

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8302 ○ SENATE JUDICIARY ○

CS SB 99 (L&C) - "Omnibus" Legislation Fiscal Sectional

Section No.	Department	Brief Description	Discussion of Fiscal Impact	Revenues (including GF savings)	Cost
50	Public Safety	Amends Vehicle Registration and Title chapter by clarifying the department's ability to recover cost of generating computerized vehicle registration lists by clarifying this sale as an electronic service. Current charge is \$35/1000 records.	No new revenues; "protects" the department's ability to continue collecting the current 100.0 in revenue now collected from vendors who have argued the list should be provided at no charge.		
51	Public Safety	Technical amendments necessary to conform to the changes made in sec. 50.			
52	Public Safety	Amends the "Registration of Unique and Special Vehicles and Vehicles Used for Special Purposes" to allow the department to issue special vehicle license plates depicting Alaska wildlife and other images; \$30.00 fee for issuance will be charged.	Estimate 10,000 plates will be annually issued. Contractual cost is 60.0 and estimated annual revenue is 300.0. These costs and revenues are not reflected in FY 99 operating budget.	300.0	60.0
53	Public Safety	Changes eligibility for free vehicle registration/license plates for disabled by narrowing definition to those most in need of special parking due to walking limitations. Puts Alaska in compliance with uniform federal regulatory guidelines.	Increased revenue of 16.8 is expected. Based on assumption that 15% (or 480) of current persons with these plates will not qualify and will have to pay regular fees.	16.8	
54	Public Safety	Clarifies current statute that requires car dealers to use two dealer plates per vehicle. In response to a court decision that current statute is unclear on this point.	No fiscal impact.		

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55	Public Safety	Amends the vehicle "Title required; exceptions" section by deleting mobile homes from the list of vehicles subject to registration. Mobiles homes would be treated as personal property.	Will result in loss of revenues based on 50 titles and lien fees of \$10.00 not being issued by Public Safety.	-1.5	
56	Public Safety	Amends the "Registration fees levied" section by clarifying that senior citizens are entitled to free vehicle registration of only one vehicle each calendar year.			
57	Public Safety	Amends the "Registration fee rates" section by providing that an additional vehicle registration fee of \$10.00 can be charged for registration not done by mail. Additional fee may be waived for "good cause" based on criteria established through regs	Currently 25-30% of vehicle owners use mail. With this financial incentive, it is estimated 100,000 of the 300,000 "walk in" registrants will use mail. The remaining 200,000 that will continue to "walk in" will generate 2,000.0 in increased revenues.	2,000.0	
58	Public Safety	Amends the "Definitions for title" provision by clarifying the requirement that companies and businesses that register a vehicle in a company or business name must pay a commercial registration fee.	Estimated revenue increase is 400.0 based on average difference in registration fees of \$16.00 for approximately 25,000 vehicles.	400.0	
59	Public Safety	Technical amendment which deletes "mobile homes" from statute setting annual motor vehicle registration tax rates.			

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60	Public Safety	Amends the definition of issuing "Parking Permits for Transportation of Disabled" so it is same as the changes made in sec. 53.			
61	Public Safety	Amends the "Definition for title" section to delete "mobile homes" from the definition of "vehicle" (related to amendment in sec. 55)			
62	Administration	Amends the "Definition of Program Receipts" statute to exclude money the state receives for administering group insurance programs. Currently AETNA reimburses the state for administering the health insurance program.	The Governor's FY 94 operating budget as introduced makes this fund source shift from general fund/program receipts to Benefit Systems Receipts.	683.0	
		This amendment will classify these funds as "Benefit Systems Receipts" instead of the current classification of "general fund/program receipts."			
63 thru 64	Administration	Amends State Insurance Catastrophe Reserve Account statute by depositing insurance claim settlements into this account instead of the General Fund (up to the existing \$5 million maximum account	No fiscal impact; however will enable compliance with existing federal cost allocation standards. Failure to comply may require state to reimburse some federal funds.		

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		balance). Federal government criticized that since federal funds are used to pay risk management premiums, it is appropriate some of the insurance settlements be deposited in the Reserve Account.			
65	Natural Resources	Amends the "Parks and Recreational Facilities" chapter concerning the "Duties of the Dept. of Natural Resources" to clarify the department's authority to accept cash or other donations to support state park operations			
66	Natural Resources	Amends the "Fees for the use of state park system facilities" by expanding the department's authority to collect fees for day use of state parks; admission to visitor centers, sale of firewood, and a number of other activities.	Installation of estimated 44 fee stations would be phased of which 18 would be built in FY 94. Revenues estimated to increase to 80.0 by FY 97.	80.0	76.0
67	Natural Resources	The amendment specifies set fee amounts for activities and services for which a fee is not specified in statute, the department has the authority to set by regulation.			
68	DHSS	Adds new category to state's optional list for federal Medicaid coverage. It is children under age 21 who have special medical needs are and therefore difficult to place for adoption. State law currently provides	Saves 17.7 in GF in FY 94 by supplanting with federal funds; this amount increases to 29.1 by FY 99)	29.1	

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Section No.	Department	Brief Description	Discussion of Fiscal Impact	Revenues (including GF savings)	Cost
		adoption assistance such as paying for medical costs. This amendment will enable the state to charge 50% of this cost to the Medicaid program.			
69	DHSS	Adds the new category established in section 68 to priority list of the groups of individuals that are eligible for medical assistance as part of the Medicaid program.			
70	Administration	Repeals AS 13.26.410 (b) relates to OPA amendments and charging for public guardian services. Statute currently says the court shall determine the ability to pay.			
70	Fish and Game	Repeals AS 16.05.390(c) which is the current method by which fish and game license and tag vendors are compensated.			
70	Public Safety	Repeals AS 28.10.011(12) which deletes mobile homes from the list of vehicles subject to registration.			
70	Public Safety	Repeals AS 28.10.181(k) which is the special class of "occasional users" of highways (vehicles that only travel on state highways less than 5% of its total hours of operation). Instead would be licensed as regular vehicles.	Average increase as a result of "occasional use" change is \$20.00. Current fee is \$15.00.	35.1	
70	Public Safety	Repeals AS 28.10.421(d)(12) which is the registration fee rate for occasional user of highways.			
70	Public Safety	Repeals AS 28.22.011(a)(3), the Mandatory Motor Vehicle insurance requirement exemption for occasional user of highway.			

CS SB 99 (L&C) - "Omnibus" Legislation Fiscal Sectional

Section No.	Department	Brief Description	Discussion of Fiscal Impact	Revenues (including GF savings)	Cost
70	Administration	Repeals AS 37.05.210(1) Deletes "Uniform Accounting" requirement that DDA shall monthly and annually prepare reports showing the financial condition and monthly transactions of each fund. Outdated; reports are automatically generated.			
71	Revenue	Provides the time table for implementing the biennial issuance of liquor licenses by the Alcoholic Beverage Control Board.			
72	Labor	Provides transition time table for department to implement biennial issuance of certificate of fitness (per changes in sec. 46). Also provides for an \$80 one year renewal fee.	Fiscal impact is reflected in sec. 47.		
73	Multiple	Authorizes impacted departments to get an early start in the process of promulgating regulations by not waiting for bill's July 1 effective date to begin the public notice, etc. process.			
74	Administration/ Court System	Provides that the amendments which authorize OPA to charge fees for public guardians have the effect of amending Alaska Rule of Probate Procedure 16(d) and therefore this statutory change will not require an order of the court.			
75 thru 78		Effective dates			
		Total		4,188.3	256.3

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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

99

February 5, 1993

The Honorable Rick Halford
President of the Senate
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear President Halford:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the improvement of state finances by reducing costs in the operations of certain state agencies and authorizing state agencies to defray a greater portion of their costs through the imposition of fees. A section-by-section description of this bill follows.

Sections 1 - 32 of the bill authorize biennial renewal of liquor licenses by the Alcoholic Beverage Control Board. Under this bill, all liquor licenses that are now issued for a one-year period would be issued for a two-year period. As a result of the transitional procedures in sec. 71 of the bill, each year only one-half of the licenses would be subject to renewal. The board's staff now labors under a staggering amount of renewal-related work. The effect of the bill would be to spread that workload.

Sections 33 - 35, 49, 64, and 70 (repealer of AS 13.26.410(b)) relate to the duties of the Office of Public Advocacy. The bill proposes to delete certain functions of the Office of Public Advocacy (OPA) that are considered to be duplicative of services provided by other agencies or that are not constitutionally mandated. Due to the increase in child-in-need-of-aid cases, it is crucial that the many abused and neglected children receive priority in OPA appointments.

Sections 33 - 35 of the bill would allow the Department of Administration to determine a schedule of reasonable fees for the costs of providing public guardians. The Office of Public Advocacy would be allowed to assess these fees against the estate or income of a ward or protected person for whom a guardian has been appointed, based on the financial ability on the ward or protected person to pay these costs. Currently, no fees may be assessed against any person receiving the benefit of a public guardian except upon approval by a court. This process is cumbersome and expensive for the Office of Public Advocacy, which must pay for the costs of a court hearing, including the costs of

GOVERNOR'S SECTIONAL

counsel for both sides. These changes would simplify the procedure for recouping some of these costs, and would provide for consistent application of the fee schedule, while allowing an exemption forwards or protected persons who are not financially able to pay the fees.

Section 49 of the bill would amend AS 25.24.310 to delete the requirement that OPA provide guardian ad litem representation in certain child custody proceedings. Currently, the Alaska court system has personnel denoted as "custody investigators" who perform essentially the same function as OPA in custody proceedings.

Section 64 of the bill would amend AS 44.21.410(a), regarding the powers and duties of OPA, to correspond to the amendments made by secs. 33 - 35 of the bill. Additionally, this section would eliminate the requirement that OPA provide free attorney representation to parents whose children are involved in the disposition phase of delinquency proceedings, and the requirement of free representation in cases involving adoption of a minor, a petition to remove the disabilities of a minor, or a commitment proceeding involving a minor.

Section 69 of the bill would delete the requirement that OPA represent minors in commitment proceedings, to correspond to one of the amendments to AS 44.21.410(a)(4) made by sec. 64 of the bill.

Section 70 would repeal AS 13.26.410(b), for consistency with the amendments proposed by secs. 33 - 35.

After the effective date of the sections relating to OPA in this bill, OPA would not accept new appointments for the types of cases deleted from OPA's mandate by the bill. However, OPA would continue to represent those parties in cases to which OPA was appointed before the bill's effective date.

Sections 36 - 38 would authorize the Alaska Commission on Postsecondary Education to assess a one percent guarantee fee on student loan awards made under the Scholarship Loan Program, effective July 1, 1994. These fees would be deposited into a loan guarantee fee account within the student loan fund and would be used to offset losses incurred due to student loan debt cancellation necessitated by death, disability, or bankruptcy of the student. The current statute does not allow security to be required for a loan and strictly limits the use of loan proceeds. These amendments also would provide that the loan guarantee fee be added to the loan award so that students would receive the full amount of money requested, up to the maximums set out in AS 14.43.110 and 14.43.115, to pay for their educations.

Sections 39 - 43 would authorize the same one percent loan guarantee fee to be assessed on loans under the Memorial Scholarship Loan Program, the Teacher Scholarship Loan Program, and the Family Education Loan Program. As a result, all of the student loan programs would assess a one percent loan guarantee fee on the amount of the loan awarded.

Section 44 would establish in the Department of Labor the authority to set reasonable fees by regulation for administering special inspector examinations

and processing applications for special boiler and pressure vessel inspector commissions. Currently the department does not charge a fee for processing these applications for administering the examinations.

Section 45 would eliminate the requirement in AS 18.62.020 that certificates of fitness for plumbers and electricians be valid for either a one-year or a three-year period. Under the bill, the Department of Labor would have the authority to set a time period in regulation for the certificates. This should increase the department's efficiency in processing applications for these certificates and stabilize program receipts.

Section 46 would eliminate the current statute's prescribed certificate of fitness fees for plumbers and electricians, and instead would establish authority in the Department of Labor to set reasonable fees by regulation. See AS 18.62.030. This section would also allow the department to charge a fee for duplicate certificates. These changes would enable the department to set fees for certificates of fitness in line with the actual costs incurred in issuing them, and would authorize the department to recoup expenses incurred in issuing 100 - 150 duplicate certificates each year.

Section 47 is a revenue-generating measure that would permit the Alaska Police Standards Council to adopt regulations to collect reasonable fees for processing applications for state certification of police and correctional officers and instructors who are employed by non-state agencies.

Section 48 would raise the required fee for filing an application for an employment agency permit under AS 23.15.390 from \$10 to \$100. This higher amount reflects the costs of the review done by the Department of Labor for these permits.

Sections 50 - 57 would amend AS 28 (motor vehicles) to enhance revenue through increased motor vehicle fees or to correct technical problems in the motor vehicle laws to increase the efficiency of the Department of Public Safety.

Section 50 would delete the phrase "vehicle register" in AS 28.10.071(a), which no longer is meaningful in light of current computer technology. In addition, this section would clarify the authority of the department to adopt regulations to recover the state's costs in generating computerized vehicle registration lists.

Section 51 would amend AS 28.10.181(c) to permit the issuance of special request license plates depicting Alaska wildlife and other images of life in Alaska. This change would produce revenue through the issuance of these special request plates.

Section 52 changes the eligibility for free vehicle registration and license plates for disabled persons by adopting the definition of limited or impaired ability to walk that appears in a federal regulation (23 C.F.R. 1235.2). The special license plate allows the holder to have special consideration for designated parking for the disabled. The existing statute (AS 28.10.181(d)) allows a person with at least a 70 percent disability or medical handicap to obtain vehicle registration at no charge, and, through the free special license plates, to use the designated parking even though the person may not have a disability that affects walking.

The new definition would provide for free vehicle registration and license plates to those most in need of special parking. The department should receive additional revenue from vehicle registration fees and the sale of regular license plates to those who no longer qualify under AS 28.10.181(d).

Section 53 clarifies an ambiguity in AS 28.10.181(j) by explicitly requiring that car dealers use two dealer plates on each vehicle permitted to have dealer plates (all license plates are issued in pairs). The somewhat confusing language of the existing statute has allowed some dealers to split a pair of plates between two vehicles. The Department of Public Safety should receive increased revenue through the sale of additional plates to dealers.

Sections 54 and 58, and the repeal of AS 28.10.011(12) in sec. 70, together make clear that mobile homes are not considered "vehicles" for purposes of administering motor vehicle laws. Under the changes made by these sections, the Department of Public Safety, division of motor vehicles, will no longer provide registration and motor vehicle titles for mobile homes.

Section 55 would clarify that senior citizens are entitled to free vehicle registration of only one vehicle once each calendar year. This change is needed in order to avoid significant difficulties and administrative costs encountered in maintaining proper registration when senior citizens buy, sell, or trade vehicles during the year and claim free registration on more than one vehicle during the year.

Section 56 provides an additional registration fee of \$10 for vehicle registration not done by mail. This section would provide an incentive for people to use the mail for vehicle registration. This should alleviate some of the delays that most people are encountering at division of motor vehicle field offices and allow DPS staff to function more efficiently. This section also allows the department to adopt regulations to waive the additional fee in appropriate circumstances.

Section 57 would clarify AS 28.10.421(c) by requiring that companies and businesses that register vehicles in their company or business name must pay commercial registration fees, and cannot avoid paying those fees by claiming that the vehicle is not used for commercial purposes.

Section 59 exempts money that the state receives for administering the group insurance programs established under AS 39.30.090 (primarily health insurance programs) from the definition of "program receipts" in AS 37.05.146. This change will result in accounting efficiencies being saved in the Department of Administration's ongoing operations and cost-savings to the state.

Sections 60 and 61 of the bill amend AS 37.05.289, the State Insurance Catastrophe Reserve Account (Account), by providing that payments to the state of insurance claim settlement money and money received by the state as recovery for losses, are to be deposited directly into the Account (which is in the general fund). Presently, such money that is received by the division of risk management must be credited to the general fund and is appropriated to the state agency to which the payment is related. The United States Department of Health

& Human Services' division of cost allocation has determined that certain insurance recovery money must be returned to the Account (from which federally funded state agencies have been charged premiums through division of risk management "Cost of Risk" allocations). The federal government demands that a portion of such insurance recoveries be refunded to the appropriate federal program.

By allowing for insurance settlement and claims recovery money to be deposited directly into the state insurance catastrophe reserve account, future premium assessments are expected to be reduced and the state will be in compliance with federal cost allocation standards. An appropriation would still be required before expenditure of money in that account. Additionally, the new procedures should reduce the considerable accounting required with the present system.

Section 62 would clarify the authority of the Department of Natural Resources to accept cash or other donations to support the system of state parks and recreational facilities.

Section 63 would expand the authority of the Department of Natural Resources to collect reasonable fees for services provided in state parks. It would add several new categories of park fees, including sale of firewood, sale of park-related merchandise, entrance fee into visitor centers and historic sites, sale of plans and graphic materials, day use fees, and fees for park-related programs. The bill, in sec. 71, also would set a temporary fee schedule for certain of these services, to be used until the Department of Natural Resources sets the fees by regulation. In the fourth year of a phased implementation schedule, these new fees are expected to raise around \$400,000.

Sections 65 and 66 of the bill would amend, and add a new subsection to, AS 44.46.025 to provide the Department of Environmental Conservation (DEC) with increased authority to charge fees to offset the direct costs of various programs designed to avoid and rectify pollution, to ensure healthy and safe public facilities, and to assist business in complying with local, state, and federal environmental standards. An existing statute presently limits DEC's authority to charge fees to certain enumerated subject areas, and further limits DEC's fee authority to specified services related to those subjects. Thus, DEC may charge a fee to reflect the costs associated with the issuance of a permit for a hazardous waste facility, but may not charge a fee when a permit is not issued (either because the application is withdrawn or a permit is determined not to be necessary), even though DEC incurs costs in reviewing the application. This results in the permitted facilities shouldering an inequitably large share of the cost of the hazardous waste management program.

Section 65 would rectify this problem in several ways. First, it would amend the introductory clause of AS 44.46.025(a), to allow DEC to charge fees for any services relating to the programs listed in (a), not just the underinclusive listing of activities now set out in the law. This amendment recognizes that DEC employs methods other than permits and inspections in its activities.

Second, through sec. 65, the itemized list of programs in the subsection would be modified and expanded, to allow the DEC to charge fees reflecting the direct costs

of: (1) management of hazardous waste, not just permitting costs; (2) approvals of sites for hazardous waste management facilities; (3) control of solid waste facilities, and permits for those facilities, including wetlands permits (assuming state assumption of the wetlands permitting process that is currently handled by the United States Army Corps of Engineers); (4) reviews of sewage and industrial waste disposal or treatment plans; (5) oversight of the application of pesticides and broadcast chemicals; (6) inspection, testing, or other regulation of a wider variety of service facilities; (7) certification of private laboratories that will conduct a variety of environmental analyses for profit; (8) state testing for and issuance of certificates of inspection for motor vehicles; (9) certification of federal permits or authorizations under the federal Clean Water Act; and (10) filing of information with the Alaska State Emergency Response Commission.

Section 66 would revise the existing fee language relating to the air quality permit program, removing it from AS 44.46.025(a) and placing it in a new subsec. (c) of AS 44.46.025. This new subsection authorizes DEC to set fees for program services to cover indirect costs of the program, as well as direct costs. This change is incorporated in the bill because air quality permit program fees must reflect both indirect and direct costs to meet requirements of the federal Clean Air Act.

Section 67 would amend AS 47.07.020(b) to add a new category of persons to the state's optional list of those eligible for federal Medicaid coverage. Through the amendment, the state could claim federal matching money for medical costs now paid entirely from state money. Children under age 21 who are eligible for adoption assistance under AS 25.23.190 - 25.23.220 because of special medical or rehabilitative needs would be added to the optional Medicaid-eligible list under this provision.

Section 68 would amend AS 47.07.035, which lists the order of priority in which groups eligible under the optional Medicaid program will be eliminated from Medicaid coverage when there are insufficient appropriations to cover all optional services and groups. This bill would add, as para. (28) in this list, persons under age 21 who are eligible for adoption assistance due to special medical or rehabilitative needs. Placement of this group as number 28 would mean that this group would be the last to be eliminated for Medicaid coverage in the event of a shortfall of appropriations.

Section 70 repeals certain provisions of Alaska law. AS 13.26.410(b) would be repealed to make a necessary conforming amendment to facilitate the collection of fees by OPA as set out in secs. 33 - 35 of this bill. AS 28.10.011(12) is repealed to remove a reference to mobile homes from AS 28, as described earlier in this letter. AS 28.10.181(k) is repealed to allow the Department of Public Safety (DPS) to no longer register vehicles that are only occasionally used on a highway. This repeal should reduce the workload for DPS, as well. AS 28.22.011(a)(3) is repealed to make a technical amendment to mandatory motor vehicle insurance to conform to the repeal of AS 28.10.181(k), relating to occasional used vehicles. Finally, AS 37.05.210(1) is repealed to remove the statutory requirement for the Department of Administration to make monthly and annual reports on the financial condition and transactions of funds in the state

The Honorable Rick Halford
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accounting system. The department currently prepares these reports by computer on a more frequent basis. The repeal would leave intact the Department of Administration's responsibility to file a year-end report on the financial condition of the state, including financial transactions from the preceding fiscal year.

Section 73 would give transitional authority to allow state agencies to begin the process to adopt regulations as soon as the bill is signed into law, so long as the new regulations do not become effective before the respective effective dates of the relevant sections of this bill. Section 74 of this bill would give this section an immediate effective date.

Section 74 also would provide an immediate effective date for the transitional sections related to temporary fees in state parks and staggered expiration of licenses issued by the Alcoholic Beverage Control Board.

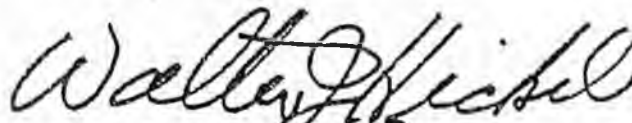
Section 75 would provide a July 1, 1993 effective date for the majority of sections of the bill to coincide with the start of state fiscal year 1994.

Section 76 would provide an effective date of December 31, 1993 to allow a uniform date for the changing from annual to biennial licenses issued by the Alcoholic Beverage Control Board.

Section 77 would give secs. 36 - 43 of this bill an effective date of July 1, 1994 to allow the Alaska Commission on Postsecondary Education to institute the uniform fee assessment for the 1994 - 1995 academic year.

I urge your favorable consideration of this bill.

Sincerely,



Walter J. Hickel
Governor

SB

101

SENATE COMMITTEE REPORT

DATE: 3/16/93

FURTHER: FINANCE

DATE TURNED INTO OFFICE: 4/16/93

JUDICIARY Committee considered SENATE BILL NO. 101

"An Act relating to eligibility for and payments of public assistance; and providing for an effective date."

and recommends:

- replace with _____ CS _____ (_____)
- or adopt previous _____ CS _____ (_____)
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

- adopts _____ Letter of Intent
- further referral to the _____

- do pass
- do not pass
- no recommendation
- individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal
DHESS	3-23-93		(1944.4)
DHESS	4-02-93		(106.9)
DHESS	4-02-93		(106.8)

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
DHESS	2/5/93		(2107.3)
DHESS	2/5/93		(2660.1)
DHESS	2/5/93		(4051.4)
DHESS	2/5/93		(434.0)
DHESS	2/5/93		(607.7)

Appropriation No Fiscal Note

DO PASS:

Patricia Harford

OTHER RECOMMENDATIONS:

George Jackson No Rec

Suzanne Little Do Not Pass

Adrian Taylor N/A BC

Chair: Signature and Recommendation

Department of Health and Social Services
Division of Public Assistance
February 16, 1993

DISCUSSION PAPER
SENATE BILL NO. 101/HOUSE BILL NO. 67

Senate Bill 101/House Bill 67 are identical measures that represent the Administration's response to the problems of welfare dependency and increasing costs in Alaska's cash public assistance programs. This set of changes has the dual goals of producing immediate savings in program costs and curbing the rate of increase in the welfare caseload.

SB 101/HB 67 achieves substantial cost savings in the Aid to Families with Dependent Children (AFDC) program by reducing benefit payments by 6.3 percent to January 1991 levels, suspending the calendar year 1994 automatic cost-of-living allowance (COLA) adjustment in payment levels, and reducing the payment standards for two-parent AFDC families (AFDC Unemployed Parent and Incapacitated Parent cases) to the same level as the standards for single-parent (AFDC Basic) families.

In addition to saving program dollars, this change establishes payment equity among single-parent and two-parent AFDC families of the same size. SB 101/HB 67 also makes a cost-neutral adjustment to the payment standards for AFDC families headed by a non-needy relative in order to bring Alaska's AFDC program into conformity with federal requirements that payment standards be incremented equally for each additional child.

SB 101/HB 67 amends the Adult Public Assistance (APA) statutes to achieve savings in payments to the aged, disabled, and blind. APA benefits are reduced to the level in effect in January 1990, resulting in a net reduction in assistance to individual recipients of 3.7 percent. The scheduled January 1994 COLA increase is suspended. The APA statutes are also amended to allow the State to be reimbursed for Interim Assistance paid to individuals applying for federal Supplemental Security Income (SSI) benefits by collecting the Interim Assistance from their retroactive entitlement to SSI benefits.

SECTIONAL ANALYSIS of SB 101/HB 67

Section 1 of the bill amends AS 47.25.320(a) to reduce Aid to Families with Dependent Children (AFDC) maximum payment levels by 6.3 percent, effectively rolling them back to the levels in effect on January 1, 1991. The maximum grant amounts specified in the current statute were established in 1982.

Under the COLA provision at AS 47.25.320(d), those amounts have been increased annually to reflect cost-of-living increases. The maximum monthly grant amount for one adult and one child is specified in AS 47.25.320(a)(2)(A) as \$500; COLA adjustments have increased this standard to \$845 as of January 1993. Section 1 reduces the standard to \$792.

This section makes a similar adjustment to the payment increment for additional children specified at AS 47.25.320(a)(2)(C). The increment has increased because of COLA adjustments from \$65 in 1982 to \$105 in 1993; SB 101/HB 67 reduces the increment to \$98 for each additional child.

Section 1 amends AS 47.25.320(a)(3) to reduce by 6.3 percent the maximum grant amount for a pregnant woman in her last trimester or an adult whose only dependent child receives SSI benefits. The maximum grant amount specified for such "Adult-only" AFDC cases is set by regulation at \$530 per month as of January 1993. Section 1 reduces the standard to \$497.

Section 1 also amends and renumbers AS 47.25.320(a)(2)(C) to restructure the payment standards for AFDC Unemployed Parent and Incapacitated Parent families by setting the increment for the second parent at \$98, the same as the increment for a second or additional child. The increment for the second parent is currently set by regulations at 7 AAC 45.520 (a)(2) and statute at AS 45.25.320(e). The January 1993 payment standard for a family of two parents and one child is \$1040. This change reduces the standard to \$890 and adds \$98 for each additional child, the same as the proposed standards for single-parent households of the same size.

Finally, Section 1 restructures the payment standards for AFDC households headed by a non-needy specified relative ("Adult-not-included" cases). This cost-neutral change is necessary to conform the program to federal law. The federal Department of Health and Human Services has cited Alaska's AFDC payment standards for households of this type as out of compliance with the requirement that the payment increment for each child above the base level for one child be the same.

Current law sets the payment standard for one child at \$200, two children at \$400, and the increment for a third or additional child at \$65. COLA adjustments since 1982 have increased these standards to \$335 for one child, \$672 for two, and \$105 for each additional child as of January 1993. Section One sets the standard at \$452 for one child and \$98 for each additional child.

The changes in benefit levels imposed by Section 1 would take effect on July 1, 1993.

Section 2 of the bill amends AS 47.25.320(d) to suspend for calendar 1994 the automatic COLA adjustment to the AFDC payment standards. This adjustment, which is based on the federal SSI COLA, occurs each January and is expected to be approximately 3 percent in January 1994. Section 2 also includes language that directs that the 1994 COLA, as well as the previous AFDC COLAs that are, in effect, rescinded by Section 1, will not be restored after 1994. Under Section 2, the annual AFDC COLA adjustments would resume in calendar 1995.

Section 3 allows the Department of Health and Social Services to use its regulatory authority to set standards of need that exceed the payment standards set in Section 1. Federal law allows the states to pay a reduced percentage (a "ratable reduction") of the amount that is established as necessary for the basic household expenses that the AFDC payment is intended to cover. Alaska has historically paid 100 percent of need.

Ratable reductions may be structured to create a payment "gap" that works as an incentive for recipients to earn income. The administration intends to use the authority provided in Section 3 to establish AFDC need standards that are 6.3 percent above the payment standards set in Section 1, effectively maintaining the January 1993 basic need standards and creating a small payment gap that assures that current AFDC recipients who receive small grants will continue to be eligible for Medicaid and Job Opportunities and Basic Skills Training (JOBS) program services, and providing a small incentive for recipients to work.

The authority provided by Section 3 could also be used, given sufficient appropriations to cover additional AFDC and Medicaid program costs, to create a larger payment gap that allows recipients to retain more of their earnings and earn larger amounts without losing eligibility for AFDC and AFDC-related benefits.

Section 4 amends 47.25.430(b) to suspend the January 1994 COLA increase in Adult Public Assistance benefits. This adjustment, which is based on the federal SSI COLA, is expected to be approximately 3 percent. Section 4 also includes language that directs that the 1994 COLA, as well as the previous APA COLAs that are, in effect, rescinded by Section 5, will not be restored after 1994. Under Section 4, the annual APA COLA adjustments would resume in calendar 1995.

Section 5 amends AS 47.25.430(a) to reduce Adult Public Assistance payments to the levels in effect on January 1, 1990. The January 1993 APA payment to a typical individual who also receives SSI benefits is \$374; Section 5 would reduce that payment to \$331. The payment to a typical couple would be reduced from \$544 to \$484.

Because of increases in the amount of SSI benefits since 1990, the total assistance income of a typical single APA recipient would decrease from \$808 (combined SSI and APA) to \$778 - a reduction of 3.7 percent. A typical couple's combined assistance would be reduced from \$1196 to \$1156 - a 3.3 percent reduction. The APA benefits of recipients who do not receive SSI would be similarly reduced.

The APA need standards are set by regulation at 7 AAC 40.310. Section 5 gives the Department of Health and Social Services the direction and authority to reduce the standards.

The changes in benefit levels imposed by Section 5 would take effect on July 1, 1993.

Section 6 amends AS 47.25.455 to allow the state to be reimbursed for Interim Assistance benefits paid to APA applicants while they are waiting for the Social Security Administration to determine their disability. Social Security typically takes 4 months or longer to make a disability determination. APA applicants must be disabled under SSI standards before they qualify for regular APA and Medicaid benefits; Interim Assistance provides these individuals with a \$280 monthly payment for basic living expenses until they are determined eligible to receive SSI and regular APA benefits.

Once APA applicants are determined to be disabled, they are retroactively eligible for SSI from the date they applied. Such individuals typically receive 4 or more months of retroactive SSI benefits (at up to \$434 per month) for the months they received Interim Assistance. Federal law allows the states to be reimbursed for the Interim Assistance from the applicant's retroactive SSI benefits. Section 6 establishes the authority for Interim Assistance reimbursement in Alaska by requiring applicants to repay the Interim Assistance they receive if they are found eligible for SSI. The Social Security Administration would make the individual's retroactive SSI payment to the Division of Public Assistance. DPA would retain the first \$280 of each month's retroactive SSI benefit and forward the balance to the recipient.

Section 6 also eliminates retroactive eligibility for regular APA benefits to individuals who have received Interim Assistance. Under current law, an Interim Assistance recipient who is found eligible for SSI is retroactively entitled to APA benefits; this entitlement is reduced by the amount of Interim Assistance the individual already received each month. Interim Assistance reimbursement will achieve savings only if the retroactive entitlement is eliminated. Section 6 adds a new subsection (d) to AS 47.25.455 that repeals the retroactive entitlement to APA benefits of Interim Assistance who are found eligible for SSI.

The changes in Section 6 take effect on July 1, 1993.

Section 7 repeals AS 47.25.320(e), which established the payment standards for AFDC Unemployed Parent cases when the AFDC-UP program was enacted in 1990. This change is necessary to conform to the change to AS 47.25.320(a)(2) made in Section 1, establishing the payment standards for two-parent AFDC families at the same level as the standards for single-parent families.

Section 8 provides transitional authority to allow DHSS to adopt implementing regulations for SB 101/HB 67 before the effective date of the law. The regulations would take effect on the effective date of the legislation. This provision is intended to facilitate timely implementation on the statutory changes included in the bill.

Section 9 provides for an effective date for the bill of July 1, 1993.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

STATE OF ALASKA

POSITION PAPER
March 12, 1993

FEDERAL POLICY CHANGES NEEDED FOR STATE WELFARE REFORM

The State of Alaska needs changes in federal policy to enable it to move forward with initiatives to reduce welfare dependency and promote the self-sufficiency of welfare recipients. We propose changes in the following policy areas.

- AFDC Waiver Authority: Provide more options to states. Allow statewide waivers without demonstration project methodology.
- AFDC Unemployed Parents: Repeal the "100-hour rule."
- AFDC Eligibility Policy: Expand work incentives; allow options for the vehicle value limit.
- JOBS Program Policy: Drop unrealistic requirements and recognize the value of paid work.

Reallocate lapsed federal JOBS funds to states that have fully matched 100 percent of federal CAP.

Eliminate "new job" requirement for Work Supplementation.
- Work Experience: Provide federal matching funds for work experience programs for non-JOBS AFDC recipients.
- Health Care: Expand Transitional Medicaid coverage for AFDC recipients who go to work.

Background

The State of Alaska has found that federal policies severely limit its ability to try new approaches in the Aid to Families with Dependent Children (AFDC) program and in the Job Opportunities and Basic Skills Training (JOBS) program for AFDC recipients. Many Alaskans have expressed a growing sense of frustration as it has become clear that the federal government must act before we can hope to make real, positive changes in our AFDC program.

Along with many other states, Alaska has experienced a rapid rise in its AFDC caseload over the past four years, with serious impact on the state budget. Alaska's caseload grew by 49.5 percent between July 1989 and September 1992, and is projected to continue to grow by at least five percent per year.

The Alaska Department of Health and Social Services has been working to identify the causes of welfare dependency and developing measures to curb the growth of the AFDC program. The January 1993 issue of Alaska Economic Trends includes an article that summarizes the department's study of welfare dependency and welfare restructuring measures. The study revealed that federal requirements stand in the way of state initiatives to reduce welfare dependency. Many of the most eloquent critics of existing federal policies are themselves AFDC recipients.

Proposed Federal Changes

AFDC Waiver Authority

Provide Options to States: The states' policy options are too limited. Policy waivers are difficult to obtain, expensive to operate, and inequitable in their application. Section 1115 of the Social Security Act establishes the only authority for waiver of federal AFDC policies. The waiver requirements are a major obstacle to welfare reform. The cost of designing and operating the demonstration projects required for waiver approval is prohibitive for sparsely populated states like Alaska. A project of any significant size requires major modifications to electronic data processing systems and additional staff to design, monitor, and operate the project in compliance with the rigid federal guidelines. Some of the federal statutes and regulations governing AFDC and JOBS make so little sense that there is no further need for experimentation to test alternatives.

Allow Essential Waivers without Demonstration Project Methodology: The demonstration project requirement to implement different eligibility rules on experimental and control groups raises the issue of inequitable treatment of similarly situated people, and makes it impossible to apply innovative rules to the state's entire AFDC caseload. Much has been written in the media about the innovations advanced by some of the larger states like Wisconsin, New Jersey, Maryland and California. These

stories tend to ignore the fact that the alternative rules being tested apply only to a selected number of individuals. The general perception of the ability of the states to restructure their welfare programs stands in sharp contrast to the reality of applying waivers under the current requirements. Waivers should be granted to allow statewide changes without requiring a control group.

AFDC Unemployed Parents

Repeal the 100-hour Rule: The limit on the number of hours that AFDC parents in intact families may work encourages dependency and wastes state and federal program dollars. The "100-hour rule" for AFDC Unemployed Parent cases, which denies benefits to families where a parent works more than 100 hours per month, actually fosters AFDC dependency and drives up the cost of the program. Low-income families frequently choose not to accept jobs that are available to them because they can't afford to take them. Families that might eventually work themselves off welfare stay on, hoping for a job that will pay enough to support them, and give up a source of income that would partially support them and reduce the cost of their AFDC benefits. The 100-hour rule must be repealed.

AFDC Eligibility Policy

Expand Work Incentives: Financial incentives for welfare recipients to work are inadequate. The statutory policy on treatment of earned income provides little incentive for AFDC parents to work. States must be given the authority to disregard substantially larger amounts of working recipients' income so they will have real incentives to get jobs and keep working.

Allow Options for the Vehicle Value Limit: The regulatory restriction on the value of the family automobile keeps people at home when they could be working or training for work. It doesn't allow potential workers to have the reliable transportation they need to get training, search for work, get children to child care, or commute to available jobs. Federal policy must be changed to empower the states to set much higher limits on the value of vehicles more than the \$1500 allowed under existing regulations.

JOBS

Drop Unrealistic Requirements: Participation quotas for the JOBS program for AFDC recipients are unrealistic and do not recognize work itself as a legitimate training activity. As the American Public Welfare Association pointed out in a recently adopted resolution, the statutory requirement to have 40 percent of AFDC Unemployed Parent families participate in individual work experience beginning in fiscal year 1994 is unrealistic when you consider the cap on federal JOBS funding, the general lack of job skills of most recipients, and the high cost of developing sites and operating and monitoring the program.

Recognize Paid Work: The 40 percent requirement, combined with the other JOBS program participation quotas, sets the states up for failure and loss of federal funding. This problem is exacerbated by the fact that the Department of Health and Human Services refuses to recognize unsubsidized employment as a legitimate work experience for unemployed parents. Paid employment--a real job--is the best possible work experience and must be the primary aim of the JOBS program. The JOBS participation quotas must be adjusted to reflect what can be reasonably accomplished with the amount of funding available.

Reallocate Lapsed JOBS Funds to States Who Use Cap: The authorization for Title IV-F JOBS funds is inadequate to carry out federal mandates for JOBS. Some states have fully expended their capped allocation and some states have lapsed JOBS funds by failing to appropriate adequate state match. The federal government should re-allocate lapsed JOBS funds to states that utilize their full cap and are making a welfare-to-work commitment with adequate state match. Alaska could be entitled to an additional \$1,000,000 for its JOBS program if a reallocation policy were in place.

Eliminate "New Job" Requirement for Work Supplementation: There is welfare dependency-breaking value in JOBS Work Supplementation (welfare recipients working for a paycheck from an employer, partially funded by diversion of the welfare grant). The federal requirement that Work Supplementation job placements be made only in jobs which did not previously exist severely restricts the use by public assistance agencies of the Work Supplementation program. JOBS program policy must be changed to allow Work Supplementation placements in any job available in the employment market.

Work Experience for non-JOBS AFDC Recipients

Restore Federal Funding for Title IV-A Work Experience: The Family Support Act of 1988 repealed federal funding and authority for mandatory work experience activities for AFDC recipients who are not enrolled in JOBS. Comprehensive welfare reform requires federal support of work experience for AFDC clients who, because of limited funding, are not served by the JOBS program. An impetus to work must be placed on all welfare recipients, not just those enrolled in JOBS. Authority and funding for non-JOBS AFDC work experience must be restored.

Health Care

Expand Transitional Medicaid: Under the current rules, the maximum Transitional Medicaid coverage is twelve months for people who lose eligibility for AFDC due to increases in earned income. It has been widely acknowledged that access to health care is one of the major reasons people stay on welfare. The twelve-month coverage limitation is a barrier to long-term employment for people entering the labor force,

particularly at the lower wage levels. The twelve-month limitation must be supplemented by an extension of coverage at state option, based either on length of employment, total income of the household, or both.

Conclusion

Regulatory and statutory provisions which promote dependency and hinder the states' efforts must be repealed. The federal government must move away from the demonstration project concept toward a statutory expansion of the states' policy options. The states also need a simple, comprehensive administrative process for waiver of statutory and regulatory requirements. The states are well motivated to control costs while assuring that their citizens are protected from poverty. States are not going to adopt changes that do not promise to yield results.

These federal policy changes must be made, and made quickly, to support the states in their desire to affect positive changes toward the promotion of self-sufficiency and the reduction of welfare costs.

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STATEMENT OF
SEN. JAY KERTTULA
ON
S.B. 86 AND S.B. 112
"UNIFORM COMMERCIAL CODE"
BEFORE THE
SENATE LABOR AND COMMERCE COMMITTEE
MARCH 2, 1993

GOOD AFTERNOON. I'D LIKE TO THANK COMMITTEE
CHAIRMAN SENATOR KELLY AND THE MEMBERS OF THE LABOR
AND COMMERCE COMMITTEE FOR SCHEDULING SENATE BILLS
86 AND 112 FOR A PUBLIC HEARING TODAY. THE BILLS
ARE COMPANION PIECES OF LEGISLATION AMENDING
ALASKA'S UNIFORM COMMERCIAL CODE.

AS SPONSOR OF THE BILLS IN THE SENATE, I WILL
PROVIDE A BRIEF OVERVIEW OF EACH BILL. I HAVE ALSO
ASKED LEGISLATIVE LEGAL COUNSEL AND REPRESENTATIVES
FOR THE DEPARTMENT OF LAW TO BE HERE TODAY TO EXPLAIN
SOME OF THE MORE TECHNICAL AND LEGAL ASPECTS OF THESE
BILLS.

I WILL BEGIN WITH SENATE BILL 86, ALSO KNOWN AS
THE "FUNDS TRANSFERS" BILL.

THE SHEER VOLUME OF COMMERICAL FUNDING TRANSACTIONS VIA MODERN TECHNOLOGY MAKES ENACTMENT OF S.B. 86 NECESSARY. IN 1989, A RECORD THREE TRILLION DOLLARS WERE TRANSFERRED ON A SINGLE DAY--MORE MONEY THAN THE 1989 U.S. GROSS NATIONAL PRODUCT. THE AVERAGE INDIVIDUAL FUNDS TRANSFER IN 1989 WAS FIVE MILLION DOLLARS, AND THE AVERAGE DAILY TRANSFER WAS ONE TRILLION DOLLARS.

UNLESS THE PARTIES TO A TRANSACTION USE THE SAME BANK, A FUNDS TRANSFER, ON AVERAGE, INVOLVES AT LEAST FOUR ENTITIES: THE ORIGINATOR OF THE PAYMENT; THE BANK TO WHICH THE ORIGINATOR COMMUNICATES THE FIRST PAYMENT ORDER; THE BANK OF THE ENTITY RECEIVING THE ORDER; AND THE RECIPIENT OR BENEFICIARY.

BECAUSE THESE TRANSACTIONS ARE DONE ELECTRONICALLY, AND NOT IN CASH, A NUMBER OF QUESTIONS REGARDING RESPONSIBILITY AND LIABILITY ARISE. QUESTIONS SUCH AS: WHAT HAPPENS IF THE FIRST

CORRECTION

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

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**SPONSOR STATEMENT-SB 86 AND AB 112
PAGE 2**

GENERALLY SPEAKING, SENATE BILL 86 BRINGS THE FUNDS TRANSFERS PORTION OF ALASKA'S UNIFORM COMMERCIAL CODE UP TO DATE WITH REGARD TO CURRENT ELECTRONIC TECHNOLOGY AS IT APPLIES TO MODERN BUSINESS PRACTICES.

S.B. 86 WILL ENACT THE NEW ARTICLE 4A INTO THE STATE'S UNIFORM COMMERCIAL CODE. THE U.C.C. IS A COMPREHENSIVE CODIFICATION OF COMMERCIAL LAW THROUGHOUT THE COUNTRY. UNTIL 1989, HOWEVER, THE U.C.C. DID NOT DEAL WITH FUNDS TRANSFERS BETWEEN COMMERCIAL ENTITIES. AS BUSINESS PRACTICE HAS COME TO RELY MORE HEAVILY ON THE SPEED, EFFICIENCY, RELIABILITY AND RELATIVELY LOW COST OF ELECTRONIC TECHNOLOGY, IT IS APPARENT THAT ALASKA'S COMMERCIAL LAWS BE BROUGHT UP TO DATE.

THE NEW ARTICLE 4A EMBODIED IN S.B. 86 DOES THIS. THE PROVISIONS IN S.B. 86 HAVE ALREADY BEEN ADOPTED BY 44 OTHER STATES, INCLUDING NEW YORK, ILLINOIS AND CALIFORNIA--THE MAJOR FINANCIAL CENTERS FOR AMERICA.

THE SHEER VOLUME OF COMMERCIAL FUNDING TRANSACTIONS VIA MODERN TECHNOLOGY MAKES ENACTMENT OF S.B. 86 NECESSARY. IN 1989, A RECORD THREE TRILLION DOLLARS WERE TRANSFERRED ON A SINGLE DAY--MORE MONEY THAN THE 1989 U.S. GROSS NATIONAL PRODUCT. THE AVERAGE INDIVIDUAL FUNDS TRANSFER IN 1989 WAS FIVE MILLION DOLLARS, AND THE AVERAGE DAILY TRANSFER WAS ONE TRILLION DOLLARS.

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BECAUSE THESE TRANSACTIONS ARE DONE ELECTRONICALLY, AND NOT IN CASH, A NUMBER OF QUESTIONS REGARDING RESPONSIBILITY AND LIABILITY ARISE. QUESTIONS SUCH AS: WHAT HAPPENS IF THE FIRST

**SPONSOR STATEMENT--SB 86 AND SB 112
PAGE 4**

**BANK MAKES A MISTAKE ON THE AMOUNT TO BE PAID? WHAT
IF THE SECOND BANK FAILS TO NOTIFY THE RECIPIENT?
WHAT HAPPENS IF THE ORIGINAL PAYMENT ORDER IS
FRAUDULENT AND NOT ACTUALLY ISSUED BY THE
ORIGINATOR? WHO BEARS THE RISK OF LOSS AT A GIVEN
TIME IN THE TRANSACTION PROCESS? AND WHAT
CONSTITUTES ACCEPTANCE AND REJECTION OF A PAYMENT
ORDER?**

**THESE AND OTHER QUESTIONS ARE ANSWERED IN THE
ARTICLE 4A ENACTED BY SENATE BILL 86 WHICH,
BASICALLY, ESTABLISHES THE RULES GOVERNING THE
PAYMENT OF LARGE SUMS OF MONEY.**

**THE BILL PROVIDES A SIGNIFICANT IMPROVEMENT IN
ALASKA COMMERCIAL LAW. IT WILL HELP KEEP ALASKA'S
UNIFORM COMMERCIAL CODE UP TO DATE WHICH, IN TURN,
HELPS ASSURE A FAVORABLE COMMERCIAL CLIMATE IN
ALASKA--ONE THAT IS IN LINE WITH THE REST OF THE
NATION AND CAN, ACCORDINGLY, HELP ENCOURAGE
ECONOMIC DEVELOPMENT AND GROWTH IN ALASKA.**

S.B. 86 HAS A ZERO FISCAL NOTE FROM THE DEPARTMENT OF LAW. IN ADDITION, FEDERAL FINANCIAL REGULATORS ARE ENCOURAGING INDIVIDUAL STATES TO ENACT THE PROVISIONS EMBODIED IN S.B. 86. TO BRING THEIR RESPECTIVE STATE LAWS INTO COMPLIANCE WITH FEDERAL LAW. UNLESS STATES ADOPT THESE PROVISIONS, THE FEDERAL GOVERNMENT WILL STEP IN AND PERFORM THE REGULATORY AND ENFORCEMENT DUTIES RELATING TO FUNDS TRANSFERS.

THE PROVISIONS IN S.B. 86 HAVE BEEN ENDORSED BY THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS.

SENATE BILL 112

SENATE BILL 112, IN GENERAL, ALSO MAKES AMENDMENTS TO ALASKA'S UNIFORM COMMERICAL CODE. IN MOST INSTANCES THESE CHANGES ARE DESIGNED TO BRING THE CODE UP TO DATE WITH THE REST OF THE COUNTRY.

THE FIRST CHANGE ADDS A NEW ARTICLE 2A TO THE EXISTING LAW. WHILE THE EXISTING LAW COVERS COMMERCIAL PROPERTY LEASES, THERE IS NO LANGUAGE RELATING TO PERSONAL PROPERTY LEASING.

PERSONAL PROPERTY BEING LEASED RANGES FROM CARS, HORSES, AND MOVING VANS TO CONSTRUCTION EQUIPMENT AND OIL RIGS.

ARTICLE 2A DEALS WITH WHAT ARE CALLED "TRUE" LEASES AND "FINANCE" LEASES. THE ARTICLE PROVIDES THE STATUTORY ANSWERS TO A BROAD RANGE OF LEGAL ISSUES, COVERING SUCH MATTERS AS OFFER AND ACCEPTANCE, WARRANTIES, MISTAKE, FAILURE TO PERFORM, RISK OF LOSS AND REMEDIES.

THE CURRENT ABSENCE OF THESE RULES PROMOTES LITIGATION.

ARTICLE 3 OF S.B. 112, FOR THE MOST PART, REORGANIZES THE EXISTING MATERIAL IN THE STATE CODE TO MAKE IT MORE CLEAR AND TO ACCOUNT FOR MODERN

TECHNOLOGIES. THESE REVISIONS FIX MANY OF THE PROBLEMS THAT HAVE ARISEN OVER THE PAST 40 YEARS WITH THE UNIFORM COMMERCIAL CODE AND WITH NEGOTIABLE INSTRUMENTS. SOME OF THE CHANGES INCLUDED IN ARTICLE 3 AND ARTICLE 1 OF S.B. 112 ARE NECESSARY TO BRING THESE ARTICLES INTO COMPLIANCE WITH THE NEW LANGUAGE IN ARTICLE 4A AS IT APPEARS IN S.B. 86.

ONE IMPORTANT CHANGE IN ARTICLE 3 IS THAT THE REVISION RECOGNIZES THAT THERE ARE TWO TYPES OF INSTRUMENTS--NOTES AND DRAFTS--WHICH USUALLY PERFORM DIFFERENT FUNCTIONS AND, THEREFORE, MERIT DIFFERENT TREATMENT.

BENEFITS FROM ENACTING ARTICLE 3 OF S.B. 112 INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING: CERTAINTY OF THE LAW, SPEED AND RELIABILITY, LOWER COSTS, REDUCED LITIGATION, AND STRICTER STANDARDS FOR FIDUCIARIES.

FINALLY, SENATE BILL 112 SEEKS TO REPEAL ARTICLE 6 OF THE PRESENT UNIFORM COMMERCIAL CODE. ARTICLE 6 DEALS WITH BULK SALES. A BULK SALE IS ONE IN WHICH A BUSINESS SELLS ALL OR A LARGE PART OF ITS INVENTORY TO A SINGLE BUYER OUTSIDE THE ORDINARY COURSE OF BUSINESS.

THE EXISTING LAW WAS DESIGNED TO PROTECT CREDITORS OF SUCH BUSINESSES FROM THE PROPRIETOR WHO ABSCONDS WITH THE PROCEEDS OF SUCH A SALE. THESE LAWS WERE ENACTED IN A CLIMATE OF SMALLER BUSINESSES.

BUT THE CREDIT ENVIRONMENT HAS CHANGED DRASTICALLY OVER THE YEARS, SO THAT THE RISK OF THE ABSCONDING PROPRIETOR IS NO LONGER VERY GREAT. IT IS NOW EASIER FOR BUSINESSES TO ESTABLISH THE CREDITWORTHINESS OF A PROPRIETOR OR MERCHANTISER, AND EASIER TO PURSUE THOSE FEW WHO DO "TAKE THE MONEY AND RUN".

IN ADDITION, UNDER ARTICLE 9 OF THE EXISTING CODE, PROTECTIONS FOR CREDITORS ARE MORE SIGNIFICANT THAN IN THE PAST.

BECAUSE OF THESE FACTORS, THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS, AND A GROUP OF 16 ALASKA BUSINESS LAW ATTORNEYS, HAVE RECOMMENDED THAT ARTICLE 6 BE REPEALED. AS OF 1991, 14 STATES HAD APPROACHED THIS ISSUE AND TEN OF THEM OPTED FOR THE REPEAL APPROACH ENACTED IN SENATE BILL 112.

THIS BILL RECEIVED A ZERO FISCAL NOTE FROM THE DEPARTMENT OF LAW'S DIVISION OF LEGAL SERVICES. ACCORDING TO THE DEPARTMENT'S ANALYSIS ACCOMPANYING THIS FISCAL NOTE, THE BASIC CHANGES PROPOSED IN S.B. 112 ARE--AND I QUOTE:

". . .NEEDED TO HELP BRING ALASKA BUSINESSES AND CONSUMERS INVOLVED IN COMMERCIAL TRANSACTIONS UP TO DATE WITH BUSINESSES AND CONSUMERS IN THE REST OF THE COUNTRY." (END QUOTE).

SPONSOR STATEMENT-SB 86 AND SB 112
PAGE 10

BECAUSE OF THIS, AND THE OTHER REASONS I HAVE
OUTLINED IN MY STATEMENT, IT IS MY HOPE THAT THIS
COMMITTEE WILL LOOK FAVORABLY ON BOTH SENATE BILL 86
AND SENATE BILL 112, GIVING IT A "DO PASS"
RECOMMENDATION.

(end statement)

DESCRIPTION OF BILL ON
UNIFORM COMMERCIAL CODE CHANGES:
PERSONAL PROPERTY LEASING, NEGOTIABLE INSTRUMENTS,
AND BULK SALES

With all other U.S. jurisdictions (except Louisiana, which has enacted parts of it), Alaska enacted the Uniform Commercial Code (UCC), promulgated by the National Conference of Commissioners on Uniform State Laws (NCCUSL). This bill reflects a major effort to update the UCC. The bill has three basic parts: (1) a new art. 2A on personal property leasing (sec. 125 of the bill), (2) amendments to the UCC's arts. 3 and 4, regarding negotiable instruments and bank deposits and collections (secs. 14 through 117 and 127 of the bill); (3) repeal of UCC art. 6, on bulk sales (sec. 127 of the bill). (The other bill sections contain changes to accommodate those basic parts of the bill.) Benefits to Alaska of keeping its UCC up to date are enormous. These proposed changes, promulgated by the NCCUSL, are essential to business and consumers involved in commercial transactions; they will encourage a predictable and favorable business climate here.

Personal Property Leasing

UCC art. 2 (AS 45.02) deals with sales. Article 9 (AS 45.09) deals with secured transactions. But nothing currently deals with leasing of personal property, a multi-billion dollar industry. The new art. 2A (proposed AS 45.12) fills the gap.

Personal property being leased ranges from horses, cars, and moving vans, to heavy construction equipment and oil rigs. The new article deals with what are called "true" leases and "finance" leases. It tailors some concepts from the current art. 2. It provides statutory answers to a broad range of legal issues, covering such matters as offer and acceptance, warranties, mistake, failure to perform, risk of loss, and remedies. The current absence of these rules promotes litigation.

Negotiable Instruments and Bank Deposits and Collections

In the UCC, arts. 3 and 4 (AS 45.03 and 45.04, respectively) are companion articles. Article 3 provides for all negotiable instruments, including checks and certificates of deposit. Most checks are drawn upon bank accounts, and certificates of deposits are banking instruments. Amendments in this bill pertaining to these two articles are made primarily to recognize modern electronic technology and banking practices. In revising art. 3, some companion amendments to art. 4 (bank deposits and collections) and to art. 1 (general provisions) have been necessary. It has been said that "Negotiable instruments make the

economy go around." That is why it is important for Alaska to keep its law on the subject up to date.

Much of the language in present art. 3 is unnecessarily technical and archaic. This bill's revision reorganizes the material into a more logical sequence and significantly clarifies and modernizes the law, thus fixing numerous problems that have arisen over the past 40 years of experience with the UCC and negotiable instruments. One especially important feature is that the revision recognizes that there are two types of instruments -- notes and drafts -- which usually perform different functions and merit different treatment.

The revised art. 3 (with conforming amendments in arts. 1 and 4) provide numerous benefits to the public interest, to users of negotiable instruments, and to banks. Among the benefits are the following: certainty of the law; speed and reliability, by addressing new technologies; lower costs; reduced litigation, by removing troublesome issues; expansion of the definition of "good faith"; stricter standards for fiduciaries; improvements to the acceptability of bank obligations such as cashier checks; and a variety of other improvements of the law.

Bulk Sales

A "bulk sale" is one in which a business sells all or a large part of its inventory to a single buyer outside the ordinary course of business. Such a sale has also been called a "bulk transfer." One goal of the laws on this subject had been to protect creditors of such businesses from the proprietor who absconds with the proceeds of the sale. UCC art. 6 replaced a variety of earlier bulk sales laws in the states. All of them were enacted in a climate of smaller businesses that were localized in scope. But the credit environment has changed, so that the risk of the absconding merchandiser is no longer very great. Business creditors can evaluate creditworthiness far better than was the case when the UCC was first promulgated, and they can pursue absconding sellers with much less difficulty. New laws have partially overlapped art. 6, and more sophisticated and wide-spread inventory financing under art. 9 of the UCC has provided even more significant protections for creditors. Therefore, the NCCUSL recommended repeal of art. 6, but, as an alternative for states where this would be appropriate, also offered a thorough revision of art. 6. As of 1991, 14 states had addressed the issue, and 10 of them opted for the repeal approach. A group of 16 Alaska business law attorneys has written to say that they unanimously support the repeal approach offered in this bill.

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**A Few Facts About
The Uniform Commercial Code,
Article 2A – Leases**

Purpose: To provide states with a legal framework for any transaction, regardless of form, that creates a lease.

Origin: Completed by the Uniform Law Commissioners in 1987 and amended in 1990.

Endorsed by: American Bar Association
American Law Institute

**State
Adoptions of
1987 Act:**

Florida
Oregon

South Dakota
Utah

**Adoptions with
1990 Amendments:**

Alabama
Arizona
California
Colorado
Delaware
District of Columbia
Hawaii
Illinois
Indiana
Kansas
Kentucky
Maine
Michigan
Minnesota

Missouri
Montana
Nebraska
Nevada
New Mexico
North Dakota
Ohio
Oklahoma
Pennsylvania
Rhode Island
Virginia
Wisconsin
Wyoming

**1993
Introductions:**

Maryland
Massachusetts
New Hampshire

New Jersey
West Virginia

For any further information regarding Article 2A of the Uniform Commercial Code, please contact John McCabe or Katie Robinson at 312-915-0195.

(2/1/93)

STATES THAT HAVE ADOPTED
U.C.C. CHANGES

A Few Facts About Revised Article 3 of the UCC

(With Conforming and Miscellaneous Amendments to Articles 1 and 4)

Purpose: To update provisions of the UCC dealing with payment by checks and other paper instruments to provide essential rules for the new technologies and practices in payment systems.

Origin: Completed by the Uniform Law Commissioners in 1990.

Endorsed by: American Bar Association
American Law Institute

**State
Adoptions:**

Arkansas	Missouri
California	Montana
Connecticut	Nebraska
Florida	New Mexico
Hawaii	North Dakota
Illinois	Oklahoma
Kansas	Pennsylvania
Louisiana	Virginia
Minnesota	Wyoming
Mississippi	

1993

Introductions: Arizona New Hampshire
Massachusetts West Virginia

For any further information regarding Revised Article 3 of the Uniform Commercial Code (with conforming and miscellaneous amendments to Articles 1 and 4), please contact John McCabe or Katie Robinson at 312-915-0195.

(2/1/93)

A Few Facts About
REVISED ARTICLE 6 OF THE UNIFORM COMMERCIAL CODE

PURPOSE: To provide states with the option of repealing or revising current Article 6 of the UCC.

ORIGIN: Completed by the Uniform Law Commissioners in 1989.

ENDORSED BY: American Bar Association
American Law Institute

STATE ADOPTIONS
OF REVISED UCC6:

Arizona
California
Hawaii
Oklahoma
Utah

STATE REPEALS
OF UCC6:

Arkansas	Montana
Colorado	Nebraska
Illinois	Nevada
Kansas	New Mexico
Kentucky	Oregon
Louisiana	Pennsylvania
Maine	West Virginia
Minnesota	Wyoming

INTRODUCTIONS
TO REPEAL UCC6:

New Hampshire
New Jersey
North Dakota

INTRODUCTIONS
TO REVISE UCC6:

For any further information regarding the revised Article 6 of the Uniform Commercial Code, please contact John McCabe or Katie Robinson at 312-915-0195.

FISCAL NOTE

STATE OF ALASKA 1993 LEGISLATIVE SESSION

Revision Date <u>15-Mar-93</u>	BILL NO. <u>CSSB112(L&C)</u>
Title: <u>"An Act relating to the Uniform Commercial Code"</u>	Department Affected: <u>Natural Resources</u>
Sponsor: <u>Senator Kertula</u>	BRU: <u>Management & Administration</u>
Requestor: <u>Senate Judiciary Committee</u>	Components: <u>Recorder's Office</u>
Component Serial No. <u>802</u>	

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

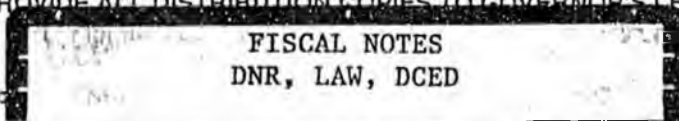
Estimate of current year (FY93) Impact: \$ No fiscal impact anticipated

ANALYSIS:

SB112 is a comprehensive revision of the State's Uniform Commercial Code and proposes addition of a new chapter (A.S.45.12) on leases. While the proposed lease provisions are extensive, the impact on the statewide Recorder's/UCC offices should be negligible. Although the new chapter includes extensive provisions relating to commercial leases (rights, remedies, default, warranties, etc.), only leases "intended as security" are entitled to be filed with the Recorder's/UCC offices under Chapter 9 governing secured transactions. This represents no change from existing law which already covers leases intended as security (A.S.45.09.102(b)). Contact with other jurisdictions which have enacted the comprehensive leasing provisions indicates there has been no noticeable impact on filing volumes. The Uniform Law Commissioner has confirmed that the bill as drafted should not present any perceptible burden on the Recorder's/UCC offices and that some minor language changes requested by the component in previous sessions have been incorporated. Other provisions of SB112 relating to Chapter 3 (Negotiable Instruments) and Chapter 4 (Bank Deposits and Collections) do not affect the Recorder's/UCC component.

Prepared by: <u>Sharon Young, State Recorder</u>	Phone: <u>762-2437</u>
Division: <u>Recorder's Office</u>	Date: <u>15-Mar-93</u>
Approved by Commissioner: <u>Glenn A. Olds</u> <i>Glenn A. Olds</i>	Date: <u>15-Mar-93</u>
Agency: <u>Department of Natural Resources</u>	

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FISCAL NOTE

No. 2

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Bill Version: SB 112

(S) Publish Date: 3-5-93

Revision Date: February 18, 1993

Department Affected: Department of Law

Title: 'An Act relating to the Uniform Commercial Code...'

BRU: Legal Services

Component: Operations

Sponsor: Senator Kerttula

Requestor: Senator Kerttula

COMPONENT SERIAL NO. 0093

EXPENDITURES/REVENUES:

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

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

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

FUNDING:

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 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.

Richard I. Pegues

Changes in CS9B 112 (L&C) have no fiscal impact. This fiscal note is appropriate.

3/5/93 date JPT Copye Aide (initial)

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

Phone: 465-3672
Date: February 18, 1993

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

Date: February 18, 1993

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 112

ANALYSIS (Continued):

This bill makes substantial amendments to the state's Uniform Commercial Code (UCC) under AS 45.01- AS 45.09 and AS 45.12. This bill is a major effort to update Alaska's UCC by adding a new article (Art. 2A) on personal property leasing; amending the UCC's Arts. 3 and 4, regarding negotiable instruments and bank deposits and collections; repealing UCC Art. 6 on bulk sales; and making other changes in the UCC that are necessary to accommodate the basic changes being made in the bill. These basic changes have been proposed by the National Conference of Commissioners on Uniform State Laws (NCCUSL), and they are needed to help bring Alaska business and consumers involved in commercial transactions up to date with businesses and consumers in the rest of the country. Because the bill deals with transactions between private parties it will not have a fiscal impact for the Department of Law. To the extent that the bill impacts state-funded loan and investment programs, it should have a beneficial effect.

FISCAL NOTE

No. 1

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Bill Version: SB112

(S) Publish Date: 3-5-93

Revision Date: _____

Title: An Act relating to the UCC

Department Affected: Commerce and Economic Development

BRU: Banking, Securities and Corporations

Component: _____

Sponsor: Senator Kertula

Requestor: _____

COMPONENT SERIAL NO. 1233

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	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

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

FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
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	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: 0

ANALYSIS: (Attach a separate page if necessary)

Changes in CS SB 112 (LCC) have no fiscal impact. This fiscal note is appropriate.

3/5/93
date

JPF
Cofite Aide (initial)

Prepared by: Wills F. Kirkpatrick, Director

Division: Banking, Securities and Corporations

Phone: _____

Date: _____

Approved by Commissioner: Paul Fuhs

Agency: Commerce and Economic Development

Date: 3-2-93

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SENATE COMMITTEE REPORT

DATE: 3/5/93

FURTHER:

DATE TURNED INTO OFFICE: _____

Judiciary Committee considered SENATE BILL NO. 122

"An Act relating to the disclosure of information by an employer about the job performance of an employee or former employee."

and recommends:

- replace with _____ CS _____ (_____)
- or adopt previous _____ CS _____ (_____)
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
COURT SYSTEM	3/1/93	✓	
D O A	2/24/93	✓	
L A W	2/23/93	✓	

Appropriation No Fiscal Note

DO PASS:

Rick Halford

Greg Staley

OTHER RECOMMENDATIONS:

Dee Dee Wiley NO REC

Shirley Little NO REC

Cheryl Taylor DeWes
 Chair: Signature and Recommendation

Alaska State Legislature

SENATOR
BERT SHARP

DISTRICT P

CHAIRMAN
TRANSPORTATION COMMITTEE

MEMBER
FINANCE COMMITTEE
LEGISLATIVE BUDGET & AUDIT COMMITTEE
HEALTH & SOCIAL SERVICES



FAIRBANKS

DENALI BANK BUILDING
119 N. CUSHMAN, SUITE 201
FAIRBANKS, ALASKA 99701
(907) 452-7885/7886

SESSION ADDRESS

STATE CAPITOL, ROOM 514
JUNEAU, ALASKA 99801-1182
(907) 465-3004/4921

Senate

S P O N S O R S T A T E M E N T

SB122 - "An act relating to the disclosure of information by an employer about the job performance of an employee or former employee."

SB122 protects employers from liability for the disclosure of job performance information regarding a former employee to a prospective employer.

The number of defamation suits filed in response to unfavorable references by former employers has increased substantially in the last few years. Out of fear of such lawsuits and on the recommendation of legal professionals, many employers are refusing to give honest, meaningful job performance information to prospective employers. This is a loss for all concerned. The free flow of information in the workplace is vitally important to sound decision making. Employers, employees, and, in the end, consumers benefit when hiring, firing and promotion decisions are based on complete and accurate information. SB122 will free up the exchange of information in the workplace by assuring reasonable protection to employers in their job performance disclosures.

SB122 is intended to protect only employers who give honest, well-intentioned references. It does not protect employers from liability in cases where the information disclosed was knowingly or deliberately false, was given with a malicious purpose or violated a civil right of the employee.

In the interest of allowing the freer exchange of information in the workplace, I urge you to support SB122.

SPONSOR STATEMENT

Alaska State Legislature

SENATOR
BERT SHARP

DISTRICT P

CHAIRMAN
TRANSPORTATION COMMITTEE

MEMBER
FINANCE COMMITTEE
LEGISLATIVE BUDGET & AUDIT COMMITTEE
HEALTH & SOCIAL SERVICES



FAIRBANKS

DENALI BANK BUILDING
119 N. CUSHMAN, SUITE 201
FAIRBANKS, ALASKA 99701
(907) 452-7885/7886

SESSION ADDRESS

STATE CAPITOL, ROOM 514
JUNEAU, ALASKA 99801-1182
(907) 465 3004/4921

Senate

MEMORANDUM

TO: SENATOR ROBIN TAYLOR, CHAIRMAN
SENATE JUDICIARY COMMITTEE

FROM: SENATOR BERT SHARP *BMS*

RE: REQUEST FOR HEARING & CONSIDERATION OF AMENDMENT

DATE: MARCH 5, 1992

★ I am requesting that Senate Bill #122, "An Act relating to the disclosure of information by an employer about the job performance of an employee or former employee, " be heard before the Senate Judiciary Committee.

In addition, the Senate Labor and Commerce Committee has requested that the value of the following amendment be weighed and considered by the Judiciary Committee.

Section 1 is amended by adding the following subsection:

Any employer that provides written job performance information to a prospective employer about a current or former employee shall, upon the request of said employee, send a copy of the written job performance information provided to the last known address of the person who is the subject of the reference.

Thank you for your consideration.

REQUESTED AMENDMENT
(BY L & C)

SB122

"An act relating to the disclosure of information by an employer about the job performance of an employee or former employee."

SECTIONAL ANALYSIS

Section 1 amends AS 09.65 by adding a new section, AS 09.65.160, which provides that an employer who discloses information regarding a former employee's job performance at the request of a prospective employer or the former employee shall be immune from civil liability for such disclosures and their consequences.

The employer will not be protected from liability if it can be shown by a preponderance of the evidence that the information disclosed was knowingly false, deliberately misleading, given with a malicious purpose, or violated a civil right of the employee.

SECTIONAL ANALYSIS

217 Second Street, Suite 201
Juneau, Alaska 99801
(907) 586-2323
FAX (907) 463-5515



ASCC Position Paper

SB 122
March 4, 1993

The Alaska State Chamber of Commerce supports SB 122 - An act of relating to the disclosure of information by an employer about the job performance of an employee or former employee. This legislation adds new language to AS 09.65, relating to the disclosure of information by an employer about the job performance of an employee or former employee.

Under SB 122, an employer who provides job performance information to a prospective employer, will be presumed to be acting in good faith and, unless evidence shows a significant lack of good faith, the employer cannot be held liable for the disclosure or the consequences of the disclosure of information regarding an employee or former employee.

ASCC supports SB 122 because of the protection it provides employers. In Alaska there is a relatively small applicant base and it is imperative that employers are able to act in good faith sharing information with one another. Although statistics vary on the number of defamation cases that have been tried and won, or settled out of court, the fact remains that sharing objective information currently comes with a risk many employers cannot afford to take.

While ASCC fully recognizes the value of good employees, it is important that employers be able to share all pertinent information without fear of repercussion, providing they are acting in good faith. Therefore, ASCC strongly supports SB 122 and urges the Alaska House of Representatives to pass this legislation in an expeditious fashion.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 122

Revision Date: February 23, 1993
Title: "...disclosure of information by an employer
about the job performance..."
Sponsor: Senator Sharp
Requestor: Senator Sharp

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

EXPENDITURES/REVENUES:

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

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

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

FUNDING:

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 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.

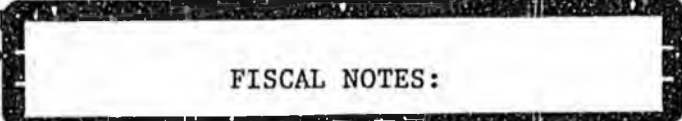
Prepared by: Richard I. Peques, Director
Division: Administrative Services Division
Richard I. Peques (FOR)

Phone: 465-3672
Date: February 23, 1993

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

Date: February 23, 1993

PREPARER TO [] ADMINISTRATIVE OFFICE



FISCAL NOTES:

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 122

ANALYSIS (Continued):

This bill protects an employer, who acts in good faith, from liability for disclosing the job performance of an employee or former employee to a prospective employer. This protection would not shield an employer who provided information the employer knew was false or misleading, was given with a malicious purpose, or violated a civil right of the employee or former employee that is protected by Alaska's antidiscrimination laws under AS 18.80, or federal law. This bill will apply to all employers in the state and will not have a fiscal impact on the Department of Law.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 122

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act relating to the disclosure of information by an employer" BRU: Personnel/OEEO
 Component: Personnel/OEEO
 Sponsor: Senator Sharp
 Requestor: (S) L&C COMPONENT SERIAL NO. 56

Expenditures/Revenues: (Thousands of Dollars)

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

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

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

FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
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	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 (FY93) impact: \$ none

ANALYSIS: (attach a separate page if necessary.)

Prepared By: Kevin Ritchie, Director Phone: _____
 Division: Personnel/OEEO Date: _____

Approved by Commissioner: Nancy Bear Usura /NCLL Date: 2/24/93
 Agency: Department of Administration

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Bill No. SB 122

Revision Date: _____ Department Affected: Alaska Court System
 Title: An Act relating to the disclosure of BRU: Trial Courts
information by an employer Components: _____
 Sponsor: Sharp
 Requestor: _____ COMPONENT SERIAL NO. 768

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

REVENUE						
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY 93) impact: None

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

Prepared by: C. S. Christensen III, Staff Counsel *CS* Phone: 264-8228
 Division: Alaska Court System Date: 03/01/93

Approved by: Arthur H. Snowden, II, Administrative Director *AS* Date: 03/01/93
 Agency: Alaska Court System

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

SB

127

Rep. J. Sanders
District 19

Dear Mr. Sanders,

I just wanted to write and let you know how much I support HB 162.

I am unable to get off from work on the 16th much to my regret.

Sir: I am wondering if I can do anything else - maybe stand around with a sign or walk around and hand out papers, maybe go door to door getting signatures.

If there is anything or anywhere you could use my services to assist you getting this bill passed please let me know.

I am living in the valley however work at Spring Creek - I'm getting transferred to Palmer Correctional Center the 25th of Nov so will ^{be} here full time. I'm the one who had the arm broke by the prisoner in Seward. Thank for your letter of concern - I'm sorry I won't be able to be there the 16th. I've been passing the word.

Good luck

J.D. Karsten

FEB 26 1993

February 23, 1993

The Honorable Jerry Sanders
State Capitol
Room 13
Juneau, Alaska
99801-1182

Dear Representative Sanders,

We urge you to co-sign HB 162 supporting the death penalty in Alaska. Our twenty-one-year-old daughter was murdered by her ex-boyfriend on August 5, 1990. Her murderer, ANDREW NELSON, bought 500 rounds of ammo to practice with and checked out his weapon. He then drove around Anchorage until he located her vehicle.

After flattening the tire on her vehicle he then hid himself in the bushes awaiting our daughter and her friend. He then proceeded to empty the pistol into her head along with wounding her friend.

The court documents indicate that her murderer, Andrew Nelson, stated that he would get twenty-thirty (20-30) years for committing the crime; he felt it was worth it. The court psycharist said that Andrew Nelson has a narcissitic personality.

If the State of Alaska would have had a death penalty for this type of murder, our daughter, SANDRA LYNN POGANY, would be alive today. It continues to devastate the family. We know the enactment of this bill would prevent other families from going through the tragedy we have experienced.

Please let me know your position on HB 162, we are willing to get petitions signed and do whatever is necessary to get this bill passed.

Sincerely,

Gary Louise & Steve Pogany

Gary, Louise & Steve Pogany
Parents and brother of deceased
phone: 696-2390
fax #: 694-4557

*P. O. Box 770323
Eagle River, Alaska 99577*



Alaska State Legislature

Please enter into the record my testimony to the Joint Judiciary Committees
 committee name
 committee on HB162/SB 107, dated 11/16/93
 bill/subject

I unequivocally support capital punishment for murder. While it is arguable, at least in light of existing statistics, whether capital punishment is a deterrent to the commission of murder, I submit that ^{the} lack in deterrent effect heretofore indicated results, ~~from~~ not from the punishment itself, but from a failure by the judiciary to impose and carry out capital punishment in a consistent and unswerving manner.

PLEASE ensure that ALASKA punishes murder in a just and appropriately retributive manner - with capital punishment.

Signed:

CHARLES B. DEAN / CB

Testifier

PRO SE

Representing (Optional)

P.O. Box 2282, SITKA, AK 99835

Address

907-747-1072

Phone No.

REPORTED CRIME FREQUENCY 1992



ALASKA CRIME CLOCK 1992

one
CRIME INDEX
OFFENSE
every 16 min. 13 sec.

one
VIOLENT CRIME
every 2 hours 19 min.

one
PROPERTY CRIME
every 18 min. 23 sec.

one
MURDER
every 8 days 7 hours 43 min.

one
FORCIBLE RAPE
every 15 hours 29 min.

one
ROBBERY
every 13 hours 57 min.

one
AGGRAVATED ASSAULT
every 3 hours 25 min.

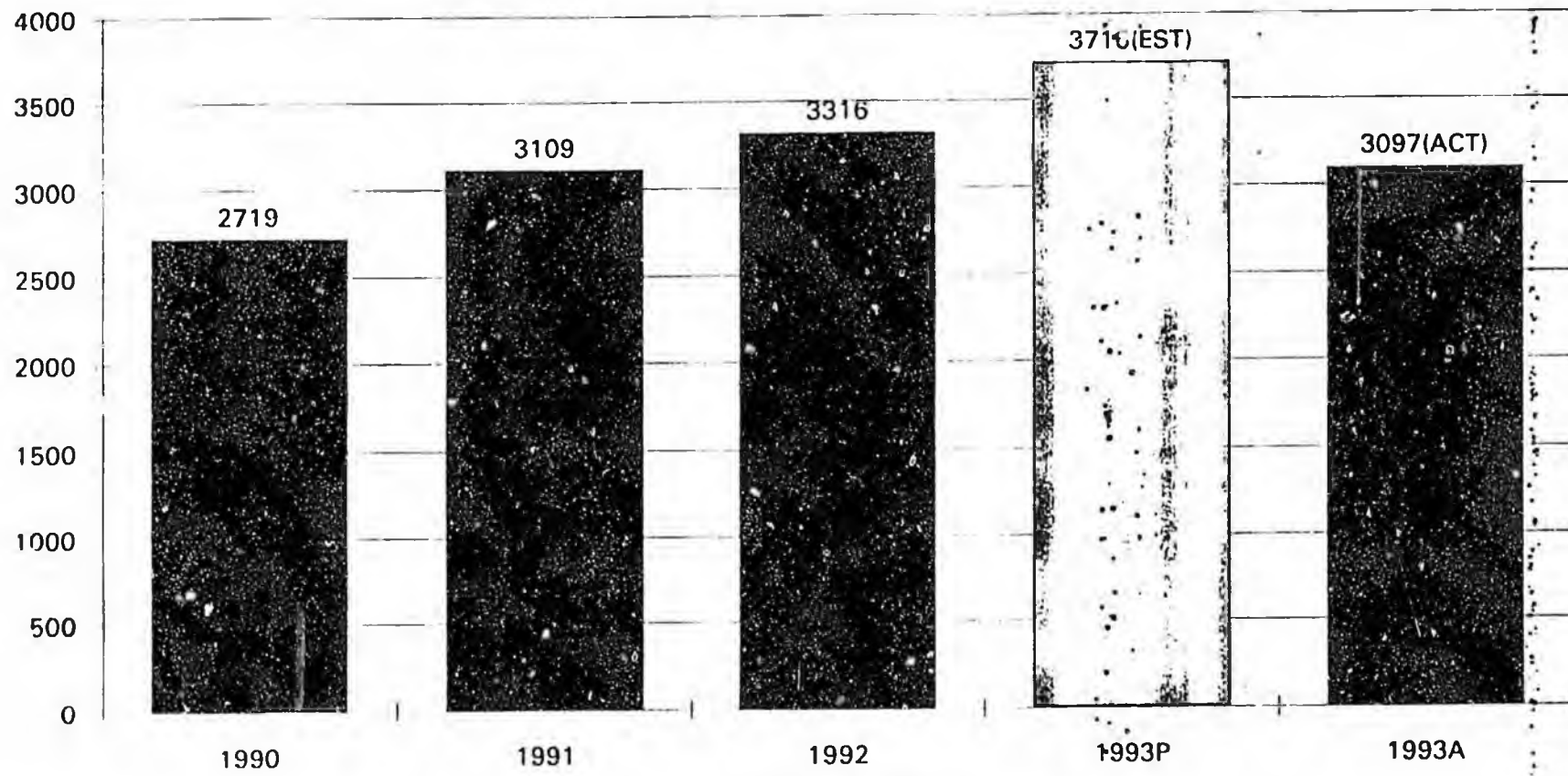
one
BURGLARY
every 1 hour 41 min.

one
LARCENY - THEFT
every 25 min. 38 sec.

one
MOTOR VEHICLE THEFT
every 3 hours 2 min.

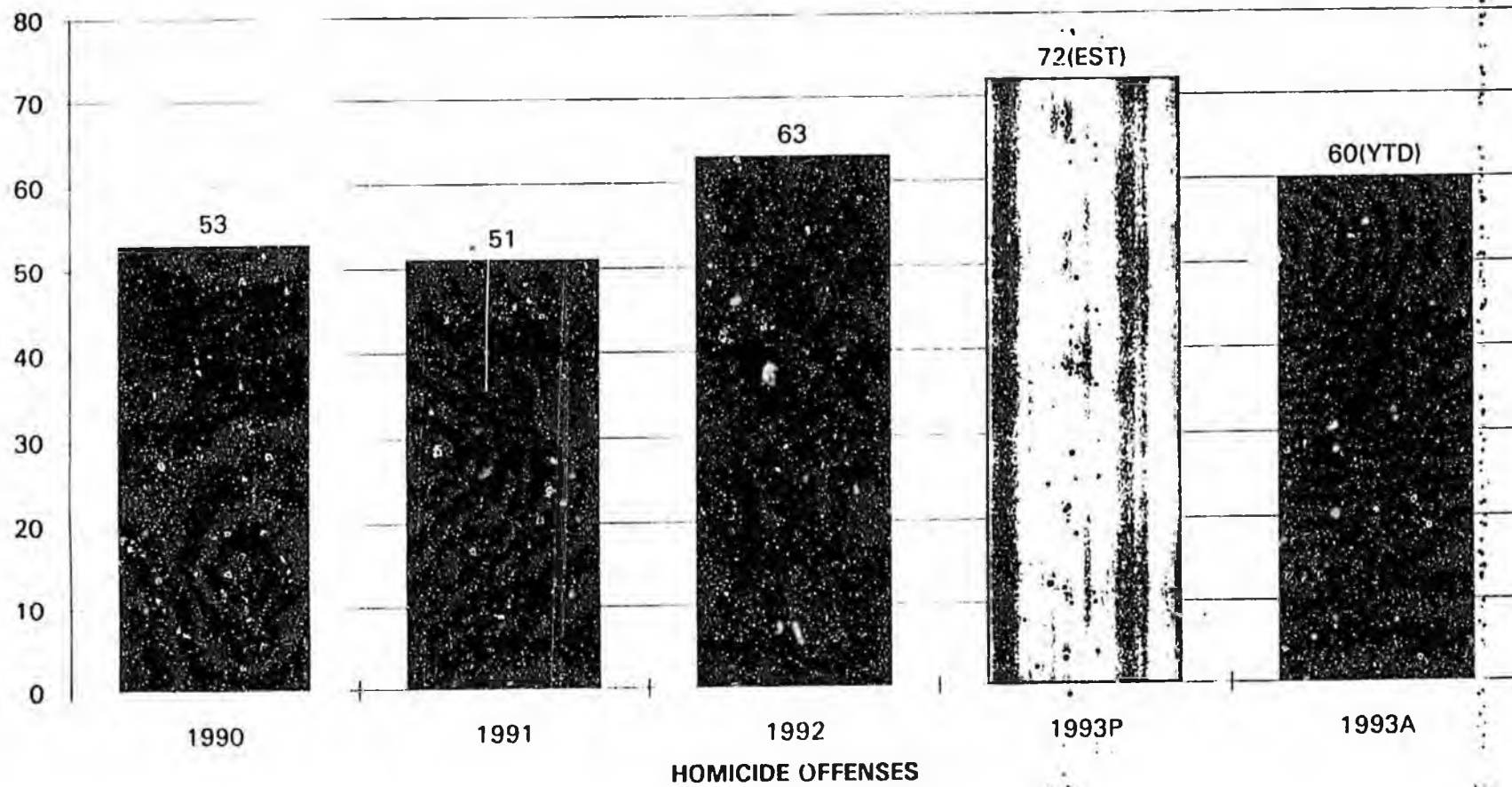
The crime clock should be viewed with care. Being the most aggregate representation of UCR data, it is designed to convey the annual reported crime experience by showing the relative frequency of occurrence of the Index Offenses. This mode of display should not be taken to imply a regularity in the commission of the Part I Offenses; rather, it represents the annual ratio of reported crime to fixed time intervals.

ALASKA STATE TROOPERS

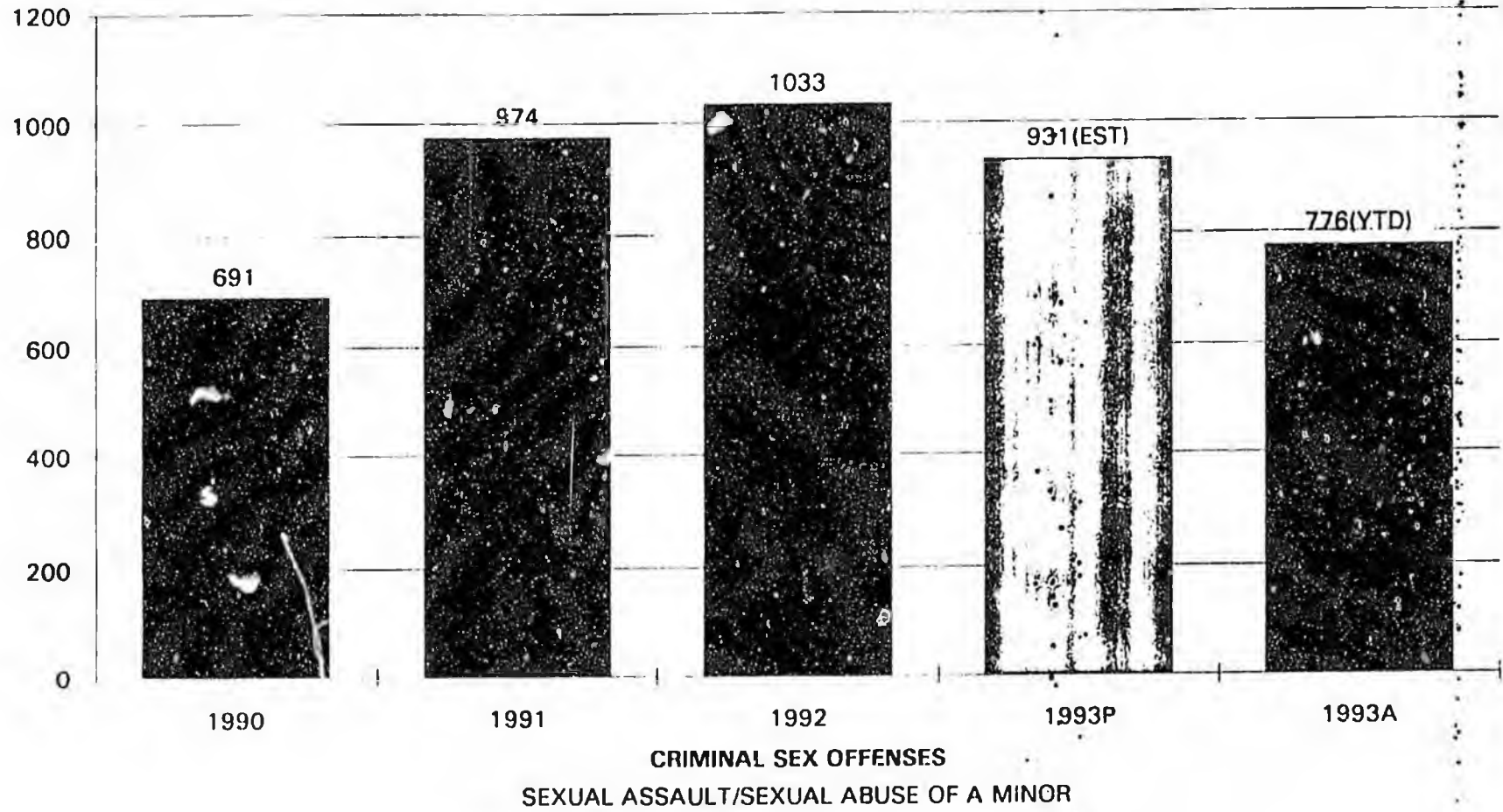


VIOLENT OFFENSES
HOMICIDE/ASSAULT/SEXUAL ASSAULT/ROBBERY

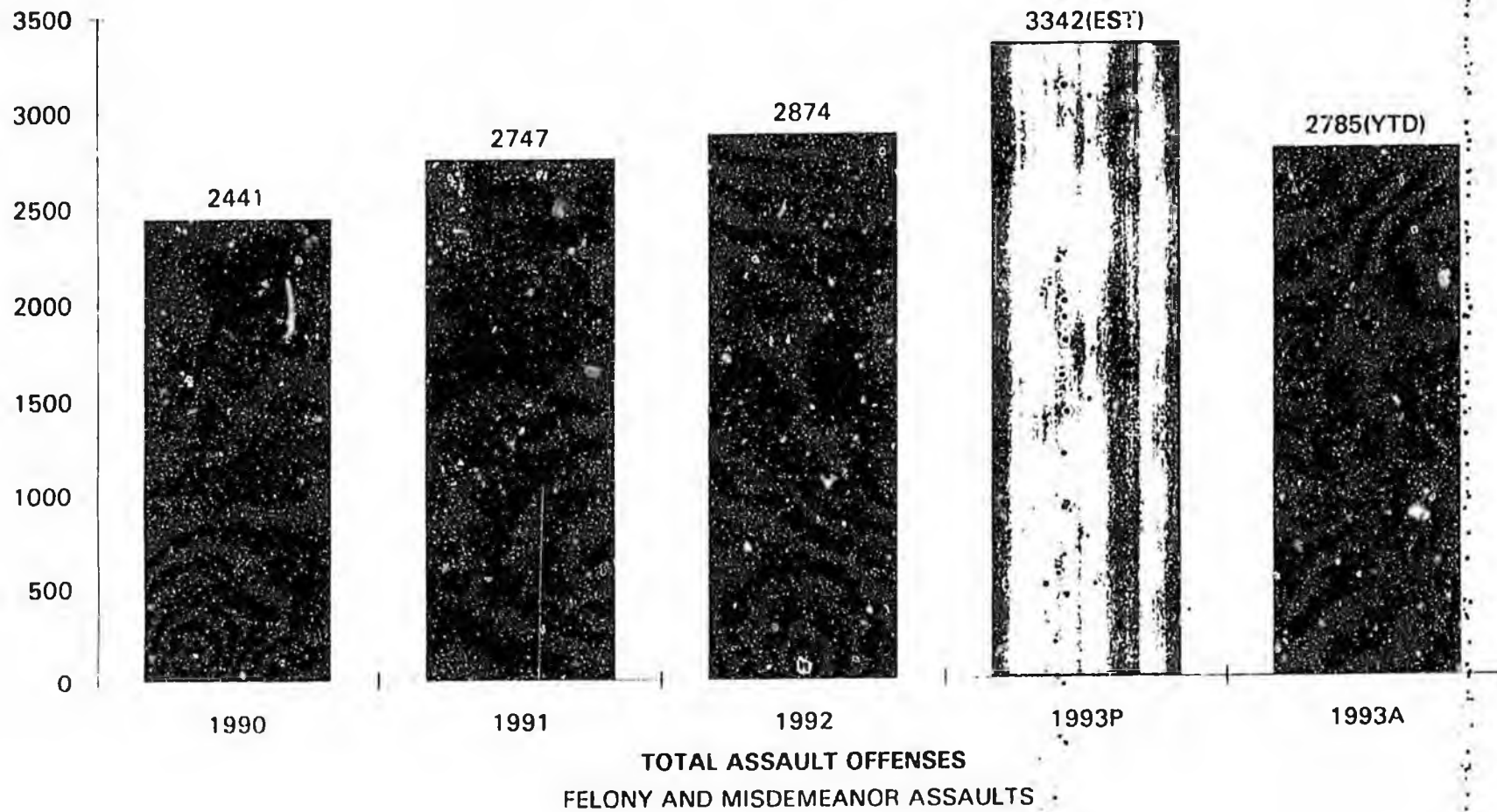
ALASKA STATE TROOPERS



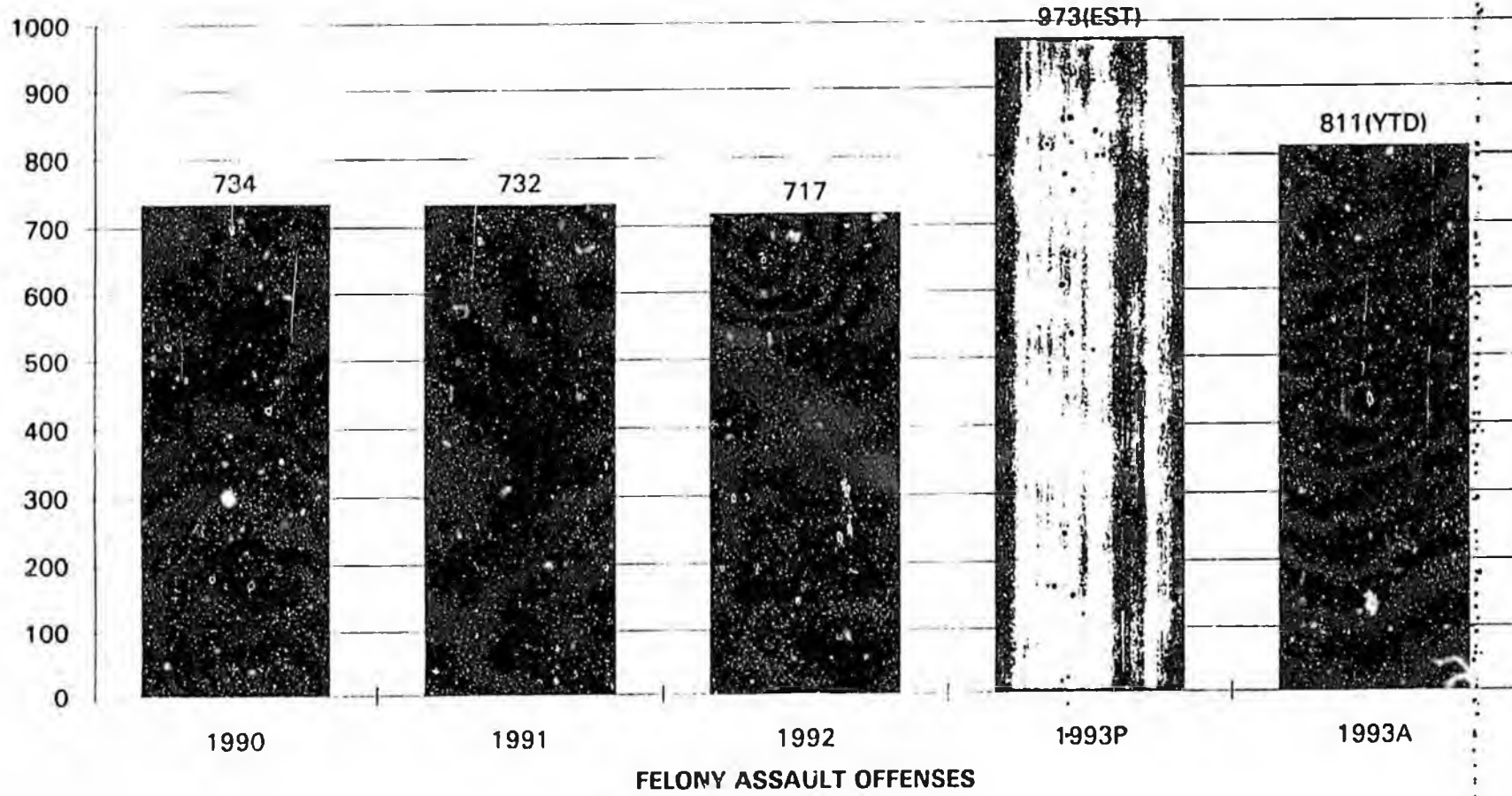
ALASKA STATE TROOPERS



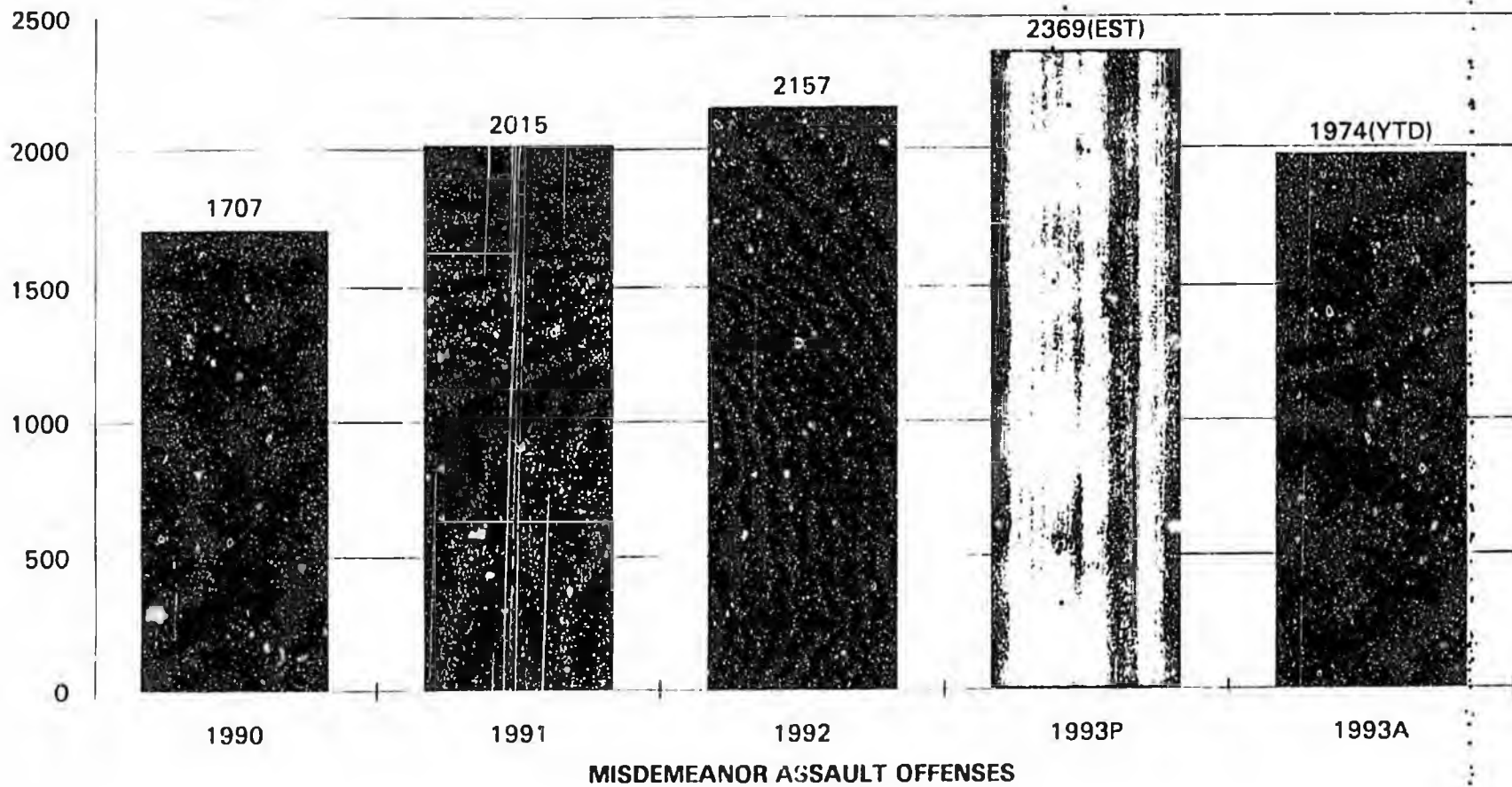
ALASKA STATE TROOPERS



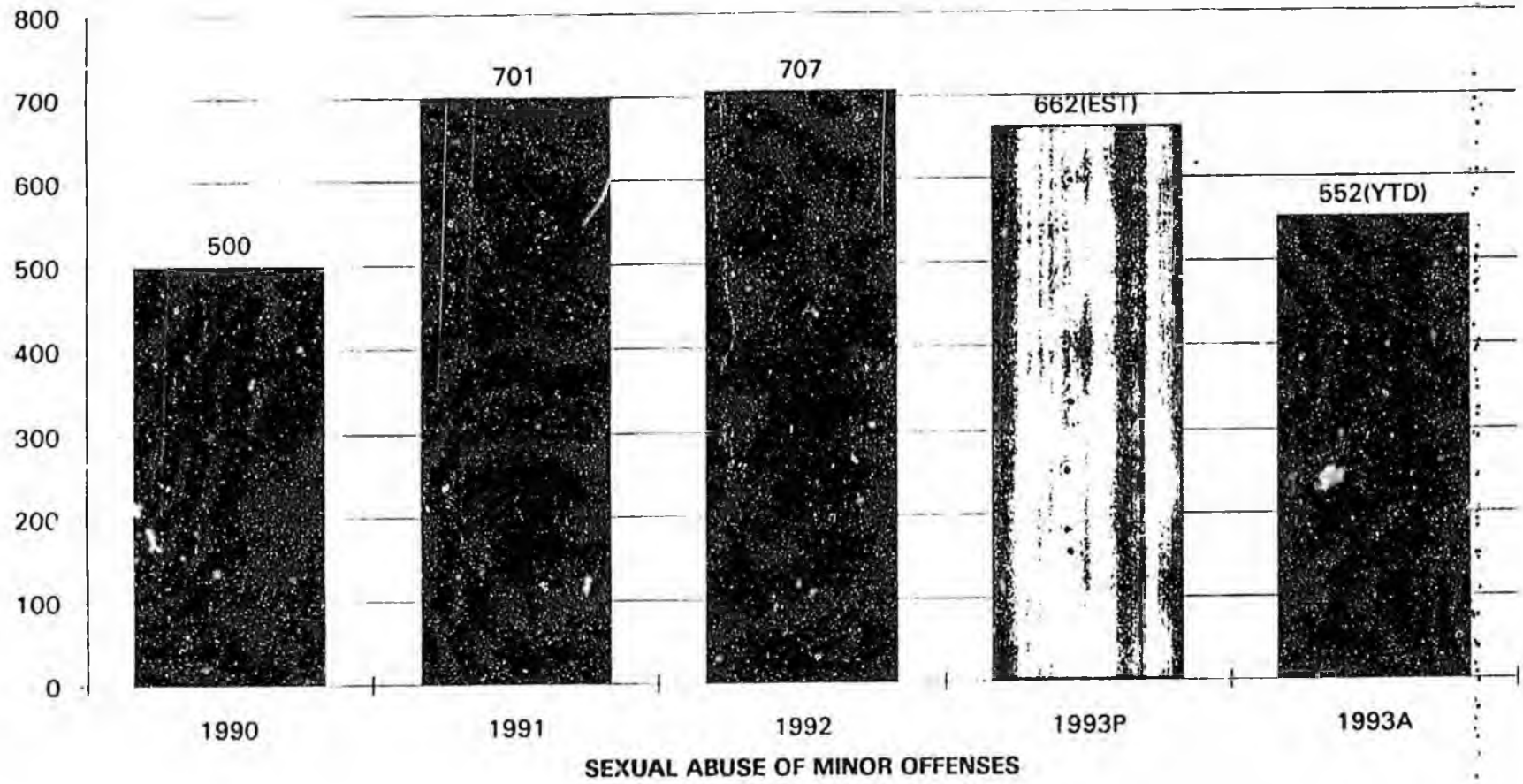
ALASKA STATE TROOPERS



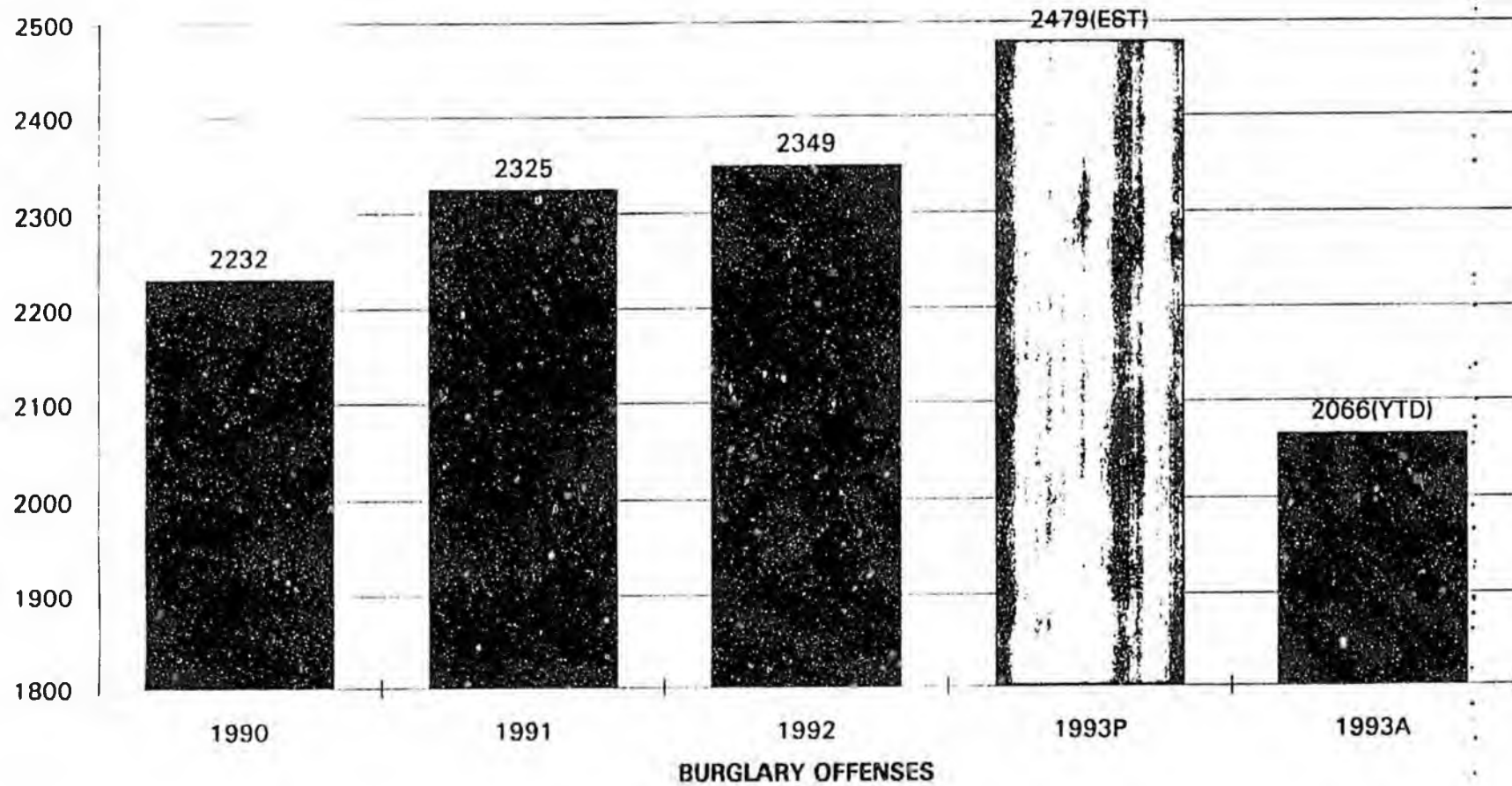
ALASKA STATE TROOPERS



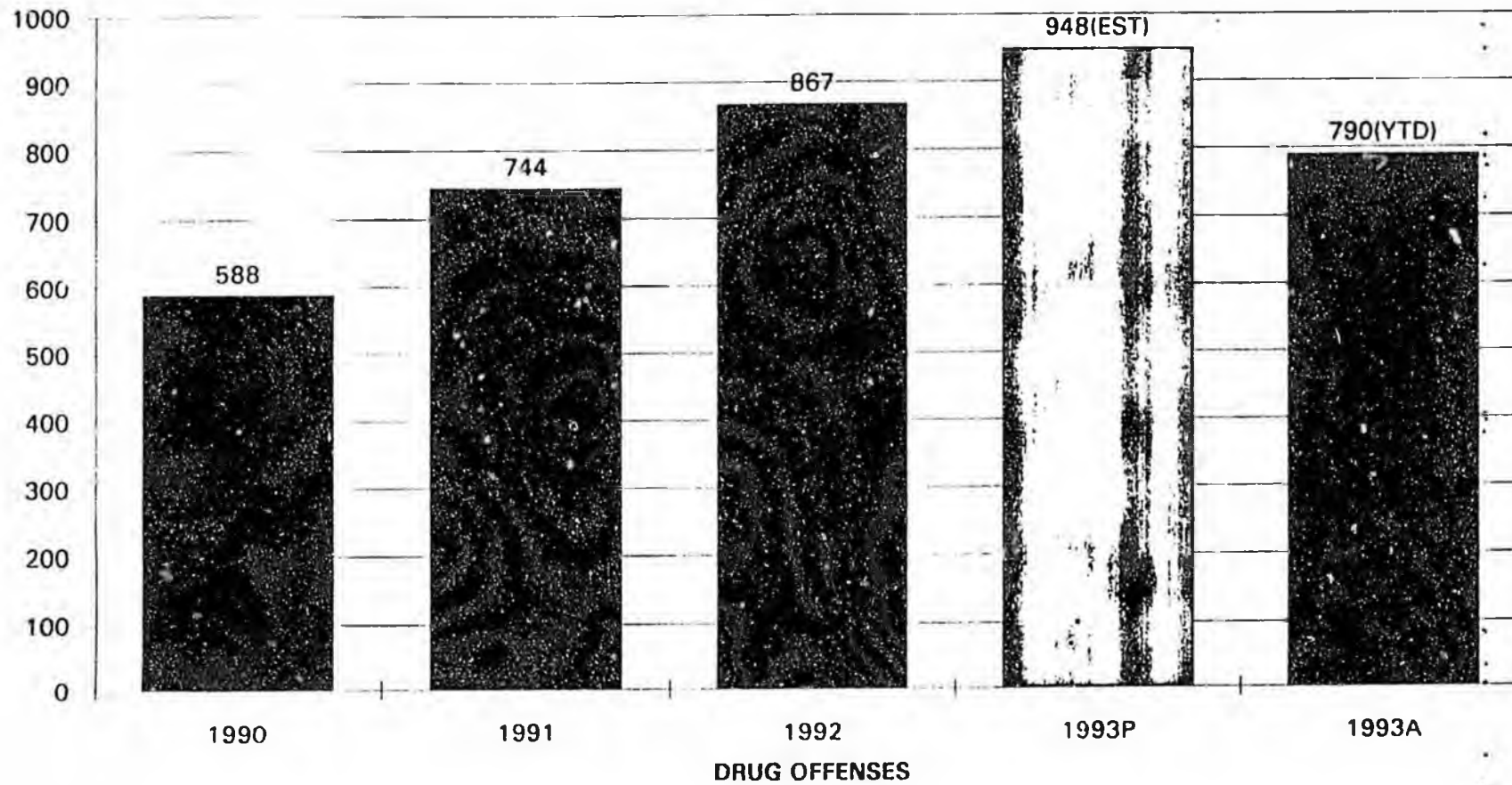
ALASKA STATE TROOPERS



ALASKA STATE TROOPERS



ALASKA STATE TROOPERS



1982

BOMBING INCIDENTS

1992

BY
YEAR

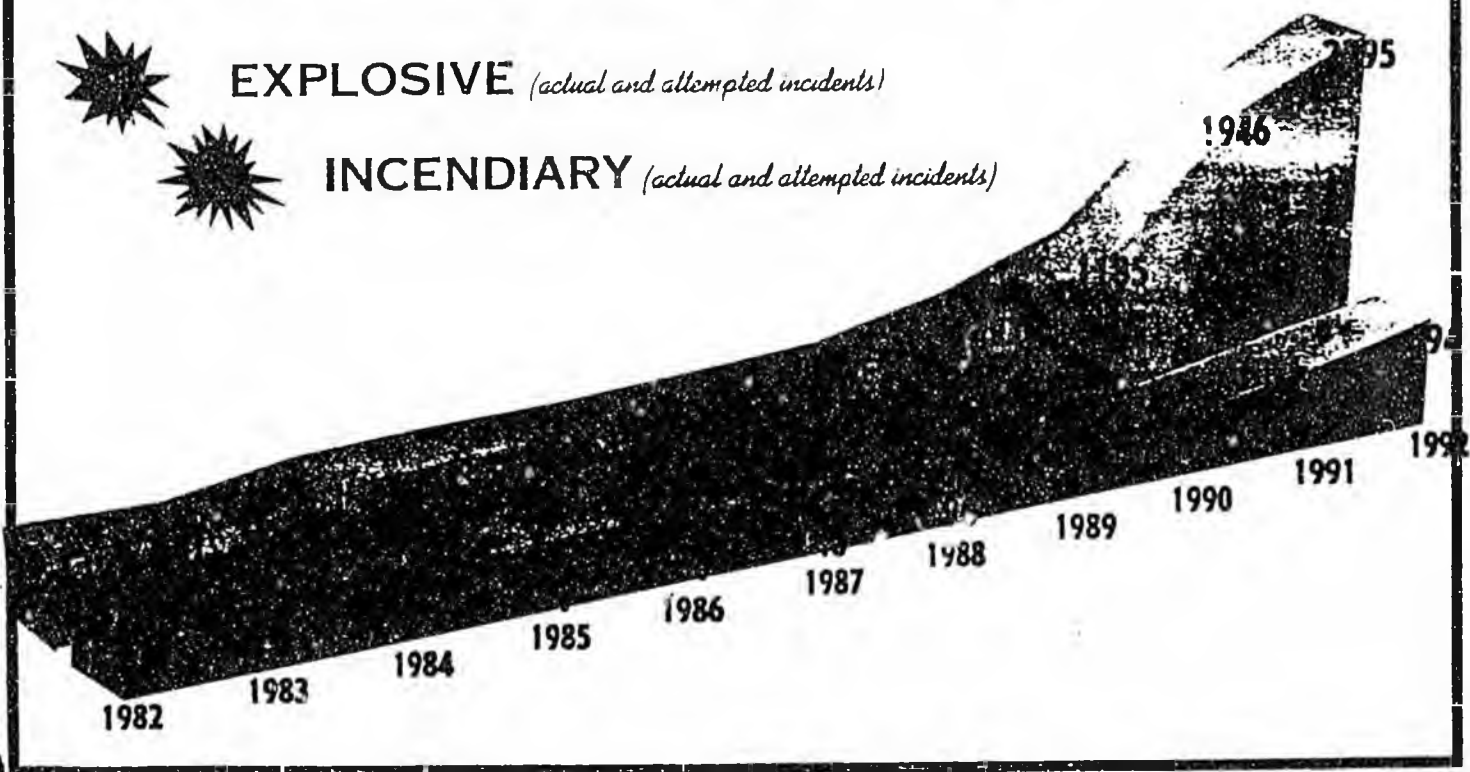
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992
TOTAL	795	687	803	847	858	848	977	1208	1582	2499	2989
EXPLOSIVE	485	442	518	575	580	600	593	641	931	1551	1911
INCENDIARY	194	127	127	102	129	104	156	203	267	423	582
EXPLOSIVE	77	77	118	113	101	102	161	243	254	395	384
INCENDIARY	39	41	40	57	48	42	40	91	130	130	112
PROPERTY DAMAGE	7.20	6.34	5.61	6.35	3.40	4.20	2.26	5.00	9.60	6.44	12.50
PERSONS INJURED	99	100	112	144	185	107	145	202	222	230	349
DEATHS	16	12	6	28	14	21	20	11	27	29	26



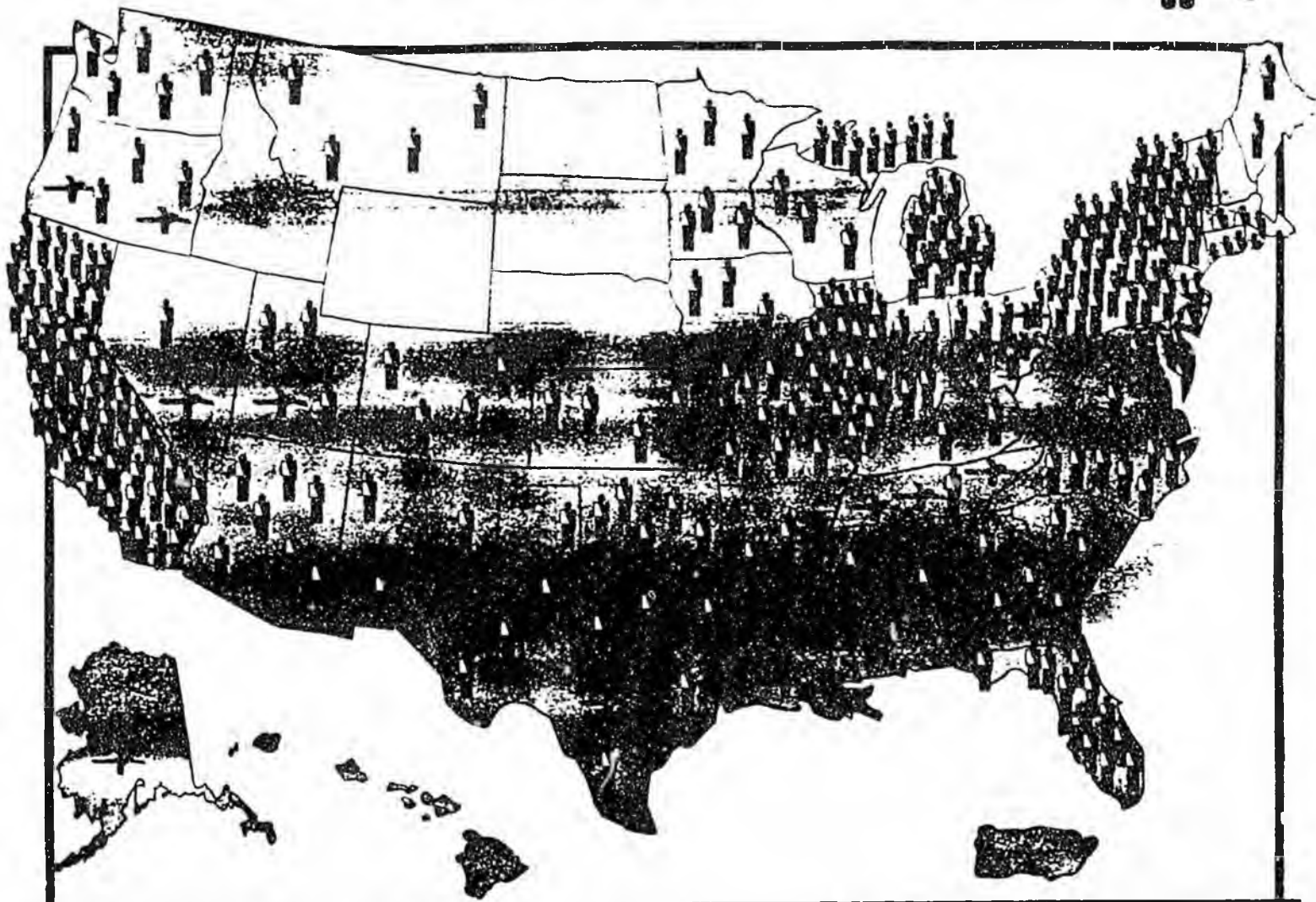
EXPLOSIVE (actual and attempted incidents)



INCENDIARY (actual and attempted incidents)



1992 INJURIES AND DEATHS



STATE	INJURIES	DEATHS	STATE	INJURIES	DEATHS	STATE	INJURIES	DEATHS
AL	1	-	KY	2	-	OH	6	3
AK	-	1	LA	-	1	OK	5	-
AZ	7	-	ME	2	-	OR	4	2
AR	2	-	MD	2	2	PA	46	-
CA	2	3	MA	3	-	PR	-	-
CO	56	3	MI	3	1	RI	3	-
CT	4	-	MN	28	1	SC	2	-
DE	3	-	MS	6	-	SD	2	-
DC	-	2	MO	1	-	TN	1	3
FL	2	2	MT	8	-	TX	9	1
GA	12	1	NE	4	-	UT	3	2
HI	4	-	NV	-	-	VT	3	-
ID	-	-	NH	1	1	VA	3	-
IL	-	-	NJ	1	1	WA	1	-
IN	39	1	NM	17	1	WV	5	-
IA	4	-	NY	3	1	WI	3	-
LA	3	-	NC	33	-	WY	3	-
KS	4	-	ND	7	-	TOTAL	349	26