really is no baby there... Because of our marvelous photography and technology we now can see that there is a complete baby living

inside even earlier than six weeks old. There is not one of us who would have ever considered abortion as a possibility if we had any idea or had access to this information about our unborn babies as living, heartbeating, breathing, feeling little precious, delicate children-to-be.

What the movie that is shown to students does not admit is that the instruction text for abortion doctors cautions them to be sure that a heart monitor is put on the unborn baby being careful not to show the mother a beating heart that then stops. This measurement is solely for the abortionist to insure that the baby is killed before being pulled out. Also, the abortion doctor is told not to let the mother watch a visual, TV-type screen during the pulling out of the lifeless body.

Other lies not revealed in this so-called "educational" film are lies behind the original case of Roe vs. Wade, behind the bogus statistics used to manipulate the people of this state and this country, the concealment of the frequency of botched legal abortions, the fact that the abortion procedure itself is more scary and complicated, the withholding of cases of hemorrhaging in women from abortions, withholding the frequency of breast cancer resulting from abortions, withholding the cases of increased child abuse in our country while the very meaning of life is threatened, "at-risk", and the lack of acknowledgement and education about the long-term suffering of emotional pain for those who are accomplices to and affected by the holocaust of abortion including roughly 7,200,000 women in America afflicted with post-abortion syndrome (PAS).

In conclusion, I quote from Congressman Pat Swindal:

"The integrity of our constitutional republic rests ultimately on how we resolve the life-and-death issues of abortion... If we are unable to preserve the most fundamental rights of which our Constitution speaks, life and liberty, our government has failed to satisfy its most basic responsibility. Such a government not only forfeits the respect of the people, but eventually its right and ability to govern as well." (A HOUSE DIVIDED, pg. 61)

Will you and your vote stand for the life, liberty and pursuit of happiness of these unborn children?

JAN 27 1992
January 27, 1992

To: Governor Hickle and Senate HESS Committee

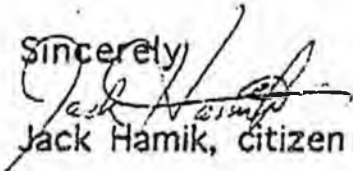
Re: Restricting abortions for the poor.

Dear Governor Hickle,

If there's something I think a government should do, it's to guarantee to its citizens the right of equal access to legal procedures. Restricting funding for abortions affects only the poor. Forcing only the poor to raise unwanted children is counter productive to the general quality of life of a community, state, or nation. Reducing our welfare rolls is, and will be, a high priority in government's ability to maintain itself in times of reduced revenues. A poor mother with unwanted children is one of any societies most costly problems. The jails are already overcrowded with unwanted children and welfare costs are at the breaking point for government agencies.

In fairness to all and in justice under the Constitution of the United States, I request you make legal medical procedures available to all who seek them.

Sincerely,


Jack Hamik, Citizen

Address: 4002 Kachemak Wy
Homer, AK 99603
907 235-2564



Alaska State Legislature

Please enter into the record my testimony to the HESS
committee name

committee on SB53, dated January 27, 1993
bill/subject

I oppose SB 53. I am opposed to the killing of unknown babies. I especially do not want to pay for these killings.

Signed: *A. Vivian Mackin*
Testifier

Representing (Optional)

2910 Summit Creek Hwy Sitka, AK 99855
Address

747-3694
Phone No.

Box 1622
Homer, AK, 99603
1-27-93

Please consider this letter in support of SB 53 which is seeking to overthrow the imposed restrictions on the use of Medicaid for abortions.

I am in support of all women regardless of their economic situation, being able to exercise their constitutional right of choice. The ban on Medicaid funds for abortion is blatant discrimination against poor women.

SB 53 will give all Alaskan women access to their constitutional right. I urge all our legislators to uphold the Supreme Court ruling and work for passage of a bill that allows all women equality in their decision making.

Sincerely,
Karen Meindock



Alaska State Legislature

Please enter into the record my testimony to the HESS
 committee name
 committee on SB 53, dated 1-27-93
 bill/subject

I am opposed to SB 53. I concur with most pro-life statements that have already been entered into record; and further believe that the monies which would "normally" be used for the elective, non-therapeutic, or any type abortion would be better used in education of women & men in abstinence and contraceptives; in general the responsibility of not choosing to use a contraceptive. How about providing tube ties (which can be reversed with less problems than an abortion) or other reversible contraceptive action. Abortion is not reversible. If any physical, mental or emotional problems happen from an abortion, it is too late. It is non-reversible. Thank you to those legislators who are putting value on ALL human life.

Signed: Frances Hallgren
 Testifier

Representing (Optional)
Box 1203 Sitka Ak 99835
 Address
747-6909 or 747-5076
 Phone No.

have obligation to direct birth control education.

P.S. I am very much in favor of providing easier adoption. that be "in charge" of their bodies, then they



Alaska State Legislature

Please enter into the record my testimony to the HES committee
committee name

committee on SBS3, dated 1/27/93
bill/subject

My name is Ann Dooley. I am the mother of two. I am a registered voter and I am in favor of SBS3. I believe that the choice of whether to have an abortion is a deeply personal and private issue. The US. made is still in existence and makes the choice available to all. Governor Wicker's Executive Order desires to affect poor and disadvantaged women, while wealthier women still have the option available to them. Our society is based on equality—that includes access to services. The current regulations create an inequality & "broadens the gap between the "haves" & "have-nots".

Allowing these current regulations do 2 things: they create an immense "unpaid financial burden on society as these individuals (newborns) are added to the welfare system. Secondly, it gives the poor woman few options, and consequently places her in a dangerous & life threatening situation, as they resort to unsafe and/or illegal options. Thank you for your time. Please approve & move this Bill out of your committee.

Signed: Ann E. Dooley
Testifier

self
Representing (Optional)

PO Box 7431 NIKISKI AV 99685
Address

(907) 776-8113
Phone No.

2



Alaska State Legislature

Please enter into the record my testimony to the Senate Health Service Committee
committee name

committee on SB 53, dated 1/27/93
bill/subject

I want to go on record as saying that I am opposed to allowing my tax dollars to pay for the murder of innocent children. I believe this is morally wrong. I believe the government has a responsibility to protect lives, including the lives of urban children. I also highly recommend all committee members to view the video HARD TRUTH.
I am strongly opposed to SB 53.

Thank you,
Stephanie Vieira

Signed: Stephanie A Vieira
Testifier

Representing (Optional)
611 Burke St

Address
7473698

Phone No.



Alaska State Legislature

Please enter into the record my testimony to the HESS
committee name
 committee on SB 53, dated Jan 27, 93
bill/subject

I support state funding for abortions and SB 53. Women have the right, including disadvantaged women, to choose abortion. The U.S. Supreme Court's decision to grant women the right to receive an abortion should not apply to women who can afford it. I believe that ending state funding for abortions is just the beginning of the erosion of women's rights in general. The pro-life constituency is loud, but it is not the majority. Please listen to the women of Alaska. I am a registered voter, and I vote pro-choice

Signed: Ann Teuce
Testifier

Representing (Optional)
PO Box 43 Kasilof, AK 99610
Address
262-2751
Phone No.

4



To	<u>Wendy LEO</u>	From	<u>Vesta</u>
Cell #	<u>Rebecca Delenik</u>	Co.	<u>Sen HESS</u>
Dept.		Phone #	
Fax #	<u>Thanks</u>	Fax #	

ture

Please enter into the record my testimony to the Senate Hess
committee name

committee on SB 53, dated 1/27/93
bill/subject

I am president of Kenai-Soldotna Right to Life. It is the consensus of all of the Alaska Right to Life chapters that no public funding of any kind for abortions should be allowed. The governor's regulations are totally spineless in that they still allow funding for abortions for rape, incest, physical and psychological reasons. The loophole for funding is so large that we recognize that elective, non-therapeutic abortions can still be funded. Of the 38 states with holding public funds for abortions, no loopholes, that is, exceptions, of the nature we have with Gov. Hickel's regulations, exist. Whether these regulations stand or fall will be of little consequence as far as preventing the use of public funds for abortions. Please, Gov. Hickel, legislators, give us regulations that do stop public funds from being used!

Signed: Rebecca L. Perry

Testifier
Kenai-Soldotna Right to Life
Representing (Optional)
HC 2 Box 561 Kasilof AK 99610
Address
262-9004
Phone No.

①



Alaska State Legislature

Please enter into the record my testimony to the Senate Health, Education & Social Serv. Comm.
 committee name
 committee on SB 53 - Annulment, dated 1-27-93
 bill/subject Charity's

Women are too often victims in our society. It is critical that we allow all women, regardless of economic position, the opportunity to make a choice.

I support SB 53.

Signed: Shawn Finnen
 Testifier

Representing (Optional)
35985 Pioneer Dr. Soldotna, AK 99669
 Address
(907) 262-9833
 Phone No.

3



Alaska State Legislature

Please enter into the record my testimony to the Senat. Health Service
 committee name
 committee on SB 53, dated 1-27-93
 bill/subject

I am opposed to HB 53!

I do not believe tax money should be used in paying for the killing of babies. I also think you should view the 7 min film that was suggested from Juneau.

Signed: Shan R. Simato
 Testifier

Representing (Optional)
P.O. Box 2057, Sitka, AK 9985
 Address
(907) 747-6727
 Phone No.

TO: HESS COMM.

1/27/93

I support SB53. Poor women deserve access to rights, as well as those who are not poor. Abortion is an intensely personal decision & one's right to privacy should not be limited to those financially able. It is time to put this issue into statute and ensure that poor women, rural & urban, have their rights protected as well. Thanks for introducing his important legislation.

Beverly Fletcher

BEVERLY FLETCHER

P.O. BOX 21791

JUNEAU AK 99802



Alaska State Legislature

Please enter into the record my testimony to the Senate Health & Social Service Committee
committee name

committee on SB 53 , dated 1/27/93
bill/subject

I Am opposed to SB 53 And to Any public
funding of abortion.

Signed: [Signature] (William J. Donnelly)
Testifier

Representing (Optional)
405 VESTOVIA SITKA, AK 99835
Address
(907) 747-3127
Phone No.

January 27, 1992

Dear Governor Hickle, and Senate HESS Committee

As a responsible mother and concerned citizen, I beseech you to allow the poor the same opportunities in controlling their life as those with abundant resources. Please do not restrict abortions for the poor.

Sincerely,

Carole Hamik

Address: 4002 Kachemak Wy
Homer, AK 99603
907 235-2564



Alaska State Legislature

Please enter into the record my testimony to the Senate Health and Social Services
committee name

committee on SB 53, dated _____,
bill/subject

*I am against Bill SB 53, and don't want
my tax dollars being spent on this.
Abortion is wrong, God says so.*

Signed: *Edward M. Mathews*
Testifier

Representing (Optional)

3208 Hallett Pl. P.O. 50-15, Sitka Alaska 99825
Address

(907) 747-6996
Phone No.



Alaska State Legislature

Please enter into the record my testimony to the HESS
 committee name
 committee on SB53 , dated 1/27/93
 bill/subject

I SUPPORT SB53.

I BELIEVE ALL REPRODUCTIVE CHOICES SHOULD BE VIEWED AS THE HEALTH ISSUE THAT THEY ARE, AND SHOULD BE AVAILABLE TO ALL WOMEN IN THE STATE.

I THINK IT'S TIME TO STOP USING REGULATIONS OR LEGISLATION TO DISCRIMINATE.

IT IS TIME TO RECOGNIZE WOMENS' FULL PERSONHOOD, RIGHTS AND VALUE AS EQUAL TO ^{THAT OF} MEN, AND NOT LESS THAN THE UNBORN.

Signed: EVELYN R. FRISK *Evelyn R. Frisk*
 Testifier

 Representing (Optional)
P.O. BOX 10465 FBKS AK 99710
 Address
907-457-2552
 Phone No.



Alaska State Legislature

Please enter into the record my testimony to the Social Serv. Health Social Services
committee name
committee on SB 53, dated 1-27-98
bill/subject

I oppose this Bill SB 53.
I am a 65 yr. old Grand-mother, and
am against abortion, of any kind, except to
save the life of the mother.

All teens over 16 should have to see the
abortion film "Hard Truth"; and be counseled
on leaving their obstinence and that abortion
is morally wrong.

I commend Governor Waskieleski on his stand
on abortion.

Most Sincerely

Signed: Louise E. Matthews
Testifier

Sitka for Life and Pro-Life
Representing (Optional)

3208 Hester Pl. Rd. Apt. 15 Sitka, Alaska
Address

(907) 747-6996
Phone No.



Alaska State Legislature

Please enter into the record my testimony to the Hess
 committee name
 committee on HB-53, dated 1/27/93
 bill/subject

I STRONGLY SUPPORT THIS BILL - IT IS CRITICAL THAT THE REGULATIONS, RESTRICTING FUNDING FOR ABORTIONS FOR POORER WOMEN, BE REPEALED. WITHOUT ACCESS TO THIS IMPORTANT HEALTH CARE, A POOR WOMAN IS FACED WITH THE APPALLING "CHOICE" OF SEEKING AN UNSAFE + ILLEGAL ABORTION, OR FACING A CRISIS PREGNANCY, WHICH COULD HAVE SERIOUS HEALTH CONSEQUENCES AND EFFECTIVELY ELIMINATE HER ABILITY TO HAVE CONTROL OVER HER LIFE. WOMEN'S LIVES ARE AT STAKE, AND IT'S VITAL THAT THEY HAVE THIS OPTION, REGARDLESS OF SOCIAL STATUS, OR WEALTH. PLEASE PASS HB-53 AND CONTINUE TO FUND ABORTIONS AND PROTECT WOMEN'S RIGHT TO PRIVACY.

Signed: LISA DUMAS Lisa M. Dumas
 Testifier

Representing (Optional)
P.O. Box 60652, Fbks, AK 99706-0652
 Address
(907) 457-1458
 Phone No.



Alaska State Legislature

Please enter into the record my testimony to the HESS
 committee name
 committee on SB 53, dated 11/27/93
 bill/subject

I'd like to share with you my first thought on awakening this morning: When I was in kindergarden, I learned it was wrong to kill people.....
 Let me close with a quote by Henry David Thoreau. " Things don't change. We do." I oppose SB 53 (do not) because it is wrong to kill people.
 Thank-you.

Signed: Mary S Soltis
 Testifier

Representing (Optional)
1615 De Groff Sitka AK
 Address
747-5624
 Phone No.



Alaska State Legislature

Please enter into the record my testimony to the Senate Hess
committee name
 committee on SB 53, dated 1/27/93
bill/subject

I support SB 53. please keep abortions safe for all women

Signed: K Metcalfe, Kathleen Metcalfe
Testifier

Representing (Optional)
6624 Imlaen Way, Anch 99502
Address
248-4650
Phone No.



Alaska State Legislature

Please enter into the record my testimony to the Hess
 committee name
 committee on SB-53, dated 01-27-93
 bill/subject

I STRONGLY OPPOSE THE FUNDING OF ABORTION WITH GOVERNMENT MONEY. BECAUSE ABORTION ON DEMAND SEEMS TO BE THE POPULAR TREND, IT BY ALL MEANS DOES NOT MAKE IT RIGHT! IN ALL RESPECT, MR. CHAIRMAN, THE ABORTION INDUSTRY IS A GREAT FINANCIAL SUCCESS THROUGH THE RUSHING AND DISMEMBERING OF OUR MOST SILENT AND INNOCENT LITTLE ONES. . . . THE PRE-BORN - WITH 2ND AND 3RD TRIMESTER ABORTIONS BRINGING IN A HIGHER FEE. . . . THERE IS A FAIRLY NEW PROCEDURE BEING OPENLY PRACTICED IN THE LOWER 43, IN (5) STATES, TO ABORT 2ND/3RD TRIMESTER BABIES. BECAUSE BABIES HAVE DEVELOPED SO FAR AT THIS AGE, IT IS DIFFICULT TO CRUSH AND DISMEMBER, AND CHEMICALLY INDUCED ABORTIONS POSE RISKS TO MOTHERS, LET ALONE BABIES BEING BORN ALIVE. THE NEW PROCEDURE D+X (DIIVATION AND EXTRACTION) USES FORCEPS TO GRASP THE BABY'S LEG AND PULLS THE BABY OUT LEAVING THE HEAD IN BIRTH CANAL. BLUNT SCISSORS ARE THEN USED TO PUNCTURE HOLE IN THE BASE OF THE SKULL. A SUCTION CATHETER IS THEN APPLIED TO THE WOUND AND THE CHILD'S BRAINS ARE REMOVED. THIS IS THE FACE OF CHOICE. FOR YOU WHO ARE PARENTS, DO YOU RECALL WHEN YOUR WIFE (OR YOURSELF) WAS PREGNANT WITH YOUR CHILDREN? DO YOU REMEMBER THE LITTLE ELBOW, OR LITTLE FOOT PRESSING ON THE STOMACH? DO YOU REMEMBER FEELING THE BABY MOVE AND TURN? THESE BABIES ARE THE FACE OF ABORTION. OUR STATE PLACES GREAT VALUE ON ENVIRONMENT AND WILDLIFE. PLEASE LET ALASKA SET THE STANDARD TO RESPECT AND VALUE HUMAN LIFE IN OUR NATION. MR. CHAIRMAN AND COMMITTEE MEMBERS I CHALLENGE YOU TO VIEW ^{the FILM} "HARD TRUTH". IT IS 7 MIN. THAT WILL CHANGE YOUR LIFE.

VOTE NO ON SB-53 FOR THE BABIES.

Thank you.

Signed: Jeri Junday
 Testifier

Defender of the Pre Born
 Representing (Optional)

P.O. Box 2975
 Address

Sitka AK 99835 747-8138
 Phone No.



Alaska State Legislature

Please enter into the record my testimony to the HESS
 committee name
 committee on HB-53 , dated JAN, 27 1993
 bill/subject

I strongly support this bill. Any woman who wants an abortion - for whatever reason - should be able to obtain one. You may take my tax dollars now, rather than many thousands of my tax dollars later to provide services for unwanted, mistreated or pre-natally neglected children. Do people honestly believe that because a poor woman is denied an abortion that she will ~~then~~ treat her unborn child as if she truly wanted it? I speak as a 5-months pregnant mother of one.

Signed: Kathleen Hudson
 Testifier

Representing (Optional)
850 Balsam Dr. FBKS, AK 99712

Address
457-1614

Phone No.



Alaska State Legislature

Senate Health, Education and
Social Services Committee

Please enter into the record my testimony to the _____
committee name

committee on Senate Bill No. 53, dated 1/22/93
bill/subject

Good afternoon. My name is Charles Dean, and I am here to speak on behalf of the unborn children of Alaska. As an unwillingly aborted father, I am opposed to the passage of Senate Bill No. 53.

The prohibition recently enacted which disallows the use of Alaska funds for the use of elective, nontherapeutic abortion under the extant general relief medical assistance program will withstand legal challenge under both the United States and State of Alaska constitutions. Further, the right to privacy is not inherently linked to a requirement for state funding of elective, nontherapeutic abortion under the general relief medical program. The existence of this prohibition in no way violates the state equal protection guarantees, since no other elective medical procedures for otherwise healthy persons are currently funded under the general relief medical program.

As a long-time Alaskan, I have had to peacefully coexist with abortion on demand in this state for twenty years. It is to this state's great disgrace that it has permitted this holocaust against its

very heritage to exist at all. But to pay for it with ^{Abortion}public dollars!? The status quo makes all Alaskans something like accessories-before-the-fact for murder...repeal of this prohibition will bloody our hands.

Signed: Charles B. Dean *HCBI*
Testifier

Representing (Optional)

P.O. Box 2282 Sitka, AK 99835

Address

907-747-1072

Phone No.



Alaska State Legislature

Please enter into the record my testimony to the Senate Health, Education and Social Services
committee name

committee on Senate Bill No. 53, dated 1/22/93
bill/subject

I support Senate Bill 53 which would annul changes made in abortion funding regulations so that abortions are eligible for funding under the regulations of the Department of Health and Social Services as they existed in December of 1992.

I am prochoice and believe that all women have the right to have an abortion, even women who are poor.

Signed: Jennifer A. Mason
Testifier

SELF

Representing (Optional)

907 Halibut Point Rd. #47 Sitka, AK 99835

Address

(907) 747-4897

Phone No.

27 January 1993

To: Senate Health Education and Social Services Committee

Re: Senate Bill 53

My name is Natasha Calvin, and I am representing the Sitka Coalition for Women's Rights. We want to thank the HESS Committee for sponsoring this bill.

The Sitka Coalition for Women's Rights supports the passage of Senate Bill 53, to continue state support for abortion services for poor women who are unable to pay. The Governor's office has admitted that there is no financial justification for stopping payment for abortions. Clearly this is a religious agenda of the Catholic Church. There is no place in our health services for a religious agenda. Mr. Hickel's regulations, which are designed to force poor women to carry unwanted pregnancies to term and to have babies they do not want and/or cannot financially afford to care for is regressive in the extreme.

The Health, Education and Social Services Committee should be researching ways to provide universal medical coverage, for all Alaskans. A good place to start is to continue funding all health services for the disadvantaged, especially abortions for poor women who cannot afford to pay for them.

Thank you for allowing us to testify.

Natasha Calvin for
Sitka Coalition for Women's Rights
Box 2966
Sitka, Alaska 99835

747-8950



Alaska State Legislature

Please enter into the record my testimony to the H E S S
 committee name
 committee on S B 53, dated 1/23/93
 bill/subject

Dear Hon. Senator Rieger -

Please know that the Sitka League of Women Voters strongly supports senate bill #53 - which annuls changes made in abortion funding regulations that were filed with the Lt. gov. in January 1993.

We feel that poor women too should have the right to choose safe abortions.

Signed: Clotilde Bahovec
 Testifier

Sitka League of Women Voters
 Representing (Optional)

627 De Kroff St.
 Address

Sitka
 Phone No. 747-8185



Alaska State Legislature

Please enter into the record my testimony to the DHHS
 committee name
 committee on funding for abortion dated 27 Jan. 1993
 bill/subject

The Abortion Rights Project, with over 20,000 registered Anchorage pro-choice voters, is committed to ensuring that abortion remains safe & legal for all women.

We urge you to pass a bill this session which will help keep the option open for all women.

Let's make certain that every child is a wanted child.

We support the statement made by John Lindback of the Fiscal Coalition for Pro Choice. Thank you

Signed: [Signature]
 Testifier
Abortion Rights Project
 Representing (Optional)
PO Box 940667 Anchorage AK 99524
 Address
345-7980
 Phone No.



Alaska State Legislature

Please enter into the record my testimony to the HESS
committee name

committee on SB 53 . dated 1/27/93
bill/subject

I support SB 53, but I think it does not go far enough to protect the current rights of all women to choose regardless of their ~~to~~ income. To only annul Governor Hickel's regulations is to invite the administration to try again to submit other regulations to limit state funding for abortions.

Women who qualify for Medicaid are those without the financial resources to pay for a medically safe abortion and are therefore more likely to seek unsafe means to end their pregnancies.

Signed: Mim Dixon (Mim Dixon)
Testifier

Representing (Optional)
PO Box 81585, Fairbanks, AK 99708
Address
479-3459
Phone No.



Alaska State Legislature

Please enter into the record my testimony to the HESS
committee name

committee on SB 53 , dated 1-27-93
bill/subject

Back-up to verbal testimony:

I am a nurse practicing for 27 years -
20 in women's health care and public health.
I present options to women who have unintended
pregnancies. I have seen abortions, I accept
the death of a fetus when chosen by the mother.
I know the realities of terminating a pregnancy
and the realities of lives of children born into
unloving homes. All options must be available
to all women regardless of income. Keep state
funding available to eligible women for
abortions. It is time for busy-body
people to stay out of the lives of other citizens.

Signed: Anne Harrison *Pregnancy decisions are private*
Testifier

Self
Representing (Optional)

3070 Arctic Coal Rd, Fairbanks, AK 99709
Address

479-3594
Phone No.

SB

54

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 54

Revision Date: 2-5-93 Dept. Affected: Department of Corrections
 Title: "An Act relating to violations of laws by Juveniles..." BRU: Institutions
 Component: Institutions
 Sponsor: Senator Halford
 Requestor: Senator Halford COMPONENT SERIAL NO. 1860

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

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

ANALYSIS: (Attach a separate page if necessary)

The fiscal impact of this legislation is minimal since the department already receives a number of adjudicated delinquents.

Prepared by: Dana LaTour, Special Assistant
 Division: Commissioner's Office
 Approved by Commissioner: Lloyd G. Rupp
 Agency: Department of Corrections

Phone: 465-3376
 Date: 2-5-93
 Date: 2-5-93

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 54

Revision Date: January 27, 1993

Title: "An Act relating to violations of laws by juveniles..."

Sponsor: Senator Halford

Requestor: Senator Halford

Department Affected: Department of Law

BRU: Prosecution

Component: All

COMPONENT SERIAL NO. 0085 through 0090

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 GF/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.

Prepared by: Richard I. Peques, Director

Division: Administrative Services Division

Approved by Commissioner: Richard I. Peques (FURT)

Agency: Department of Law

Phone: 465-3672

Date: January 27, 1993

Date: January 27, 1993

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 54

ANALYSIS (Continued):

This bill provides the framework for a major departure from the way that the state adjudicates minors charged with serious criminal offenses.

Historically, the state has used the Children's Proceedings process provided in AS 47.10 to handle delinquent behavior unless the court found that the minor was not amendable to treatment as a juvenile. In such cases, the state has been required to petition the court for a waiver of jurisdiction so that the minor may be prosecuted as an adult in the superior court. In determining whether or not a minor is amendable to treatment, the court considers the seriousness of the offense the minor is alleged to have committed, the minor's history of delinquency, the probable cause of the minor's delinquent behavior, and the facilities available for treating the minor.

While still retaining the AS 47.10.060 waiver of jurisdiction provision for many offenses, SB 54 also provides that Children's Proceedings under AS 47.10.020 - 47.10.090 may not be followed when a minor is sixteen years of age or older and is charged with an unclassified or class A felony. Consequently, a minor accused of an unclassified or class A felony would be charged, prosecuted, and sentenced in the superior court in the same manner as an adult.

The bill also provides that if a minor is charged and prosecuted under these new provisions, but is ultimately convicted of a lesser offense(s), the minor will thereafter be sentenced and treated in accordance with juvenile rules, under AS 47.10.

Each year the department seeks to waive minors to adult court, using AS 47.10 proceedings, in just a handful of cases. Current data indicates that there are about 25 to 30 unclassified and class A felonies committed by minors 16 years of age or older each year. Prosecution of these minors as adults would cause about a 10 percent increase in the number of unclassified and class A felonies that the Department of Law prosecutes annually. And this increase represents about a one and one-half percent increase in the number of felonies that the department prosecutes overall. We therefore cannot say that the bill will cause a quantifiable fiscal impact for the Department of Law by location. There will, however, be a measurable increase in serious felony workload handled by state's District Attorney offices. This increased felony workload will result in an even larger number of less serious offenses being declined for prosecution. It should also be noted that the bill could have a fiscal impact on the Department of Corrections.

FISCAL NOTE

BILL NO. SB 54

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Revision Date: _____
 Title: "An Act relating to violations of laws by juveniles; and providing . . ."
 Sponsor: Senators Halford, Phillips, et al.
 Requestor: Senate Judiciary

Department Affected: Administration
 BRU: Office of Public Advocacy
 Component: Office of Public Advocacy
 COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES:

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	112.5	115.9	119.4	123.0	126.7	130.5
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	112.5	115.9	119.4	123.0	126.7	130.5

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	112.5	115.9	119.4	123.0	126.7	130.5
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	112.5	115.9	119.4	123.9	126.7	130.5

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 (FY93) impact: None

ANALYSIS: (Attach a separate page if necessary.)
 See attached.

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

Phone: 274-1684
 Date: _____

Approved by Commissioner: Nancy Bear Usera
 Agency: Administration

Date: 2/2/93

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 54

ANALYSIS: (continued)

This bill will automatically waive all juveniles charged with unclassified and Class A felonies into adult court. Currently, the most serious cases are waived into the adult system. Office of Public Advocacy (OPA) is now able to provide representation to nonwaiver 16 and 17 year olds charged with unclassified and Class A felonies through staff civil lawyers. Automatic waiver of such individuals will cause a significant increase in costs to the criminal justice system. For example, cases involving robbery in the first degree, a Class A felony, are now commonly disposed of within the juvenile system.

Automatic waiver of all 16 and 17 year olds charged with unclassified and Class A felonies will necessitate the immediate assignment of criminal defense counsel to each of these defendants. It is not possible to anticipate how changes in charging decisions by prosecuting authorities might affect the numbers of such cases. For example, merely changing a charge from robbery in the first degree to robbery in the second degree will mean that a particular juvenile remains in the juvenile justice system. OPA's estimate is that it will receive approximately 15 additional major felony cases as a result of passage of this bill at an average estimated cost of \$7,500.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 54

Revision Date: _____
 Title: "An Act relating to violations of laws
by juveniles . . ."
 Sponsor: Sen. Halford, Phillips, Leman, Taylor, Miller
 Requestor: _____

Department Affected: Administration
 BRU: Public Defender Agency
 Component: Public Defender Agency
 COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	130.5	134.4	138.4	142.6	146.9	151.3
TRAVEL	5.0	5.2	5.4	5.6	5.8	6.0
CONTRACTUAL	7.5	7.7	7.9	8.1	8.3	8.5
SUPPLIES	4.0	4.1	4.2	4.3	4.4	4.5
EQUIPMENT	8.0	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	155.6	151.4	155.9	160.6	165.4	170.3

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE FUND SOURCE:	0.0	0.0	0.0	0.0	0.0	0.0
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FUNDING:

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	155.0	151.4	155.9	160.6	165.4	170.3
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	155.0	151.4	155.9	160.6	165.4	170.3

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	4.0	4.0	4.0	4.0	4.0	4.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year (FY93) impact: _____

ANALYSIS: (Attach a separate page if necessary.)
 See attached.)

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

Phone: 279-7541
 Date: _____

Approved by Commissioner: Nancy Bear Usera
 Agency: Administration

Date: 2/12/93

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 54

ANALYSIS: (continued)

Introduction

This bill provides that all minors 16 years of age or older who are charged with unclassified or Class A felony offenses and any charges joined with those offenses will no longer be handled by the juvenile delinquency system but rather will be prosecuted in superior court in the same manner as an adult.

Fiscal Impact

This law will result in an increase in serious felony cases for the Alaska Public Defender Agency. In the current system, most juvenile offenders admit (the equivalent of pleading guilty or no contest) once formally charged in a delinquency petition. Under this proposed bill, both juveniles and defense lawyers will take a very different approach. Lawyers will advise juveniles 16 to 18 years old that they have absolutely no opportunity to prove that they can be rehabilitated even if they have never been in trouble before and in addition, if convicted under the adult sentencing statutes will be facing mandatory sentences of at least 5 years in an adult jail setting under current Alaska presumptive sentencing law. With these kinds of stakes there will be no reason not to contest every aspect of the charge. Currently, very few trials are held in juvenile court. These offenders will be forced to litigate pre-trial and trial issues before judges and juries as deemed appropriate.

In fiscal year 1992 the Alaska Public Defender Agency handled 500 juvenile delinquency cases. It is unknown how many of those cases included 16 to 18 year olds with A or unclassified felonies. The Fairbanks Office of the Public Defender Agency predicts 15 to 20 such cases a year out of its juvenile cases. The Anchorage office will see at least that many. Outer offices and bush locations will add more "automatic waiver" cases to the Public Defender caseload. The following is the Public Defender's best estimate as to the additional resources needed to litigate these matters.

Budget Analysis

100	Personal Services:	
	1/2 Attorney III (Anchorage)	36.5
	1/2 Attorney III (Fairbanks)	41.5
	1/2 Paralegal Assistant II (Anchorage)	25.8
	1/2 Paralegal Assistant II (Fairbanks)	<u>26.7</u>
	TOTAL	130.5
200	Travel:	
	Professional and Experts	5.0
300	Contractual:	
	Expert Witnesses, office space	7.5
400	Supplies:	4.0
500	Equipment (one time)	<u>8.0</u>
	TOTAL	155.0

Position Title Paralegal Assistant II		No. of Positions 2	Range / Step 16/A	Barg. Unit GGU
Time Status PPT	Staff Months 12.0	Location Anchorage/Fairbanks		Election District 7 20
TYPE OF EXPENDITURE		AMOUNT		Justification In fiscal year 1992, the Alaska Public Defender Agency handled 500 juvenile delinquency cases. It is unknown how many of those cases included 16 to 18 year olds with A or unclassified felonies. The Fairbanks Office of the Public Defender Agency predicts 15 to 20 such cases a year out of its juvenile cases. The Anchorage office will see at least that many. Outer offices and bush locations will add more "automatic waiver" cases to the Public Defender caseload. The following is the Public Defender's best estimate as to the additional resources needed to litigate these matters: ½ Attorney III (Anchorage) ½ Attorney III (Fairbanks) ½ Paralegal Assistant II (Anchorage) ½ Paralegal Assistant II (Fairbanks)
Salary	37,170.0			
Benefits	15,274.0			
Premium Pay				
Other				
Total Personal Services	67,925.0	67,925.0		
Travel		0.0		
Contractual		0.0		
Commodities		2.0		
Equipment		4.0		
Other				
Total Cost		73,925.0		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts	1002			
G.F. Match	1003	73,925.0		
General Fund	1004			
I-A Receipts	1007			
CIP Receipts	1061			
Other				

9/fy94/17/04121b.kp

Request For New Position

AGENCY ADMINISTRATION

BRU Public Defender Agency

COMPONENT Public Defender Agency

FY 94

Page 3 of 4
Revised Date: _____

Position Title Attorney III		No. of Positions 2	Range / Step 22/A	Barg. Unit PX
Time Status PPT	Staff Months 12.0	Location Anchorage/Fairbanks		Election District 7 20
TYPE OF EXPENDITURE		AMOUNT		Justification In fiscal year 1992, the Alaska Public Defender Agency handled 500 juvenile delinquency cases. It is unknown how many of those cases included 16 to 18 year olds with A or unclassified felonies. The Fairbanks Office of the Public Defender Agency predicts 15 to 20 such cases a year out of its juvenile cases. The Anchorage office will see at least that many. Outer offices and bush locations will add more "automatic waiver" cases to the Public Defender caseload. The following is the Public Defender's best estimate as to the additional resources needed to litigate these matters: ½ Attorney III (Anchorage) ½ Attorney III (Fairbanks) ½ Paralegal Assistant II (Anchorage) ½ Paralegal Assistant II (Fairbanks)
Salary	57,156.0			
Benefits	20,888.0			
Premium Pay				
Other				
Total Personal Services	78,044.0	78,044.0		
Travel		5,000.0		
Contractual		7,500.0		
Commodities		2,000.0		
Equipment		4,000.0		
Other				
Total Cost		96,544.0		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004	96,544		
I-A Receipts	1007			
CIP Receipts	1061			
Other				

9/FY94/17/04121b.kp

Request For New Position

AGENCY ADMINISTRATION

BRU Public Defender Agency

COMPONENT Public Defender Agency

FY 94

Page 4 of 4
Revised Date: _____

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO: CSSB 54

Revision 2/15/93 Dept. Affected: Public Safety
 Title: "An Act relating to violations of laws by juveniles." BRU: Alaska State Troopers
 Sponsor: Senator Halford Component: Detachments
 Requestor: Senate Judiciary COMPONENT SERIAL NO. 799

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

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	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE FUND SOURCE:						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year (FY 93) impact: \$ _____

ANALYSIS: (Attach a separate page if necessary.)

No significant fiscal impact upon the Alaska State Troopers is anticipated.

Prepared By: Francis C. Allan Phone: 269-5691
 Division: Alaska State Troopers Date: 2/15/93
 Approved by Commissioner: *[Signature]* Date: 2/17/93
 Agency: Richard L. Burton, Dept. of Public Safety

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BILL NO: CSSB 54

DATE: February 17, 1993

TITLE: "An Act relating to violations of laws by juveniles. . ."

CONTACT: C.E. Swackhammer
Deputy Commissioner
465-4322

Section 1 amends AS 12.55.045 Restitution, paragraph (a), by adding a defendant who is a minor to those individuals the court may order to make restitution to a victim.

Section 2 amends AS 33.30.901 Definitions, paragraph (11), to include a juvenile committed to the custody of the commissioner when the juvenile has been convicted as an adult.

Section 3 amends AS 34.50.020 Liability for the Destruction of Property by Minors, paragraph (a), to increase the civil damages from \$2,000.00 to \$5,000.00 against an unemancipated minor or who maliciously injures property belonging to a person, municipal corporation, association, village, school district, or religious or charitable organization.

Section 4 amends AS 43.23.065 Exemptions to Permanent Fund Dividends, paragraph (b), which permits the seizure of minor's permanent fund dividend check up to the value of \$5,000.00 if the minor is convicted of an act against a person which caused injury or minor's malicious or willful injury of real or personal property and also allows seizure of permanent fund dividend check of the parent, legal guardian, or person having legal custody of an unemancipated minor.

Section 5 adds a new subsection AS 47.10-010 which allow a minor 16 years of age or older to be tried as an adult if the minor committed an unclassified or class A felony or a crime against a person that is classified as a felony and the minor has previously adjudicated as delinquent or convicted as an adult as a result of an offense against a person classified as a felony and paragraph (G) of this section provides for the minor to be sentenced as an adult if convicted of the above listed crimes.

Section 6 amends AS 47.10.060 Waiver of Jurisdiction, which provides that the court may not seal the records of a criminal proceeding under AS 47.10.010(e)-(g)

Section 7 amends AD 47.10.080 Judgements and Orders, paragraph (b), by stating that the court may not refuse to make an order of restitution if the findings of delinquency is based on the offense which knowingly or intentionally injures real or personal property.

Section 8 adds a new section AS 47.10.080 provides if a minor was first prosecuted as an adult but convicted of an offense which was not included in the AS 47.10-010(e) if the minor should be treated as a minor.

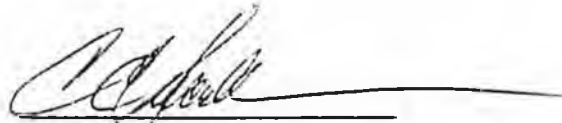
Section 9 amends AS 47.10-090 Records, by adding a new subsection which provides for records access to a victim of a crime against the persons real or personal property by a minor adjudicated delinquent.

Section 10 amends AS 47.10.190 Conditions Covering Detention, by adding that a minor does not need to be jailed apart from adults when the juvenile was convicted as an adult.

Section 11 amends AS 47.10.990 Definitions, by adding a definition of crime "Crime against a person" as having the meaning given by AS 33.30.901 (section 2, above).

Section 12 amends rule 21(b) Alaska Delinquency Rules, to provide for a jury of 12 persons if the juvenile request trial if the act the juvenile is accused of is punishable as a felony and for a trial jury of 6 if none of the acts the juvenile accused of is a felony under AS 11.

This legislation will increase the amount of investigative time only to the extent of requiring grand jury appearance by the investigating officer(s). It will not impact the thoroughness of the criminal investigation of a serious crime.



Richard L. Burton
Commissioner

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO: SB 54

Revision Date: _____ Dept. Affected: Public Safety
 Title: "An act relating to violations of laws by juveniles." BRU: Alaska State Troopers
 Component: Detachments
 Sponsor: Senator Halford
 Requestor: Senator Halford COMPONENT SERIAL NO. 799

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year (FY 93) impact: \$ _____

ANALYSIS: (Attach a separate page if necessary.)

No significant fiscal impact upon the Alaska State Troopers is anticipated.

Prepared By: Francis C. Allan Phone: 269-5691
 Division: Alaska State Troopers Date: 1/26/93
 Approved by Commissioner: *Richard L. Burton* Date: 1/27/93
 Agency: Richard L. Burton Dept. of Public Safety

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Senator Rick Halford
President of the Senate

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907-465-4958

While in Interim:
P.O. Box 670190
Chugiak, AK 99567
907-694-4958

MEMORANDUM

TO: Senator Robin Taylor, Chairman
Senate Judiciary Committee

FROM: Senator Rick Halford

DATE: February 2, 1993

SUBJECT: Sponsor Statement -- CSSB 54, "An Act relating to violations of laws by juveniles and to the remedies for property-related and other offenses and activities committed by juveniles, and to records of those offenses; and providing for an effective date."

In recent years the frequency and violence of juvenile crime have escalated at an alarming rate. Although this problem is strongly influenced by numerous factors beyond direct government control, public confidence in the justice system's treatment of juvenile crime has substantially eroded in the face of two general perceptions. First, the system is overly concerned with the rights of juvenile offenders and not concerned enough with protecting the rights of actual and potential victims of juvenile crime. Second, given the escalation of juvenile crime, the current system seems to fail to provide the convincing threat of punishment necessary to deter juvenile delinquents from evolving into hardened criminals.

I have introduced Senate Bill 54 to require that juveniles charged with the most serious kinds of crimes - class A and unclassified felonies - be prosecuted and sentenced as adults if they are sixteen years of age or older. The criminal records of juveniles convicted of these crimes and all properly joined offenses will not be sealed upon release. Furthermore, CSSB 54 defines in statute the terms of incarceration for juveniles who are convicted as adults by providing that they remain in the custody of the Department of Health and Social Services until their eighteenth birthday, after which they are transferred to the custody of the Department of Corrections for the balance of their sentence.

SPONSOR STATEMENT

CSSB 54 also provides new measures designed to deter juvenile property crime and thus also arrest the normal pattern of juvenile criminal development at a less serious stage. At present, courts are not required to order juveniles to pay restitution for property crimes. Since the names of juvenile delinquents are kept confidential, it is also virtually impossible to sue them for damages. CSSB 54 will require courts to order juveniles to pay suitable damages for property crimes, permit victims to know the names of delinquents and pursue civil actions against them, raise the limit of civil liability from \$2000 to \$5000, and allow the permanent fund dividends of delinquents and their parents to be attached for this purpose.

I strongly urge your expedient passage of Senate Bill 54 from your committee. It is time to reestablish the fear of real and inevitable punishment among juvenile offenders. At best, early intervention will deter delinquent children from becoming adult criminals. At worst, it will keep determined offenders off the streets and provide some relief to their victims. Thank you for your consideration of this legislation.



ALASKA STATE LEGISLATURE
Senator Rick Halford
President of the Senate

While in Session:
State Capitol
Juneau, AK 99801-1182
907-465-4958

While in Interim:
P.O. Box 670190
Chugiak, AK 99567
907-694-4958

MEMORANDUM

TO: Ken Leaf, Committee Aide
Senate Judiciary Committee

FROM: John Shepherd
Senator Halford's Office

DATE: February 3, 1993

SUBJ: Materials related to SB 54

Please find enclosed the following four items:

- 1) Another copy of the request for hearing for SB 54 dated 1/29/93.
- 2) Zero fiscal note from the Department of Law.
- 3) Zero fiscal note from the Department of Public Safety.
- 4) A draft amendment to SB 54.

Would you please request a draft committee substitute using the amendment provided on behalf of the Senate Judiciary Committee, as we discussed yesterday? If this poses a problem, or if you have any questions, please do not hesitate to call. I would appreciate it if you could notify me when the draft is finalized.

Additional materials, including a sponsor statement and Department of Corrections fiscal note, will be forthcoming in the immediate future.

Thank you.

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

February 8, 1993

SUBJECT: Draft CSSB 54 (), relating to violations of laws by juveniles, to the remedies for property-related and other offenses, and to records of those offenses; and providing for an effective date -- sectional analysis (Work Order No. 8-LS0384\U)

TO: Senator Rick Halford
ATTN: John Shepherd

FROM: Jack Chenoweth
Legislative Counsel

In the draft transmitted to you this morning:

Bill section 1: Under current law, in a criminal prosecution, a court may order a defendant to pay restitution to the victim of the offense. The change proposed to AS 12.55.045(a) would require the court to order a defendant to pay suitable restitution if (1) the defendant is a minor, (2) the conviction involved an offense for which the minor was prosecuted as an adult, and (3) the offense for which the minor was successfully prosecuted included elements involving the knowing or intentional destruction of the victim's real or personal property.

Bill section 2: The change, an addition of a paragraph to the enumeration of a crime victim's rights in AS 12.61.010(a), adds the additional right of the victim to review certain records of the court relating to juveniles when authorized by AS 47.10.090(d).

Bill section 3: Substantively, the changes made in this bill section:

-- increase, from \$2000 to \$5000, the maximum amount recoverable from the parents or guardians of an unemancipated minor in a civil action authorized by AS 34.50.020 based on the minor's malicious or wilful damage of a person's real or personal property; and

-- clarify that the recovery under the authorizing civil recovery statute is limited to \$5000 per claim based on each instance of property destruction.

SECTIONAL ANALYSIS

Bill section 4: Current law permits a partial exemption of the annual permanent fund dividend from execution. Under AS 43.23.065(b), however, the partial exemption is lifted and full recovery of an execution against the dividend is permitted in a limited number of instances: The full dividend may be claimed by a person for whose benefit court ordered restitution has been awarded against a minor adjudicated delinquent and by a person whose property was destroyed by a minor if the person holds a writ of execution obtained on a judgment in a civil action brought against the minor under AS 09.35 or against the minor's parents under AS 34.50.020; in the latter example, the recovery may not exceed the \$5000 limit set by the change made in bill section 3.

Bill section 5: Under current state law, a minor--defined as a person under 18 years of age--who commits a criminal offense is presumptively to be treated under the state's delinquency laws, AS 47.10.010 - 47.10.090, unless the court's jurisdiction of the minor under those provisions is waived. If, after a waiver hearing, the court finds that the minor is unamenable to treatment and waives jurisdiction of the minor under AS 47.10 and the court's Delinquency Rules,^{1/} the minor is thereafter subject to being charged and prosecuted on the offense as an adult. The changes made by this bill section revise the operation of the presumption of the minor's treatment:

-- Under proposed AS 47.10.010(e), the presumption of treatment as a delinquent juvenile would end and the waiver of jurisdiction process would not be available to a minor who is age 16 years or older and who commits an unclassified felony^{2/} or a class A felony^{3/}. Instead, a minor who fits those two conditions

^{1/} The waiver provision is set out in AS 47.10.060. Subsections (a) and (d) are particularly applicable:

(a) If the court finds at a hearing on a petition that there is probable cause for believing that a minor is delinquent and finds that the minor is not amenable to treatment under this chapter, it shall order the case closed. After a case is closed under this subsection, the minor may be prosecuted as an adult.

(d) A minor is unamenable to treatment under this chapter if the minor probably cannot be rehabilitated by treatment under this chapter before reaching 20 years of age. In determining whether a minor is unamenable to treatment, the court may consider the seriousness of the offense the minor is alleged to have committed, the minor's history of delinquency, the probable cause of the minor's delinquent behavior, and the facilities available to the division of youth and adult authority for treating the minor.

^{2/} Unclassified felonies include: murder in the first degree (AS 11.41.100(b)), murder in the second degree (AS 11.41.110(b)), attempted murder in the first degree (continued...)

would be presumptively treated as an adult--charged with violation of the state's criminal code, required to stand trial under the provisions of state law setting out criminal procedures, and sentenced as if the minor were an adult.

-- Under proposed AS 47.10.080(f), if a minor is charged and treated as an adult under (e), the minor would be charged and treated as an adult for all charges--even those that were not of themselves unclassified or class A felonies--that were properly joined to the offense or offenses which bring the minor within the jurisdiction of that subsection. In other words, the minor may be charged with murder, an unclassified felony, and any related offenses, and all would be disposed of in a regular criminal trial.

^{2/}(...continued)

(AS 11.31.100(d)(1)), sexual assault in the first degree (AS 11.41.410(b)), sexual abuse of a minor in the first degree (AS 11.41.434(b)), misconduct involving a controlled substance in the first degree (AS 11.71.010(c)), and kidnapping (AS 11.41.300(c)).

^{3/} Class A felonies are those "which characteristically involve conduct resulting in serious physical injury or a substantial risk of serious physical injury to a person" (AS 11.31.250(a)(1)). Within the state's Criminal Code, these have been defined to include:

- attempted commission of an unclassified felony other than first degree murder (AS 11.31.100(d)(2));
- attempted performance of a crime defined outside AS 11 that carries an indefinite or life term (AS 11.31.100(e));
- solicitation to perform an unclassified felony (AS 11.31.110(c)(1));
- solicitation to perform a crime defined outside AS 11 that carries an indefinite or life term (AS 11.31.110(d));
- manslaughter (AS 11.41.120(b));
- first degree assault (AS 11.41.200(b));
- kidnapping, if the defendant proves the elements of the affirmative defense (AS 11.41.300(d));
- first degree robbery (AS 11.41.500(b));
- first degree arson (AS 11.46.400(b));
- first degree escape (AS 11.56.300(b));
- misconduct involving weapons in the first degree (AS 11.61.190(b));
- criminal possession of explosives to commit murder or kidnapping (AS 11.61.240(b)(1));
- promoting prostitution in the first degree involving a person under 16 years of age (AS 11.66.110(d)); and
- misconduct involving a controlled substance in the second degree (AS 11.71.020(b)).

Outside the Criminal Code, a violation of the Credit Union Act wherein certain officers receive deposits while the credit union is insolvent is also defined as a class A felony (AS 06.45.330).

-- Proposed AS 47.10.080(g) makes clear that a minor charged under subsections (e) or (f) would be charged, prosecuted, and sentenced as an adult.

-- Proposed AS 47.10.080(h) is included to assure that nothing in these provisions is intended to restrict the right of a party--state or defendant--to seek a waiver of jurisdiction in a matter.

Bill section 6: Under current law, a minor who has been successfully prosecuted as an adult may, under certain circumstances, ask the court to review and seal the records of the conviction. The change made by this section would remove the opportunity to seal records of a conviction of minor who was 16 years of age or older and who was prosecuted under AS 47.10.010(e) - (g) for commission of an unclassified felony or a class A felony.

Bill section 7: This change parallels the amendment made by bill section 1 as applied to minors adjudicated delinquent. The change proposed to AS 47.10.080(b)(4) would require the court to order a minor to pay suitable restitution if the adjudication was based on an offense for which the minor adjudicated included elements involving the minor's knowing or intentional destruction of real or personal property.

Bill section 8 is intended to address the manner of handling and disposition of the minor's conviction of a lesser included offense. If a minor, charged and prosecuted as an adult when authorized under AS 47.10.010(e) - (g), is eventually convicted only of an offense that would not have initially brought the minor within the reach of these provisions, proposed AS 47.10.080(o) directs that the minor may not be sentenced as an adult.^{4/} Instead, the matter is to be disposed of as if initially filed under the delinquency provisions.

The law provides fairly stringent rules relating to confidential handling of records of juvenile proceedings under AS 47.10. Even under current law, a person with a

^{4/} A Criminal Rule is applicable. Under Criminal Rule 8(a), rewritten by the legislature in sec. 8, ch. 66, SLA 1988,

JOINDER OF OFFENSES. Two or more offenses may be charged in the same indictment or information in a separate count for each offense if the offenses charged, whether felonies, misdemeanors, or both,

(1) are of the same or similar character and it can be determined before trial that it is likely that evidence of one charged offense would be admissible to prove another charged offense;

(2) are based on the same act or transaction; or

(3) are based on two or more acts or transactions connected together or constituting parts of a common scheme or plan.

legitimate interest in the records may inspect them. The addition proposed by **bill section 9** declares that a person who has been the victim of a minor's knowing or intentional destruction of the victim's property and who is prosecuting a civil recovery against the minor's parents as authorized by AS 34.50.020 has a legitimate interest in inspection of those records.

Bill section 10 is an attempt to clarify the circumstances under which a minor, convicted as an adult, is to be institutionalized. Under the change proposed, the minor--this section uses the term "juvenile"--is remanded to the custody of the commissioner of health and social services until the minor's 18th birthday, then transferred to the custody of the commissioner of corrections for the duration of the term. The constraints on placement addressed to the commissioner of health and social services are intended to assure that the minor is placed in a facility with appropriate secure confinement and is not placed in a detention home or similar placement where secure confinement is not a significant characteristic.

By **bill section 11**, the changes made in the nine earlier sections are made applicable to minors whose offenses are committed after the Act's taking effect.

Bill section 12 would give the measure a September 1, 1993, effective date.

JBC:pl
93-069.plm

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

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

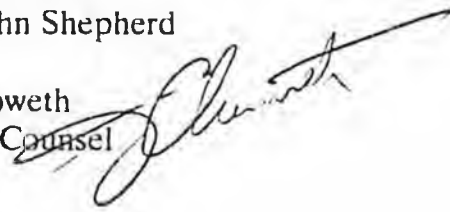
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 5, 1993

SUBJECT: Draft CSSB 54 (), relating to violations of laws by juveniles, to the remedies for property-related and other offenses, and to records of those offenses; and providing for an effective date -- sectional analysis (Work Order No. 8-LS0384\R)

TO: Senator Rick Halford
ATTN: John Shepherd

FROM: Jack Chenoweth
Legislative Counsel 

In the draft earlier provided:

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Bill section 3: Current law permits a partial exemption of the annual permanent fund dividend from execution. Under AS 43.23.065(b), however, the partial exemption is lifted and full recovery of an execution against the dividend is permitted in a limited number of instances: The full dividend may be claimed by a person for whose benefit court ordered restitution has been awarded against a minor adjudicated delinquent and by a person whose property was destroyed by a minor if the person holds a writ of execution obtained on a judgment in a civil action brought against the minor under AS 09.35 or against the minor's parents under AS 34.50.020; in the latter example, the recovery may not exceed \$2000.

SECTIONAL ANALYSIS

Bill section 4: Under current state law, a minor--defined as a person under 18 years of age--who commits a criminal offense is presumptively to be treated under the state's delinquency laws, AS 47.10.010 - 47.10.090, unless the court's jurisdiction of the minor under those provisions is waived. If, after a waiver hearing, the court finds that the minor is unamenable to treatment and waives jurisdiction of the minor under AS 47.10 and the court's Delinquency Rules,^{1/} the minor is thereafter subject to being charged and prosecuted on the offense as an adult. The changes made by this bill section revise the operation of the presumption of the minor's treatment:

-- Under proposed AS 47.10.010(e), the presumption of treatment as a delinquent juvenile would end and the waiver of jurisdiction process would not be available to a minor who is age 16 years or older and who commits an unclassified felony^{2/} or a class A felony^{3/}. Instead, a minor who fits those two conditions

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^{3/} Class A felonies are those "which characteristically involve conduct resulting in serious physical injury or a substantial risk of serious physical injury to a person" (AS 11.81.-250(a)(1)). Within the state's Criminal Code, these have been defined to include:

-- attempted commission of an unclassified felony other than first degree murder (AS 11.31.100(d)(2));

-- attempted performance of a crime defined outside AS 11 that carries an indefinite or life term (AS 11.31.100(e));

-- solicitation to perform an unclassified felony (AS 11.31.110(c)(1));

(continued...)

would be presumptively treated as an adult--charged with violation of the state's criminal code, required to stand trial under the provisions of state law setting out criminal procedures, and sentenced as if the minor were an adult.

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^{3/}(...continued)

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and who was prosecuted under AS 47.10.010(e) - (g) for commission of an unclassified felony or a class A felony.

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Bill section 7 is intended to address the manner of handling and disposition of the minor's conviction of a lesser included offense. If a minor, charged and prosecuted as an adult when authorized under AS 47.10.010(e) - (g), is eventually convicted only of an offense that would not have initially brought the minor within the reach of these provisions, proposed AS 47.10.080(o) directs that the minor may not be sentenced as an adult.^{4/} Instead, the matter is to be disposed of as if initially filed under the delinquency provisions.

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^{4/} A Criminal Rule is applicable. Under Criminal Rule 8(a), rewritten by the legislature in sec. 8, ch. 66, SLA 1988,

JOINDER OF OFFENSES. Two or more offenses may be charged in the same indictment or information in a separate count for each offense if the offenses charged, whether felonies, misdemeanors, or both,

(1) are of the same or similar character and it can be determined before trial that it is likely that evidence of one charged offense would be admissible to prove another charged offense;

(2) are based on the same act or transaction; or

(3) are based on two or more acts or transactions connected together or constituting parts of a common scheme or plan.

Senator Rick Halford
February 5, 1993
Page 5

term. The constraints on placement addressed to the commissioner of health and social services are intended to assure that the minor is placed in a facility with appropriate secure confinement and is not placed in a detention home or similar placement where secure confinement is not a significant characteristic.

By **bill section 10**, the changes made in the nine earlier sections are made applicable to minors whose offenses are committed after the Act's taking effect.

Bill section 11 would give the measure a September 1, 1993, effective date.

JBC:pl
93-068.plm

S B

5 6

CS FOR SENATE BILL NO. 56(STA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered: 2/10/93
Referred: JUD, FIN

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE BUDGET AND
AUDIT COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the budget reserve fund established under art. IX, sec. 17,
2 Constitution of the State of Alaska; and providing for an effective date."

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

4 * Section 1. AS 37.10 is amended by adding new sections to read:

5 ARTICLE 6. BUDGET RESERVE FUND.

6 Sec. 37.10.410. ADMINISTRATIVE PROCEEDINGS INVOLVING TAXES.

7 (a) The following money received by the state is considered to be received as a result
8 of the termination of an administrative proceeding for purposes of applying art. IX,
9 sec. 17(a), Constitution of the State of Alaska:

10 (1) past due taxes that are received by the state after a request for an
11 informal conference under AS 43.05.240(a) is made to the Department of Revenue,
12 together with penalties and interest on the taxes;

13 (2) past due taxes that are received by the state after a request for a
14 formal hearing under AS 43.05.240(b)(1) is made to the Department of Revenue,



Official Business

Alaska State Legislature

State Capitol
Juneau, AK 99801-1182

SENATE STATE AFFAIRS COMMITTEE

MEMORANDUM

TO: Senator Loren Leman, Chairman
Senate State Affairs Committee

FROM: Portia Babcock, Committee Staff
Senate State Affairs Committee *Portia Babcock*

DATE: February 10, 1993

SUBJECT: New Proposed STA Committee Substitute for SB56 (453/O)

The State Affairs subcommittee on SB56 met in work session on February 8, 1993 at 9:00AM and came back with the following proposed changes to STA CS for SB56 (453/E) and these changes have been incorporated in the NEW proposed STA CS for SB56 (453/O):

Sectional Comparison:

Title is amended to include the effective date.

Section 1

Page 1, line 10:

Delete "the subject of"

Insert "received by the state after"

CHANGES BY STATE AFFAIRS

CORRECTION

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

CS FOR SENATE BILL NO. 56(STA)
 IN THE LEGISLATURE OF THE STATE OF ALASKA
 EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered: 2/10/93
 Referred: JUD, FIN

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE BUDGET AND
 AUDIT COMMITTEE

A BILL

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7 (a) The following money received by the state is considered to be received as a result
 8 of the termination of an administrative proceeding for purposes of applying art. IX,
 9 sec. 17(a), Constitution of the State of Alaska:

10 (1) past due taxes that are received by the state after a request for an
 11 informal conference under AS 43.05.240(a) is made to the Department of Revenue,
 12 together with penalties and interest on the taxes;

13 (2) past due taxes that are received by the state after a request for a
 14 formal hearing under AS 43.05.240(b)(1) is made to the Department of Revenue,

1 together with penalties and interest on the taxes.

2 (b) To the extent that an administrative proceeding involves taxes that are not
3 due at the time the request for the proceeding was made under AS 43.05.240(a) or
4 (b)(1), money received by the state as a result of the proceeding is not considered to
5 be received as a result of the termination of an administrative proceeding for purposes
6 of applying art. IX, sec. 17(a), Constitution of the State of Alaska.

7 Sec. 37.10.420. MONEY AVAILABLE FOR APPROPRIATION. (a) For
8 purposes of applying art. IX, sec. 17(b), Constitution of the State of Alaska, in
9 determining the amount of money appropriated for a previous fiscal year, only money
10 appropriated from the sources used to calculate the money available for appropriation
11 for the current fiscal year shall be considered. For purposes of applying art. IX,
12 sec. 17(b) and (d), money available for appropriation for the current fiscal year does
13 not include federal funds, money in the earnings reserve account established under
14 AS 37.13.145, or money held in trust for a particular purpose. Money available for
15 appropriation for the current fiscal year is money in the general fund, including money
16 from lapsed appropriations, that has not been appropriated during a previous fiscal year

17 (1) for expenditure during any fiscal year; or

18 (2) to a special fund or account established by law.

19 (b) If the amount appropriated from the budget reserve fund has not been
20 repaid under art. IX, sec. 17(d), Constitution of the State of Alaska, the Department
21 of Administration shall transfer to the budget reserve fund the amount of money in the
22 general fund available for appropriation on June 30 of the fiscal year, or as much of
23 it as is necessary to complete the repayment. The transfer shall be made on or before
24 December 16 of the following fiscal year.

25 * Sec. 2. APPLICATION. AS 37.10.410, added by sec. 1 of this Act, applies to taxes that
26 are received by the state after June 30, 1993, together with penalties and interest on the taxes.

27 * Sec. 3. This Act takes effect July 1, 1993.

Retroactive to

583 Pad 381



Official Business


Alaska State Legislature

State Capitol
Juneau, AK 99801-1182

SENATE STATE AFFAIRS COMMITTEE

MEMORANDUM

TO: Senator Loren Leman, Chairman
Senate State Affairs Committee

FROM: Portia Babcock, Committee Staff
Senate State Affairs Committee 

DATE: February 10, 1993

SUBJECT: New Proposed STA Committee Substitute for SB56 (453/O)

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Sectional Comparison:

Title is amended to include the effective date.

Section 1

Page 1, line 10:

Delete "the subject of"

Insert "received by the state after"

Page 1, line 11:

Delete "and that are received by the state at least six months after the request for the informal conference"

Page 1, line 14

Delete "the subject of a formal hearing held under AS 43.05.240(c) and that are received by the state after the hearing has been requested,"

Insert: "received by the state after a request for a formal hearing under AS 43.05.240(b)(1) is made to the Department of Revenue,"

Page 2, line 10

Delete: "money available for appropriation for a fiscal year does not include money in the earnings reserve account established under AS 37.13.145."

Insert: "in determining the amount of money appropriated for a previous fiscal year, only money appropriated from the sources used to calculate the money available for appropriation for the current fiscal year shall be considered. For purposes of applying art. IX, sec. 17(b) and (d), money available for appropriation for the current fiscal year does not include federal funds, money in the earnings reserve account established under AS 37.13.145, or money held in trust for a particular purpose."

State Affairs Memorandum
Committee Staff, SB56
Page 3

Page 2, line 18:

Delete "Revenue"

Insert "Administration"

Page 2, line 21:

Delete "November 15"

Insert "December 15"

Page 2, line 25:

Add a new section:

"*Sec.2. APPLICATION. AS 37.10.410, added by sec. 1 of this Act, applies to taxes that are received by the state after June 30, 1993, together with penalties and interest on the taxes."

Page 2, line 27:

Add a new section:

"*Sec. 3. This Act takes effect July 1, 1993"

Representative Kay Brown and Jerry Burnett, Senator Randy Phillip's office will be available to explain changes.

STATE OF ALASKA

THE LEGISLATURE

1990

Source
HCS C555JR 5(Fin) am H

Legislative
Resolve No.

129



Proposing an amendment to the Constitution of the State of Alaska relating to the budget reserve fund; depositing into the budget reserve fund, except for money deposited into the permanent fund, all money received by the state after July 1, 1990, as a result of the termination, through settlement or otherwise, of an administrative proceeding or of litigation in state or federal court involving mineral lease bonuses, rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments or bonuses, or involving taxes imposed on mineral income, production or property; allowing an appropriation from the fund only if the amount available for appropriation for a fiscal year is less than the amount appropriated for the previous fiscal year or upon the affirmative vote of three-fourths of the members of each house of the legislature.

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

* Section 1, Article IX, Constitution of the State of Alaska, is amended by adding a new section to read:

SECTION 17. BUDGET RESERVE FUND. (a) There is established as a separate fund in the State treasury the budget reserve fund. Except for money deposited into the permanent fund under Section 15 of this article, all money received by the State after July 1, 1990, as a result of the termination, through settlement or otherwise, of an administrative proceeding or of litigation in a State or federal court involving mineral lease bonuses, rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments or bonuses, or involving taxes imposed on mineral income, production, or property, shall be deposited in the budget reserve fund. Money in the budget reserve fund shall be invested so as to yield competitive market rates to the fund. Income of the fund shall be retained in the fund. Section 7 of this article does not apply to deposits made to the fund under this subsection. Money may be appropriated from the fund only as authorized under (b) or (c) of this section.

(b) If the amount available for appropriation for a fiscal year is less than the amount appropriated for the previous fiscal year, an appropriation may be made from the budget reserve fund. However, the amount appropriated from the fund under this subsection may not exceed the amount necessary, when added to other funds available for appropriation, to provide for total appropriations equal to the amount of appropriations made in the previous calendar year for the previous fiscal year.

(c) An appropriation from the budget reserve fund may be made for any public purpose upon affirmative vote of three-fourths of the members of each house of the legislature.

(d) If an appropriation is made from the budget reserve fund, until the amount appropriated is repaid, the amount of money in the general fund available for appropriation at the end of each succeeding fiscal year shall be deposited in the budget reserve fund. The legislature shall implement this subsection by law.

* Sec. 2. The amendment proposed by this resolution shall be placed before the voters of the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the State of Alaska, and the election laws of the state.

Sen. Randy Phillips
Chairman
Rep. Terry Martin
Vice Chairman
Sen. Al Adams
Sen. Steve Frank
Sen. Steve Rieger
Sen. Bert Sharp
Rep. John Davies
Rep. Mark Hanley
Rep. Ron Larson
Rep. Eileen MacLean

State of Alaska



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State Capitol
Juneau, AK 99801
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(907) 694-4949

Legislative Budget and Audit Committee

Memorandum

TO: Senator Loren Leman, Chairman
Senate State Affairs Committee

FROM: Senator Randy Phillips, Chairman ^{R.E.P.}
Legislative Budget and Audit Committee

DATE: February 1, 1992

RE: Sponsor Statement for: Senate Bill 56,
"An Act relating to the budget reserve fund established under
art. IX, sec. 17, Constitution of the State of Alaska."

In November 1990, the voters passed a ballot issue amending the Alaska State Constitution and establishing the Constitutional Budget Reserve Fund. This Constitutional Amendment provided that "all money received by the state after July 1, 1990, as a result of the termination, through settlement or otherwise, of an administrative proceeding or of litigation in a State or federal court involving mineral lease bonuses, rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments of bonuses, or involving taxes imposed on mineral income, production, or property, shall be deposited in the budget reserve fund."

The term "administrative proceeding" is not defined which leaves the possibility that each Administration may define this term and decide at which point money should be deposited to the Constitutional Budget Reserve Fund. The Hickel Administration has defined "administrative proceeding" as a formal adjudicatory proceeding and has determined that

Sponsor Statement

only money from disputes that have gone to the formal hearing stage should be deposited to the Constitutional Budget Reserve Fund.

Senate Bill 56 is the end product of work done by a subcommittee of the Legislative Budget and Audit Committee. Senate Bill 56 is an attempt to establish legislation that will clarify how and when oil and gas royalty settlements are deposited into the Constitutional Budget Reserve Fund established under Article IX, Section 17 of the Alaska State Constitution. It provides a statutory definition of "administrative proceeding" as used in the Constitution.

SB 56 also defines the terms "amount available for appropriation" as it is used in part (b), Article IX, Section 17 of the Alaska State Constitution. Currently, the "amount available for appropriation" includes permanent fund earnings and possibly the corpus of some state owned corporations such as AIDEA and AHFC. This broad definition was not intended by the sponsors of the Constitutional Amendment that established the Constitutional Budget Reserve Fund. The result of such a broad definition is that the Constitutional Budget Reserve Fund might not be available for the purposes for which it was established.

If you have any questions or comments do not hesitate to call me at 4949. Your cooperation is appreciated.

Sen. Randy Phillips
Chairman

Rep. Terry Martin
Vice Chairman
Sen. Al Adams
Sen. Steve Frank
Sen. Steve Rieger
Sen. Bert Sharp
Rep. John Davies
Rep. Mark Hanley
Rep. Ron Larson
Rep. Eileen MacLean

State of Alaska



Legislative Budget and Audit Committee

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February 2, 1993

Sectional Analysis

SB 56

Section 1: AS 37.10.410

This section clarifies what is meant by the term "administrative proceeding" in article IX, section 17 of the Alaska Constitution, which creates the Constitutional Budget Reserve Fund.

It specifies that revenues gained from tax cases that remain in "informal hearing status" for a period exceeding six months would be deposited in the Constitutional Budget Reserve Fund. Revenues gained from tax disputes settled before the six month deadline would revert to the general fund. This section also specifies that revenues gained from tax disputes that advance to "formal hearing" status would be deposited into the Constitutional Budget Reserve Fund.

Language in this section also specifies that only tax settlement revenues that relate to past-due taxes and penalties would be deposited into the Constitutional Budget Reserve Fund. In the event that a tax settlement resolves a dispute with a taxpayer that relates to payments in future years, those future payments would go into the general fund.

Section 1: AS 37.10.420

This section defines "amount available for appropriation" for the purposes of determining if an appropriation from the Constitutional Budget Reserve may be made.

The amount available for appropriation is defined as those revenues that are considered general funds, which would include oil revenues, tax revenues and general fund program receipts. The section also specifies that the earnings reserve account of the Permanent Fund and revenues contained in other special funds or accounts, such as AHFC and AIDEA revenues, would not be considered as money available for appropriation.

This section provides direction to the administrative branch on repayment of funds to the Constitutional Budget Reserve Fund. It specifies that if money is owed to the reserve fund and if a general fund surplus exists at the end of a fiscal year, a repayment to the Constitutional Budget Reserve Fund must be made by November 15 of the following fiscal year.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

April 24, 1992

The Honorable Darrel J. Rexwinkel
Commissioner
Department of Revenue
P. O. Box 110400
Juneau, AK 99811

RE: Interpretation of Budget
Reserve Fund (Alaska Const.
art. IX, § 17)
Our File #'s: 663-91-0298
663-92-0189; -0256; -0107
Opinion No. 1

Dear Commissioner Rexwinkel:

This is in reply to your request for our views on several questions which you raise concerning Article XI, Section 17 of the Alaska Constitution. This constitutional provision, which became effective on January 2, 1991, following its ratification by the voters as an amendment to the Alaska Constitution, creates a budget reserve fund and requires that the proceeds of certain tax and mineral revenue disputes be deposited into the fund. This amendment also establishes limitations on the legislature's ability to spend money from the budget reserve fund.

The questions which you have presented to us and our views on them are as follows:

WALTER J. HICKEL, GOVERNOR

PLEASE REPLY TO:

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100 CUSHMAN ST., SUITE 400
FAIRBANKS, ALASKA 99701-4679
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P. O. BOX 110300 - STATE CAPITOL
JUNEAU, ALASKA 99811-0300
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The Honorable Darrel J. Rexwinkel
File #'s: 663-91-0298; 663-92-0189
663-92-0256; -0107

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I. SUMMARY

1. Does the dedication required by the amendment apply to the proceeds received from the termination of administrative proceedings and lawsuits before the effective date of the amendment?

Yes. The amendment applies to all such proceeds received after July 1, 1990.

2. Does the amendment repeal the statutory budget reserve fund established by AS 37.05.340?

No. The preexisting statutory budget reserve fund remains a viable depository of public funds after the adoption of the amendment.

3. Does the amendment supersede other valid dedications of proceeds that are within the scope of the amendment?

No. Under the amendment, other dedications of revenue may apply to settlement proceeds prior to the dedication of revenue to the fund created by the amendment.

4. What is the meaning of the term "administrative proceeding" in the amendment as applied to tax disputes pending before the Department of Revenue?

"Administrative proceeding," in the amendment, means formal adjudicatory proceedings.

II. ANALYSIS

- A. Does the dedication required by the amendment apply to proceeds received by the state before the effective date of the amendment?

The amendment in pertinent part provides:

Except for money deposited into the permanent fund under Section 15 of this article, all money received by the state after July 1, 1990, as a result of the termination, through settlement or otherwise, of an administrative proceeding or of litigation in a State or federal court involving mineral lease bonuses, rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments of bonuses, or involving taxes imposed on mineral income, production, or property, shall be deposited in the budget reserve fund.

Alaska Const. art. IX, § 17 (emphasis added). The amendment expressly applies to revenues received before its effective date.

The Alaskan constitution provides that, "unless otherwise provided in the amendment, [the amendment] becomes effective thirty days after the certification of the election returns by the lieutenant governor." Alaska Const. art. XIII, § 1 (emphasis added). The state constitution is construed using the same rules that apply to the construction of statutes. 2 Norman J. Singer, Sutherland Statutory Construction § 41.04 (rev. 4th ed. 1986).

Under most circumstances, a constitutional amendment should be construed to avoid retroactive effects. Cf. AS 01.10.090 ("No statute is retrospective unless expressly declared therein"). However, "the electorate may nonetheless achieve retroactive

effects by clear and unambiguous language." State ex rel. Maloney v. McCartnev, 223 S.E.2d 607, 613 (W. Va. 1976) (citing 1 T.M. Cooley, Cooley's Constitutional Limitations (136-37 (8th ed.))); see also Matthews v. Quinton, 362 P.2d 932 (Alaska 1961), cert. denied, 368 U.S. 517 (1962) (constitutional provision may retroactively validate statute previously held unconstitutional, since constitutional provision contained reference to statute intended to be validated). Here, since the amendment clearly and unambiguously states that it applies to revenues received after July 1, 1991, it applies retrospectively to settlement proceeds received after the beginning of fiscal year 1991, even though the amendment did not take effect until January 2, 1991.

B. Does the amendment repeal the statutory budget reserve fund established by AS 37.05.54?

1. Status of the 1991 appropriation to the statutory fund

The same legislative session that adopted the constitutional budget reserve fund also purported to appropriate settlement revenues into a statutory fund established in AS 37.05.540. The statutory fund appropriation provided:

That portion of the money received by the state on or after the effective date of this Act as a result of the termination, through settlement or otherwise, of an administrative proceeding or litigation involving mineral lease rentals, royalties, royalty sale proceeds, or federal mineral revenue sharing payments or bonuses that is not dedicated to the permanent fund under art. IX, sec. 15, Constitution of the State of Alaska, or to

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the public school trust fund under AS 37.14.150 is appropriated to the budget reserve fund (AS 37.05.540).

Ch. 194, SLA 1990.

However, this appropriation was not obligated after it took effect. In fact, the appropriation was not encumbered or expended pending voter ratification of the budget reserve fund amendment. Upon ratification, all amounts covered by the appropriation were deposited in the fund created by the amendment.

Thus, the legislature did not intend to have the chapter 194 appropriation processed if the amendment was ratified by the voters. This appropriation was a backup measure designed to ensure that known settlement proceeds were reserved to cover future budgetary shortfalls.

2. Continued viability of the statutory budget reserve fund

The Department of Administration has asked whether the constitutional budget reserve fund operates to impliedly repeal the statutory fund. In deciding what constitutes a repeal in a conflict between a state statute and a state constitutional provision, we apply the same considerations as in conflicts between two state statutes. Fine & Son v. Hall, 21 P.2d 697 (Cal. App. 1933); see also 16 C.J.S. Constitutional Law § 41, at 117-20. In Alaska, a repeal by implication is not a favored construction. Warren v. Thomas, 568 P.2d 400 (Alaska 1977). Where the provisions

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are irreconcilable, the later act, to the extent of conflict, constitutes an implied repeal of the earlier one. If the later act covers the entire subject of the earlier one and is intended as a substitute, it will operate to repeal the earlier act. Peter v. State, 531 P.2d 1263 (Alaska 1975).

Here no irreconcilable differences exist between the amendment and the statute. Moreover, no evidence has come to light that the framers of the amendment intended to subsume the statutory fund within the constitutional fund. Therefore, the statutory fund continues in effect until amended or repealed by the legislature.

C. Does the amendment supersede other valid dedications of proceeds that are within the scope of the amendment?

Although the amendment expressly allows dedications to the Alaska Permanent Fund, there are other dedications for which no provision is made by the amendment. Specifically, the amendment does not resolve conflicts with certain dedications of revenue established by statute to satisfy trust obligations imposed by federal law.

Under AS 37.14.150, one-half of one percent of state revenue derived from settlements subject to the amendment must be deposited in the public school trust fund (AS 37.14.110). They may also be subject to a conditional dedication in favor of the Mental Health Trust Income Account (AS 37.14.011), if the settlement

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proceeds constitute "unrestricted general fund revenue." These two trust funds are statutory dedications of state revenue required by federal law. See, e.g., 1985 Inf. Op. Att'y Gen. (Aug. 13; 366-403-85). The state constitution permits dedications that existed before statehood or that are required for participation in a federal program. Alaska Const. art. IX, § 7.

The amendment must be construed to avoid conflict with other provisions of the Alaska Constitution. Abrams v. State, 534 P.2d 91 (Alaska 1975). Whenever reasonably possible, related provisions of an enactment should be harmonized and given their full meaning and effect. Park v. State, 528 P.2d 785 (Alaska 1974). Absent a clear expression of intent that the amendment must take precedence over other valid dedications required by federal law, these pre-existing dedications should be excluded from the reach of the amendment. Research into the history of the amendment reveals no evidence of such an intent.

Therefore, the amendment applies to proceeds net of dedications otherwise permitted under Article IX, Section 7.

D. What is the meaning of the term "administrative proceeding" in the amendment as applied to tax disputes pending before the Department of Revenue?

Dedicated to a budget reserve fund by the amendment are disputed mineral lease bonuses, rentals, royalties, royalty sale proceeds, federal revenue sharing of bonuses, and the proceeds

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taxes imposed on mineral income, production, or property received "as a result of the termination, through settlement or otherwise, of an administrative proceeding or of litigation in a state or federal court."

Dedications to the budget reserve fund from the termination of "litigation in a state or federal court" are readily identifiable. Since litigation is initiated with the filing of a complaint, the proceeds from resolution of mineral revenue disputes received following the filing of a complaint involving the disputed liability must be deposited in the budget reserve fund. As a general rule, litigation is the only formal vehicle for resolving disputes involving mineral revenues other than taxes, so normally money received by the state from these revenues will be dedicated to the budget reserve fund.

No ambiguity exists as to whether revenues received as the result of the termination of formal adjudicatory hearings conducted by the Department of Revenue pursuant to statute are dedicated to the budget reserve fund. They fall squarely within the ambit of the amendment. Whether the informal conference process established by AS 43.05.240 for the resolution of tax disputes is an "administrative proceeding" is a question which requires detailed analysis.

1. The conference process for tax disputes

Alaska Statute 43.05.240, enacted in 1976, provides both formal and informal mechanisms for the resolution of state tax disputes. The informal procedure furnishes the taxpayer an opportunity to present objections to a departmental official at an informal conference. AS 43.05.240(a). Corrections to the assessment or penalty are required to be made by the Department if, as a result of the informal conference, the Department determines that a correction is warranted. Taxpayers dissatisfied with the outcome of the informal conference may request a formal conference.¹

Under the formal hearing procedure, an adversarial hearing is held at which the taxpayer may present evidence and argument relevant to the amount of the tax and penalty owing the state. AS 43.05.240(b). The hearing officer is empowered to issue subpoenas, administer oaths, and make inquiries necessary to determine the amount of tax or penalty due, and, following the hearing, is required to issue a written, final decision adjudicating the taxpayer's liability. AS 43.05.240(c). Only after exhausting the formal hearing procedure may the taxpayer appeal to the superior court. AS 43.05.240(d).

¹ An aggrieved taxpayer may bypass the informal conference by immediately requesting a formal hearing. AS 43.20.240(b)(1).