

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8587 HOUSE JUDICIARY

January 23, 1995

Page 4 of 5

73,848 prisoner-days X \$113 per day = \$ 8,344,824 operating expenses

202 beds X \$160,000 per maximum bed = \$ 32,320,000 capital expenses

TOTAL ADDITIONAL EXPENSE = \$ 40,664,824

This figure does not include any inflation factor and does not assume any increase in the rate of convictions/incarceration. It does not account for increases in medical costs for a larger, aging population.

Offsetting this number, it would be expected that some savings might be expected in the Community Corrections component, since most of these prisoners would otherwise have been released and supervised on probation or parole under current law. However, the \$6 average cost per day for this supervision is almost negligible compared to the \$113 cost per day of incarceration, and would only be a factor for a relatively small portion of the total sentence.

Another offsetting factor might be the avoidance of costs of new crimes, probably violent, that these chronic types of offenders might be assumed to commit if they were released, under current law. These savings would be experienced by other agencies and departments through avoidance of arrests, investigations, trials, etc.

The fiscal impact of this legislation can be viewed from two fundamentally different ways. One can assume that those sentenced under this bill would have been sentenced for some length of time in any case and therefore the effect of this bill would "kick in" only after that presumed sentence had been served. In the case of the offenders in question here that would be roughly thirteen years from now.

On the other hand one can view the effects as beginning on the day the inmate begins servicing the sentence. In the opinion of the department the latter approach yields the most reliable results in presenting the cost of operating. Further it is the only approach which provides for critical long range planning. Prisoners sentenced under this bill are essentially "lifers" and from the day they walk in the door with that status they are fundamentally different.

It is a more realistic reflection of the impact to state that the Department expects four to six new individuals per year under this bill. Disregarding increases in convictions and incarcerations on the one hand and a reduction of new crimes committed by these inmates on the other; the department expects the population will peak 200 to 250 in approximately 46 years when the first of the group is released or dies of old age while in prison. Thus five new prisoners per year increase the cost of operation of the Department of Corrections by \$206,255 per year each year.

COMMITTEE COPY

5 prisoners X \$113 per day X 365 days per year = \$206,225.00

The cost of maintaining this new population would rise to \$1,237,350 in the sixth year.

Operating expenses are shown on page 1 as miscellaneous because more a detailed description of staffing and other operating expenses would be purely speculative with out first knowing the design of the facility. Further, it is assumed that site selection, facility design and and program design would require the time of several DOC staff at all levels. Two new full time positions would be necessary in order to meet the responsibilities of DOC to plan and facilitate the project. Therefore the salary of one facilities manager and one criminal justice planner has been included. Preliminary engineering and architectural services have been estimated at fifteen percent of the anticipated cost of the construction project. It is anticipated that this amount would transferred by RSA to DOT & PF.

COMMITTEE COPY

HOUSE COMMITTEE REPORT

2/10/95

(7)
Date Referred: January 16, 1995

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: 2/9/95

The STATE AFFAIRS Committee considered:

HB 38

HOUSE BILL NO. 38

SENTENCING; 3RD SERIOUS FELONY OFFENDER

"An Act relating to criminal sentencing; relating to the availability for good time credit for offenders convicted of certain first degree murders; relating to mandatory life imprisonment, parole, good time credit, pardon, commutation of sentence, modification or reduction of sentence, reprieve, furlough, and service of sentence at a correctional restitution center for offenders with at least three serious felony convictions; and amending Alaska Rule of Criminal Procedure 35."

recommends it be replaced the same title
with the following committee substitute _____ a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Dept/Date)
 fiscal note(s) CORR fiscal note(s) _____

zero fiscal note(s) _____ zero fiscal note(s) _____

| SIGNING WITH RECOMMENDATIONS | | DP | DNP | NR | AM |
|------------------------------|----------|-----|-----|-----|----|
| <i>Jeannette James</i> | James | ✓ | | | |
| <i>Brian Porter</i> | Porter | ✓ | | | |
| <i>Joseph Green</i> | Green | ✓ | | | |
| <i>Erin Robinson</i> | ROBINSON | | | ✓ | |
| <i>Ivan</i> | IVAN | | | ✓ | |
| <i>Ed Willis</i> | Willis | | | ✓ | |
| <i>Scott Ogan</i> | Ogan | ✓ | | | |
| | | (4) | | (3) | |
| | | | | | |
| | | | | | |

CHAIR'S SIGNATURE *Jeannette James*
James

ALASKA CIVIL LIBERTIES UNION

An Affiliate of the American Civil Liberties Union
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February 14, 1995

RECEIVED

FEB 16 1995

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

Brian Porter

Dear Representative Porter:

I am writing on behalf of the Alaska Civil Liberties Union (AkCLU) to express our opposition to HB 38, commonly known as the "Three-Strikes, You're Out" bill. We urge you to seriously review any stated justification for this legislation and ask that your committee probe with a critical mind the factual basis of any arguments presented in favor of adopting sentencing guidelines that remove total discretion from the judiciary and place it in the hands of prosecutors.

The experience of other states which have adopted "three-strikes" laws will greatly assist the Alaska Legislature as it debates the value of this particular legislation. I hope that the Judiciary Committee takes the time to gather information from those states who have had "three-strikes" legislation and that your committee educates its members by talking directly with the public safety and corrections officials from other states responsible for administration of laws similar to that proposed in HB 38. I also encourage the committee to talk with social scientists and experts in the field of criminology about the merits of the assumptions that underlie this bill.

Introduction

The most important impetus for the national movement towards three-strikes legislation is the public's present preoccupation with crime. Despite the perception that serious crime is on the rise, the facts are that the murder rate in the United States 60 years ago is just about what it is today.¹ "The numbers show that the high murder rate is not just a recent phenomenon brought on by drugs, unemployment or loss of family values," the non-profit Washington-based [Population Reference] Bureau said. "Murder, it seems, is part of the American way

¹ Lisa Hoffman, "Despite Leap in Fear, Murder Rate is no Higher than in 1933," Anchorage Daily News, February 2, 1995, page A1.

of life."² In addition, according to figures released by the FBI, there has been little or no growth in the overall crime rate during the last two decades.³ In short, violent crime is no more a problem today than it was ten, twenty, or even sixty years ago.

The likely root of the public's fear is increasing media attention to individual cases of violent crime, combined with the fact that certain segments of the population -- such as young, non-white males -- have a greater chance of becoming a homicide victim now than ever before and the fact that the homicide rate for children under 14 is at or near record highs for the post-World War II era and rates for preschoolers 4 and younger have risen to their highest levels in 40 years.⁴ The Population Reference Bureau study found that

Americans today perceive they are more at risk for murder than they really are because of the prevalence of stories on violent death in the news. "Communications and the media make it seem closer to home," [Carol] De Vita said [director of publications for the Population Bureau]. "We are under constant bombardment that homicide is everywhere, and increasing." She said that the nation also has become more "aware and sensitive" to the murder problem as its victims and perpetrators have gotten increasingly younger.⁵

Finally, while the rate of violent crime among younger people has risen, the rate among offenders aged 35 and older has decreased dramatically.⁶ Ironically, it is such older felons -- not the younger and more violent first-timers -- that HB 38 is designed to target directly.

Three-Strikes is Too Costly for the State

There appears to be a national consensus of opinion that three-strikes laws will cost a tremendous amount of money to implement and maintain. For example, in New Jersey, a non-partisan review found that each inmate not paroled as a result of a proposed three-strikes law would end up costing the state \$1,080,000.⁷ This magnitude of economic impact tends to trouble even conservative legislators who otherwise support the laws.⁸

² *Id.*, page A1.

³ Kevin Henderson, "Numbers on Crime Reveal a Different Picture from the 'Crisis' that Many Politicians Paint," Christian Science Monitor, February 8, 1994, page 1.

⁴ Hoffman, *supra*.

⁵ Hoffman, *supra*, page A8.

⁶ Henderson, *supra*, page 4.

⁷ Jerry Gray, "New Jersey Senate Approves Bill to Jail 3-Time Criminals for Life," New York Times, May 13, 1994, page 1.

⁸ See "California Governor Expected to Back Life Terms for Repeat Felons," New York Times, March 7, 1994, page A14; and William Claiborne, "State Legislators Rethink '3 Strikes' Laws as Costs Begin to Hit Home," Washington Post, August 7, 1994, page A18.

There are at least three significant ways in which a three-strikes law would be expected to impact Alaska's pocketbook: 1) costs associated with increased prison populations; 2) increasing health care costs for prisoners as they reach old age or who contract a terminal or physically debilitating disease while serving life sentences; and 3) costs incurred by the judiciary, the district attorney's offices, the Public Defender Agency, and the Office of Public Advocacy as a result of increased numbers of cases going to trial and a greater reluctance of defendants to plea bargain to any felony charge.

Prison Population Effects

Longer sentences mean more prisons will have to be built to handle the increase in numbers of incarcerated individuals. In California, a RAND Corporation study recently concluded that the state's three-strikes law will cost \$5.5 billion annually, most of which would go towards building and operating the additional prisons necessary to handle the resultant expected doubling of the prison population.⁹

As you know, last fall Alaska Superior Court Judge Karen Hunt began imposing a daily fine on the Alaska Department of Corrections so long as overcrowding continued, forcing the state to ship some 200 prisoners out-of-state, and leading to additional costly and lengthy litigation. The fine was assessed in the amount of \$5,000 per day. There can be no question, then, that any increase in numbers of prisoners will eventually have to be dealt with by adding prison beds. Please carefully review any Department of Corrections fiscal notes regarding the anticipated additional cost to the state of this proposed legislation.

Costs of Maintaining Geriatric or Medically Incapacitated Prison Populations

One inevitable effect of three-strikes laws will be to turn prisons into nursing homes.¹⁰ Longer sentences will mean that Alaska will have to be prepared to spend to match the rising annual cost for each prisoner as he or she gets older and requires more medical attention. Nationally, estimates are that costs of incarceration rise 3 to 5 times as prisoners reach ages of 55 to 65 years.¹¹

In addition, "three-strikers" may also contract serious, debilitating or even terminal diseases which would eliminate them as a danger to society. Yet it appears, under present HB 38, that the earliest date that either the state or a person incarcerated under this legislation could even approach the courts for consideration of release would be 49 1/2 years after final sentencing. This will

⁹ "'3 Strikes' Found Hobbled by Enormous Prison Costs," Los Angeles Times, September 22, 1994, page A1.

¹⁰ William J. Eaton, "'3-Time Loser' Bill a Political Winner, but Critics Abound," Los Angeles Times, January 25, 1994, page A24.

¹¹ Miles Corwin, "Doing Time in a Jail for Old-Timers," Los Angeles Times, May 6, 1994, page A1; and Daniel Franklin, "The Right Three Strikes," Washington Monthly, September, 1994, pages 25 and 29.

compel the state to care for these persons, often at great expense, through their death. The AkCLU would hope that humanity, alone, would dictate that the Legislature would consider amending this bill to provide for the release of "three-strikers" for medical reasons adjudged serious enough to remove them from consideration as a danger to society.

Impact on the Judicial System

Just as significant, and much more sudden, will be the new strain put on the judicial system. States with three-strikes laws have discovered that plea bargaining is much more difficult now. Defendants are much less likely to plead to any "strike" felony than they were in the past, because of the devastating impact such a strike could have on them.¹² This means more trials, which means more prosecutors, public defenders and public advocates, judges, and court personnel to handle the additional trials.

In states that have implemented three-strike laws, this impact has already begun to hit home. Following passage of California's three-strikes law on March 7, 1994, public defenders immediately began counseling defendants that there was little reason to accept plea bargains, given that a deal would later make those defendants subject to the three-strikes mandatory sentencing.¹³ *Shortly thereafter, Los Angeles District Attorney Gilbert Garcetti announced that he was simply getting rid of many sections of his office, including environment, consumer affairs, and major fraud sections, in order to free up enough attorneys to handle the three-strikes case load.*¹⁴ By August of 1994, California prosecutors were already being forced to move to dismiss prior felony convictions of potential three-strikers, or reclassify prior felonies as misdemeanors, in order to cope with suddenly unmanageable caseloads.¹⁵

In terms of actual costs, the California Judicial Council predicted that the three-strikes law in that state would result in 17,000 additional jury trials each year, requiring the hiring of 322 more judges, costing an additional \$276 million annually.¹⁶ Similar results are found in Washington State, where potential three-strikers are refusing to plea bargain and instead "forcing full trials in a court system that has neither the manpower nor the space to take on the extra load."¹⁷

¹² Timothy Egan, "A 3-Strike Law Shows It's Not as Simple as It Seems," New York Times, February 15, 1994, page A1.

¹³ Dan Morain, "Citing '3 Strikes,' Lawyers to Shun Plea Bargains," Los Angeles Times, March 9, 1994, page A1.

¹⁴ Charles L. Linder, "The Law That Brought the Criminal Justice System to Its Knees," Los Angeles Times, March 27, 1994, page M6.

¹⁵ Marc Peyser, "Strike Three. You're Not Out," Newsweek, August 29, 1994, page 53.

¹⁶ Dan Morain, "Costs to Soar Under '3 Strikes' Plan, Study Says," Los Angeles Times, March 1, 1994, page A1.

¹⁷ Egan, supra, page A1.

Three-Strikes Will Be Dangerous to the Public

There are several respects in which a three-strikes law is likely to prove counter-productive to its very purpose of protecting the public from violent crime. First, conservative and liberal commentators alike have expressed concern that criminals, faced with a third felony life sentence, will be more inclined to kill any victims or witnesses during commission of felony offenses.¹⁸ In fact, prosecutors and police officers in Washington State have observed, since the passage of the three-strikes law there, that criminals have been "showing a tendency to be more violent or desperate when officers try to arrest them."¹⁹

Two weeks ago, the Seattle police were about to make what they thought would be a routine arrest of a burglary suspect. Instead of surrendering, he threatened to shoot. Only after a special weapons squad surrounded the house did the stand-off end.

After the suspect was taken into custody, the police were told by his acquaintances that he thought he was facing a three-strikes charge. Rather than face life in prison, he decided to confront officers, the police said.

"It now looks like some of these three-strikes cases might try to get away or shoot their way out," said Sgt. Eric Balden of the Seattle Police Department. "Believe me, that's not lost on us. We're thinking about it."²⁰

Second, crowding of prisons with three-strikers may well lead to the forced early release of first and second offenders, who tend to be younger and statistically more likely to commit violent crimes again. This effect has already been documented in states where three-strikes laws have been implemented.²¹

Finally, there will be fewer pleas to felony charges by defendants with nothing to gain and everything to lose. This could have two possible consequences. First, more defendants will go to trial and, because the state's evidence is usually weaker when it is willing to plea bargain, more defendants may well go free. Whereas a plea bargain might have put a defendant in prison on a reduced felony or misdemeanor charge when the state was unsure of its ability to prevail at trial, the defendant may end up walking free as a result of the three-strikes law. Second,

¹⁸ Keith Henderson, "Three Strikes' Laws Strike Out With Law Enforcement Experts," Christian Science Monitor, February 1, 1994, page A1; and William Tucker, "Three Strikes and You're Dead," American Spectator, March, 1994, page 22.

¹⁹ Egan, supra, page A1.

²⁰ Id., page A18; see also Marc Mauer, "Politics, Crime Control . . . and Baseball?", Criminal Justice, Fall, 1994, noting reported cases in Washington State "where otherwise routine arrests resulted in armed confrontations with offenders who believed they had nothing to lose by resisting. This occurs even though Washington is a death penalty state and an armed confrontation with police could result in a capital charge" (emphasis added).

²¹ Corwin, supra, pages A1 and A22.

prosecutors may go ahead and reduce serious felonies to misdemeanors in order to maintain manageable case loads, with obvious results. Neither of these possibilities is what the proponents of three-strikes laws, nor the sponsor of HB 38, had in mind.

Three-Strikes Will Be Ineffective

First, as you may already be aware, most third-offense defendants convicted of a murder in the first or second degrees or of kidnapping will be unaffected by a three-strikes law because they already are normally sentenced to life in prison under Alaska's presumptive sentencing statutes. Thus, under these circumstances the law is unnecessary.

Second, it is well-documented that most violent crimes are not premeditated, but are instead committed in the heat of passion or anger, or while the defendant is under the influence of alcohol or drugs. A three-strikes law will not act as a deterrent to any of these people. Finally, most criminals who commit premeditated violent crimes have no intention of being caught. They also have good reason to believe they won't be caught: there were 6.6 million violent crimes committed during 1992 in the United States, and only 742,130 violent crime arrests.²² This is further evidence that a three-strikes law will, as professed by many, have no effect on crime rates.

Discretion Will Be Taken From Judges, Given to Prosecutors

"I am here to express the complete and unmitigated opposition of the federal judges of this country to mandatory minimums," announced U. S. District Court Judge Vincent Broderick to the Subcommittee on Crime of the House Judiciary Committee on July 28, 1993.²³ Among the reasons Judge Broderick gives for that opposition is the fact that "mandatory sentencing denigrates the independence of the judiciary, which is treated as a robotic rather than intelligent branch of government."²⁴ This denigration of judges is "based on the unexamined assumption that the statutory description of a crime contains all the information needed for wise disposition of the offender."²⁵

Three-strikes laws are mandatory minimums carried to an extreme. Under HB 38, Alaska judges would apparently have *no discretion whatsoever* to take into account anything about the three-strikes offender. The practical effect will be to place the discretionary decisions into the hands of prosecutors, who will decide with what to charge potential three-strikers. Instead of leaving to dispassionate judges

²² Bureau of Statistics, Sourcebook of Criminal Justice Statistics -- 1993, published in 1994.

²³ Vincent L. Broderick, "The Delusion of Mandatory Sentencing: The Wrong Approach to Fighting Crime," Trial, August, 1994, page 62.

²⁴ Id., page 64.

²⁵ Id.

the important decision about whether to imprison a person for life, that decision is handed completely over to the prosecution. The judge and the prosecutor become one and the same.

Three-Strikes Will Be Unjust and May Be Unconstitutional

In states that have enacted three-strikes laws, the injustices perpetrated as a result have come fast and furious. To counter the injustices wrought by these laws, judges and prosecutors are having to find fancy ways to resolve these matters. For example, a review of three-strikes cases resolved by August 31, 1994 in California revealed that only 1 in 6 eligible three-strikes defendants was actually sentenced to the prescribed 25-years-to-life-in-prison, because of the inability of prosecutors and judges to bring themselves to effectively enforce the law to its letter.

Even more troubling are the potential racist effects of a three-strikes law that puts too much discretion in the hands of prosecutors. A habitual offender law in Florida, allowing severe sentences for criminals guilty of three previous felonies, was found to have had this problem during its first three years after enactment.²⁶ In each of twenty statewide circuits, African-Americans were prosecuted under the law in greater proportion than whites who were similarly eligible.²⁷ Statewide, prosecutors charged black defendants with three-strikes violations at three times the rate charged against white defendants also eligible for the charge.²⁸ Faced with these facts, the criminal court judges in Palm Beach County voted unanimously to close down the habitual offender court altogether.²⁹

Given the present over-representation of the Alaska Native and African-American populations in Alaska's correctional institutions, the shift of discretion away from judges to prosecutors raises genuine concerns about the potential racist application of such a law.

Finally, serious constitutional questions exist about any law that imposes a mandatory life sentence. The Alaska Constitution contains a "cruel and unusual punishment" prohibition (Article I, section 12), which has been interpreted to make unconstitutional any "punishment so disproportionate to the offense committed as to be completely arbitrary and shocking to the sense of justice."³⁰ Any three-strikes legislation is bound to be attacked on these grounds as it begins to be applied to specific cases.

²⁶ Colman McCarthy, "Three Strikes Is a Foul for Justice," Washington Post, February 15, 1994, page D18.

²⁷ *Id.*

²⁸ William Clairborne, "State Legislators Rethink '3 Strikes' Laws as Costs Begin to Hit Home," Washington Post, August 7, 1994, page A18.

²⁹ McCarthy, *supra*.

³⁰ Burnor v. State, 829 P. 2nd 837, 840 (Alaska App. 1992) (citation omitted).

Conclusion

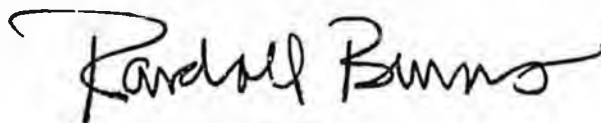
HB 38 is not an effective, sound approach to the punishment of repeat offenders. As catchy as "Three-Strikes, You're Out," may sound to the ear, such a law is destined to be costly, ineffective, and unjust. As the American Civil Liberties Union's "briefer" on "10 Reasons to Oppose '3 Strikes, You're Out,'" states (copy attached):

Today, the United States has the dubious distinction of leading the industrialized world in per capita prison population, with more than one million men and women behind bars. The typical inmate in our prisons is minority, male, young, unemployed, and uneducated. This profile should tell us something important about the link between crime and lack of opportunity, between crime and lack of hope.

Only when we begin to deal with the conditions that cause so many of our young people to turn to crime and violence will we begin to realize a less crime ridden society.

For the above reasons, the Alaska Civil Liberties Union urges the House Judiciary Committee to defeat passage of House Bill 38. Please feel free to contact this office if we can be of any assistance to you in reviewing this legislation.

Respectfully yours,



Randall P. Burns
Executive Director

cc: All members, AkCLU Board of Directors
Margaret W. Berck, Attorney at Law

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE FINKELSTEIN

TO: CSHB 38(JUD), work draft dated 3/10/95

1 Page 6, following line 30:

2 Insert new bill sections to read:

3 **"* Sec. 13.** AS 12.55.165 is amended to read:

4 Sec. 12.55.165. EXTRAORDINARY CIRCUMSTANCES. (a) If the
5 defendant is subject to sentencing under

6 (1) AS 12.55.125(c), (d), (e), or (i) and the court finds by clear and
7 convincing evidence that manifest injustice would result from failure to consider
8 relevant aggravating or mitigating factors not specifically included in AS 12.55.155
9 or from imposition of the presumptive term, whether or not adjusted for aggravating
10 or mitigating factors, the court shall enter findings and conclusions and cause a record
11 of the proceedings to be transmitted to a three-judge panel for sentencing under
12 AS 12.55.175; or

13 (2) AS 12.55.125(l) and the court finds by clear and convincing
14 evidence that manifest injustice would result from imposition of the definite term,
15 the court shall enter findings and conclusions and cause a record of the
16 proceedings to be transmitted to a three-judge panel for sentencing under
17 AS 12.55.175.

18 (b) In making a determination under (a)(1) [(a)] of this section, the court may
19 not refer a case to a three-judge panel based on the defendant's potential for
20 rehabilitation if the court finds that a factor in aggravation set out in
21 AS 12.55.155(c)(2), (8), (10), (12), (15), (17), (18)(B), (20), (21), or (28) is present.

22 *** Sec. 14.** AS 12.55.175(b) is amended to read:

23 (b) Upon receipt of a record of proceedings under AS 12.55.165, the three-
24 judge panel shall consider all pertinent files, records, and transcripts, including the
25 findings and conclusions of the judge who originally heard the matter. The panel may

1 hear oral testimony to supplement the record before it. If the panel finds that manifest
 2 injustice would result (1) for a record of proceedings transmitted under
 3 AS 12.55.165(a)(1), from failure to consider relevant aggravating or mitigating factors
 4 not specifically included in AS 12.55.155 or from imposition of the presumptive term,
 5 whether or not adjusted for aggravating or mitigating factors, or (2) for a record of
 6 proceedings transmitted under AS 12.55.165(a)(2), from imposition of the definite
 7 term, it shall sentence the defendant in accordance with this section. If the panel
 8 does not find that manifest injustice would result, it shall remand the case to the
 9 sentencing court, with a written statement of its findings and conclusions, for
 10 sentencing under AS 12.55.125.

11 * Sec. 15. AS 12.55.175(c) is amended to read:

12 (c) The three-judge panel may in the interest of justice sentence the defendant,
 13 for a proceeding transmitted under

14 (1) AS 12.55.165(a)(1), to any definite term of imprisonment up to the
 15 maximum term provided for the offense or to any sentence authorized under
 16 AS 12.55.015;

17 (2) AS 12.55.165(a)(2), to any definite term of imprisonment not
 18 less than the presumptive or minimum term for the offense under
 19 AS 12.55.125(a), (b), (c), or (i).

20 * Sec. 16. AS 12.55.175(e) is amended to read:

21 (e) If the three-judge panel determines under (b)(1) [(b)] of this section that
 22 manifest injustice would result from imposition of the presumptive term and the panel
 23 also finds that the defendant has an exceptional potential for rehabilitation and that
 24 a sentence of less than the presumptive term should be imposed because of the
 25 defendant's exceptional potential for rehabilitation, the panel

26 (1) shall sentence the defendant to the presumptive term required under
 27 AS 12.55.125;

28 (2) shall order the defendant under AS 12.55.015 to engage in
 29 appropriate programs of rehabilitation; and

30 (3) may provide that the defendant is eligible for discretionary parole
 31 under AS 33.16.090 during the second half of the sentence imposed under this
 32 subsection if the defendant successfully completes all rehabilitation programs ordered

1 under (2) of this subsection."

2 Renumber the following bill sections accordingly.

HB

39

(9)
Date Referred: January 16, 1995 FURTHER REFERRALS: Judiciary

Date of Committee Action: 1/26/95

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered: HB 39

HOUSE BILL NO. 39 AUTHORITY TO PRONOUNCE DEATH

"An Act relating to the authority of mobile intensive care paramedics, physician assistants, and emergency medical technicians to pronounce death under certain circumstances."

recommends it be replaced with the following committee substitute CS HB 39 (HES) [X] the same title [] a new title

[] additional referral to _____ Committee
[] attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Dept/Date)

[] fiscal note(s) _____ [] fiscal note(s) _____

[X] zero fiscal note(s) H+SS [] zero fiscal note(s) _____

| SIGNING WITH RECOMMENDATIONS | DP | DNP | NR | AM |
|------------------------------|----|-----|----|----|
| <i>[Signature]</i> | ✓ | | | |
| <i>[Signature]</i> | ✓ | | | |
| <i>[Signature]</i> | ✓ | | | |
| <i>[Signature]</i> | ✓ | | | |
| <i>[Signature]</i> | ✓ | | | |
| <i>[Signature]</i> | ✓ | | | |
| <i>[Signature]</i> | ✓ | | | |
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CHAIR'S SIGNATURE *[Signature]*

Alaska State Legislature

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House District 33

House Of Representatives

SPONSOR STATEMENT

HB 39

HB 39 The authority of mobile intensive care paramedics, physician assistants, and emergency medical technicians to pronounce death under certain circumstances.

SPONSOR: Rep. Gene Therriault

SPONSOR STATEMENT:

House Bill 39 proposes to allow mobile intensive care paramedics, physician assistants, and Emergency Medical Technicians (EMT) to determine and pronounce death under certain circumstances. Registered physician assistants, registered paramedics, and certified emergency medical service may make a determination and pronouncement of death upon determining that a person has suffered irreversible cessation of circulatory and respiratory functions while a physician is not immediately available for consultation by radio or telephone.

Currently, when a member of an emergency medical service begins CPR they are required to continue resuscitation until: the person recovers; the EMT, physician assistant, or paramedic is relieved by either a medical facility or physician; the responding parties become physically exhausted and no longer able to continue; their physical safety is seriously threatened; or a physician pronounces the person dead.

Many times, particularly in rural Alaska, physicians and medical facilities are not immediately available, and emergency medical response members are required to continue unproductive resuscitation for several hours.

HB 39 would allow an EMT, physician assistant, or paramedic to declare death in situations where a physician is not available. This will help emergency response teams to better attend to the emergency medical needs of Alaska.

Alaska State Legislature

REPRESENTATIVE
GENE THERRIALT

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House Of Representatives

SECTIONAL ANALYSIS

HB 39

HB 39 The authority of mobile intensive care paramedics, physician assistants, and emergency medical technicians to pronounce death under certain circumstances.

SPONSOR: Rep. Gene Therriault

SECTION 1:

This section makes a technical amendment to AS 09.65.120 DEFINITION OF DEATH, to add mobile intensive care paramedics, physician assistants, and emergency medical technicians to the list of individuals who may pronounce death.

SECTION 2:

Section 2 of HB 39 proposes new language, AS 18.08.089 AUTHORITY TO PRONOUNCE DEATH, which introduces detailed circumstances in which a registered mobile intensive care paramedic, registered physician assistant, or a certified emergency medical technician may determine and pronounce the death of a person.

The paramedic, physician assistant, or EMT may pronounce a person dead when a physician is not immediately available for consultation by radio or telephone and they have determined, by "acceptable medical standards," that the person has suffered irreversible cessation of circulatory and respiratory functions. The EMT or paramedic who determines and pronounces death must be an active member of a certified emergency medical service.

The paramedic, physician assistant, or EMT who determines the death shall document the clinical criteria for the determination and pronouncement of death and notify the appropriate medical director as soon as communications can be established.

Proposed AS 18.08.089 (d) (1) gives the definition of "acceptable medical

standards" as injuries incompatible with life, the presence of rigor mortis, the presence of post mortem lividity, or a failure to show signs of spontaneous pulse or respiratory functions in response to "properly administered resuscitation efforts." Injuries incompatible with life are defined in this section as cardiac arrest accompanied by incineration, decapitation, open head injury with loss of brain matter, or detraction.

Proposed AS 18.08.089(d) (3) defines "properly administered resuscitation efforts" as at least 30 minutes of CPR on a non-hypothermic patient when a person authorized to perform advanced cardiac life support techniques is not available. When a patient is hypothermic at least 60 minutes of CPR in conjunction with rewarming techniques is required as described in the current State of Alaska Hypothermia and Cold Water Near-Drowning Guidelines published by the Division of Public Health. A minimum of 30 minutes of CPR combined with properly performed advanced life support techniques would be required when a person authorized to provide such services is present.



alaska academy of physician assistants

To: Rep. Cynthia Toohey, Chairman
Health, Education, and Social Services Committee
House of Representatives
State of Alaska

From: Alaska Academy of Physician Assistants

Re: House Bill 39

The Alaska Academy of Physician Assistants is in support of House Bill 39. This bill will give the authority to Physician Assistants to pronounce death. While in urban areas where physicians, coroners, and law enforcement personnel are available, pronouncement of death is not a problem. But since our State is mainly rural and these personnel are often not available in the bush, it becomes an issue. A number of villages and remote industrial work sites have Physician Assistants available to perform the duty of pronouncement of death.

Please give you support for this bill.

Sincerely,

A handwritten signature in cursive script that reads "Joanne Clark, PA-C".

Joanne Clark, PA-C

President Elect

Alaska Academy of Physician Assistants

TO: HOUSE H.E.S.S. COMMITTEE

FROM: DONALD R. LEHMANN, MD
PRESIDENT, ALASKA STATE MEDICAL ASSOCIATION

RE: HOUSE BILL NO. 39. January 26, 1995

I apologize for not being able to testify in person on this bill.

The Alaska State Medical Association has in general been supportive of the intent of HB 39. We recognize the value of appropriately trained paramedics and EMTs. Having such personnel being able to legally pronounce death under appropriate guidelines will be of benefit to Alaskans, primarily in rural areas, as well as a benefit to these paraprofessionals who would otherwise be forced to continue futile resuscitative efforts.

We would oppose any dilution of the clear guidelines listed under Section 2. Some of our members expressed concern and have requested that line 3, page 3 item

[(C) the presence of post mortem lividity;]

be deleted. It was the feeling by a pathologist that this can be problematic and should not be used by EMTs in the field as a criteria for death.

I would be happy to answer any questions of the committee prior to any additional hearings that might be required.



Donald R. Lehmann, MD
700 Katlian St.
Sitka, AK 99835
907-747-5861



INTERIOR REGION EMERGENCY MEDICAL SERVICES COUNCIL, INC.



1881 MARIKA ST. • FAIRBANKS, ALASKA 99709
PHONE (907) 456-3978 • FAX 456-3970

January 23, 1995

Representative Gene Therriault
ATTN: FRANK SPAULDING
Alaska State Legislature
State Capitol (MS3100)
Juneau, Alaska 99801-1182

Dear Frank:


Interior Region Emergency Medical Services strongly endorses HB 39 as critically legislation for the pre-hospital emergency medical care providers of Alaska.

In many areas of Alaska, no physician or coroner is immediately available to determine and pronounce the death of a patient. Meanwhile, significant effort and resources are expended on resuscitation efforts that are clearly futile - this fact frequently precipitates unrealistic expectations on the part of the pre-hospital provider as well as the family of the patient. It is especially true in isolated, rural settings where the combination of inadequate transportation and/or communication make it impossible to gain access to a higher level of medical care.

The objective of the proposed legislation (HB 39), is to ensure that all patients receive appropriate emergency care, including resuscitation efforts, while at the same time allowing EMT's and paramedics to determine and pronounce death in circumstances where either starting or continuing a resuscitation effort are likely to be futile. Although EMT's and paramedics will need limited additional training, the bill clearly defines the setting under which resuscitation may stop as well as the records that are required to document the death. This bill will remove the mandate for EMT's and paramedic to initiate and continue extensive resuscitation efforts (over periods of hours) on a dead patient or a patient who may have been dead, by giving the decision to pronounce death to the medical care provider (EMT or paramedic) on the scene. It will also alleviate the personal anguish and physically taxing responsibility of the medical provider who provides definitive patient care on a person that the provider knows has expired, but who may not stop for fear of litigation.

HB 39 is good legislation and excellent public policy.

Sincerely,



Craig R. Lewis
Executive Director

Making the call

Bill would let rescue workers declare death

By ED SCHOENFELD

THE JUNEAU EMPIRE

Joey Peyton still remembers the day he tried to resuscitate the victim of a plane crash near the Bethel Airport.

The emergency medical technician arrived to find a man mangled beyond recognition, bleeding profusely, with bone fragments jutting from his body.

But since there was a heartbeat, Peyton had to try to get air into his lungs and intravenous fluid into his bloodstream.

It didn't work.

"Air was blowing out holes in his chest and holes in his head and holes in his throat," said Peyton, an emergency medical trainer now based in Delta Junction. "The guy was obviously, hopelessly dead. In fact, he was bleeding IV fluid by the time the rescue helicopter got there."

Resuscitation, however, had to continue since there was no one present with sufficient medical authority to declare the man dead.

That would change under a bill that proposes giving some rescue crew workers the power to pronounce death.

House Bill 478 would end the obligation to continue fruitless resuscitation efforts when a doctor or other authority could not be reached to verify death, said sponsor Rep. Gene Therriault, a North Pole Republican.

Giving paramedics and emergency medical technicians the

Please see Bill, back page

Bill...

Continued from Page 1

power to declare death would lessen trauma to loved ones as well as rescue workers, said Janet North, a Galena EMS coordinator who was involved in an unsuccessful five-hour resuscitation effort last weekend in the community.

"It was pretty distressful to the family and to us," North told a House Health, Education and Social Services Committee hearing this week.

At the hearing, rescue workers from Ketchikan to Fort Yukon told lawmakers of dozens of hours-long resuscitation efforts that should have never taken place.

"Prolonged resuscitation is a mindless and barbaric tradition that will be broken by passing this bill," said Peyton, who now works with a rescue team that responds to accidents along the Alaska Highway. The incident in Bethel occurred about five years ago.

The bill does not give rescue workers permission to declare death in any situation.

It defines conditions, such as rigor mortis, that can be used to proclaim death. It also takes into account cases of drowning and hypothermia, where extended medical attention can revive a seemingly dead victim.

If the bill passes, additional details would also be added, Therriault said.

"I envision there would be some regulatory fleshing out of this so it became real clear to the EMS provider when they did have this authority and when they didn't," he told the committee before it passed out the bill.

Intent language attached to the bill also calls for emergency medical technicians and paramedics to receive additional training in recognizing signs of death.

The bill, recently endorsed by an Alaska State Medical Association's panel, would mostly affect rescue workers in rural areas where it can be hard to reach or locate a person with the authority to proclaim death.

But it would also be practical in Juneau and other cities, where air ambulance workers are sometimes required to continue resuscitation after a patient is beyond any chance of recovery, said Steve Iha, Capital City Fire-Rescue EMS captain.

"Significant amounts of money could be saved by allowing the pre-hospital advisers to stop a resuscitation in the field," Iha said.

Probable Supporters:

Craig Lewis
Interior Region EMS Council
Executive Director
Fairbanks
Tel: 456-3978
Fax: 456-3970

Mark Johnson
DHSS - Division of Public Health
Emergency Medical Services Coordinator
Tel: 465-3027

Dr. Donald Lehmann
President-Alaska State Medical Association
Chairman-Legislative Affairs Committee Chairman
Sitka
Tel: 747-5861

No known opponents.



David L. Tyler
President

Interior Fire Chiefs Association

1710 30th Avenue
Fairbanks, Alaska 99709
(907) 479-5672

February 9, 1995

Representative Gene Therriault
House District 33
State Capitol, Room 421
Juneau, Alaska 99801-1182

Dear Representative Therriault,

At the February 8, 1995 meeting of the Interior Fire Chiefs Association we voted unanimously to support House Bill 39. We all feel this is a very important bill that is long over due.

Being responsible for medical units we all realize the importance of giving our patients every possible chance to survive. All too often, though, we find ourselves with hopeless situations. Having to provide treatment to the obviously deceased creates two specific problems.

Relatives of the deceased can usually tell when there is no hope left. When we are forced by law to start treatment this puts an additional hardship on the survivors. CPR and advanced life support efforts are not pretty, especially when it is your loved one that is being treated.

It also puts the medical staff treating the patient in a difficult position. Treating someone who is obviously deceased is very stressful. You know there is no hope, but you still have to treat the patient. Plus the situation can and sometime does cause conflict between the survivors and the medics. Stress management of emergency services personnel is a very real concern.

As Fire Chiefs we feel the implementation of House Bill 39 will help the emergency responders in our state provide a much better service.

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE THERRIAULT

TO: CSHB 39(HES)

- 1 Page 2, line 31, after "means":
- 2 Insert "cardiac arrest accompanied by"


- 3 Page 3, line 2:
- 4 Delete "cardiac arrest accompanied by"

A handwritten signature, possibly "Jr", is enclosed within a hand-drawn circle. The signature is written in dark ink and is positioned to the right of the amendment list.

I am also going to be talking with Chief Billy Harris, President of the State Fire Chief's Association, regarding this matter. As the Chairman of the State Chief's Legislative Affairs Committee I feel very confident you will have their support as well.

In closing I would like to thank you for introducing this bill. Please feel free to contact me at any time should you have any questions.

Respectfully,



David L. Tyler
President

| | | |
|--|---------------------|----------------|
| Post-It™ brand fax transmittal memo 7671 | | # of pages » 2 |
| To Frank Spaulding | From David Tyler | |
| Co. | Co. | |
| Dept. | Phone # | 479-5672 |
| Fax # | Fax # | 479-5858 |

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 39

Revision Date: _____
 Title: An Act relating to the authority of mobile intensive care
 paramedics, PAs, and EMTs to pronounce death.
 Sponsor: Reps. Therriault, B. Davis
 Requestor: House HESS

Dept. Affected: Health and Social Services
 BRU: State Health Services
 Component: State Medical Examiner
 COMPONENT SERIAL NO. 293
 See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

| OPERATING | FY96 | FY97 | FY98 | FY99 | FY00 | FY01 |
|------------------------|------------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

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

| | | | | | | |
|-----------------------|-----|-----|-----|-----|-----|-----|
| CHANGES IN REVENUES (| 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|-----------------------|-----|-----|-----|-----|-----|-----|

FUND SOURCE

(Thousands of Dollars)

| | | | | | | |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1006 GF/MHTIA | | | | | | |
| Other (please specify) | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

POSITIONS:

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

Estimate of any current year (FY95) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

There is no fiscal impact.

Prepared by: Peter M. Nakamura, MD.MPH *(Signature)*
 Division: Public Health

Phone: (907) 465-3090
 Date: 01/24/95

Approved by Commissioner: *(Signature)* Karen Perdue, Commissioner
 Agency: Department of Health & Social Services

Date: 1/25/95

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1995 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Public Safety
 Title: "An Act relating to the authority of mobile
intensive care paramedics... to pronounce death..." Alaska State Troopers
 Component: Detachments
 Sponsor: Representatives Therriault and B. Davis
 Requestor: _____ COMPONENT SERIAL NO. 0799

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

| OPERATING | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 |
|--|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | -0- | -0- | -0- | -0- | -0- | -0- |
| CAPITAL EXPENDITURES | -0- | -0- | -0- | -0- | -0- | -0- |
| CHANGE IN REVENUES () Revenue Code | -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- |

Estimate of current year (FY 95) impact: \$ -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 |

ANALYSIS: (Attach a separate page if necessary.)
 No significant impact on the Alaska State Troopers.

Prepared By: Francis C. Allan Phone: 269-5691
 Division: Alaska State Troopers Date: 01/25/95
 Approved by Commissioner: Ronald L. Otta Date: 1/26/95
 Agency: Ronald L. Otta, Dept. of Public Safety

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STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 39

Revision Date: _____
 Title: An Act relating to the authority of mobile intensive care
 paramedics, PAs, and EMTs to pronounce death.
 Sponsor: Reps. Therriault, B. Davis
 Requestor: House HESS

Dept. Affected: Health and Social Services
 BRU: State Health Services
 Component: State Medical Examiner
 COMPONENT SERIAL NO. 293
 See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

| OPERATING | FY96 | FY97 | FY98 | FY99 | FY00 | FY01 |
|-------------------|------|------|------|------|------|------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

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

| | | | | | | |
|---------------------|-----|-----|-----|-----|-----|-----|
| CHANGES IN REVENUES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|---------------------|-----|-----|-----|-----|-----|-----|

FUND SOURCE

(Thousands of Dollars)

| | | | | | | |
|--------------------------|-----|-----|-----|-----|-----|-----|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1006 GF/MHTIA | | | | | | |
| Other (please specify) | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

POSITIONS:

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

Estimate of any current year (FY95) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

There is no fiscal impact.

Prepared by: Peter M. Nakamura, MD, MPH *(Signature)*
 Division: Public Health

Phone: (907) 465-3090
 Date: 01/24/95

Approved by Commissioner: *(Signature)*
Karen Perdue, Commissioner
 Agency: Department of Health & Social Services

Date: 1/25/95

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1996 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Public Safety
 Title: "An Act relating to the authority of mobile intensive care paramedics to pronounce death..." Alaska State Troopers
 Component: Detachments
 Sponsor: Representatives Theriault and B. Davis
 Requestor: _____ COMPONENT SERIAL NO. 0799

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

| OPERATING | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 |
|--|------------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | -0- | -0- | -0- | -0- | -0- | -0- |
| CAPITAL EXPENDITURES | -0- | -0- | -0- | -0- | -0- | -0- |
| CHANGE IN REVENUES () <small>Revenue Code</small> | -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- |

Estimate of current year (FY 95) impact: \$ -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 |

ANALYSIS: (Attach a separate page if necessary.)
 No significant impact on the Alaska State Troopers.

Prepared By: Francis C. Allan Phone: 269-5691
 Division: Alaska State Troopers Date: 01/25/95
 Approved by Commissioner: *Ronald L. Otte* Date: 1/24/95
 Agency: Ronald L. Otte, Dept. of Public Safety

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HB

42

FISCAL NOTE

BILL NO. ^{6.5} HB 43 (STA)

STATE OF ALASKA

1995 LEGISLATIVE SESSION

Revision Date: _____
 Title: Absentee Balloting by FAX
 Sponsor: Representative Martin
 Requestor: _____

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

EXPENDITURE&REVENUES:

| OPERATING | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | 0 | 13.0 | 0 | 13.0 | 0 | 13.0 |
| TRAVEL | 0 | 0 | 0 | 0 | 0 | 0 |
| CONTRACTUAL | 0 | 16.8 | 0 | 16.8 | 0 | 16.8 |
| SUPPLIES | 0 | 0 | 0 | 0 | 0 | 0 |
| EQUIPMENT | 0 | 8.0 | 0 | 8.0 | 0 | 8.0 |
| 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 | 37.8 | 0 | 37.8 | 0 | 37.8 |

| | | | | | | |
|---------|---|---|---|---|---|---|
| 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 | 37.8 | 0 | 37.8 | 0 | 37.8 |
| 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 | 37.8 | 0 | 37.8 | 0 | 37.8 |

POSITIONS:

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

Estimate of current year (FY98) impact: 0

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: David Kolvundemi, Acting Director
 Division: Division of Elections

Phone: 486-1811
 Date: January 27, 1995 *1/27/95*

Approved by Commissioner: Fran Ulmer, Lieutenant Governor
 Agency: Office of the Governor

Date: January 27, 1995

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 42

Personal Services

| | |
|--|------------|
| 1 Clerk III at range 8A (June-November) | \$10888.00 |
| Overtime | \$ 2300.00 |

Contractual

| | |
|---|----------------------------|
| 5 cases 4024 DP 8.5 x 11 paper | \$ 52.50 x 5 = \$ 262.50 |
| Installation of 3 lines | \$ 392.00 |
| Monthly Charges(June-November) (FCC, Toll) | \$ 198.50 |
| Hunt Feature | \$ 840.00 |
| Telephone Charges (June-November) | \$2500.00 x 6 = \$15000.00 |

Equipment

| | |
|---------------------|----------------------------|
| 3 plain paper faxes | \$2696.00 x 3 = \$ 8088.00 |
|---------------------|----------------------------|

Total \$37,387.50

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 120

Revision Date: _____ Dept. Affected: Department of Law
 Title: "An Act relating to public employers defending and BRU: Legal Services
indemnifying public employees..." Component: Operations
 Sponsor: Representative Porter
 Requester: Representative Porter COMPONENT SERIAL NO. 0093

Expenditures/Revenues (Thousands of Dollars)

| OPERATING EXPENDITURES | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 |
|------------------------|-------|-------|-------|-------|-------|-------|
| 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 EXPENDITURES | | | | | | |
|----------------------|--|--|--|--|--|--|

| | | | | | | |
|------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|------------------------|--|--|--|--|--|--|

FUND SOURCE (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 |

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

| | | | | | | |
|-----------|-----|-----|-----|-----|-----|-----|
| FULL-TIME | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

This bill clarifies existing practice concerning the defense and indemnification of public employees involving civil claims against these employees arising out of conduct that is within the scope of employment. Because the bill spells out these existing practices in statute, there will not be a fiscal impact.

Prepared by: Richard I. Peques, Director Phone: 465-3672
 Division: Administrative Services Division Date: 2/7/95
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 2/7/95
 Agency: Department of Law

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CS FOR HOUSE BILL NO. 42 (STA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVE MARTIN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to absentee voting, to electronic transmission of absentee ballot
2 applications, and to delivery of ballots to absentee ballot applicants by electronic
3 transmission, and enacting a definition of the term 'state election' for purposes of
4 absentee voting."

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

6 * Section 1. AS 15.20 is amended by adding a new section to read:

7 Sec. 15.20.066. VOTING BY ELECTRONIC TRANSMISSION. (a) The
8 director shall adopt regulations applicable to the delivery of absentee ballots by electronic
9 transmission in a state election and to the use of electronic transmission absentee voting
10 in a state election by qualified voters. The regulations must

11 (1) require the voter to comply with the same time deadlines as for voting
12 in person on or before the closing hour of the polls;

13 (2) ensure the accuracy and, to the greatest degree possible, the integrity

1 and secrecy of the ballot process.

2 (b) An absentee ballot that is completed and returned by the voter by electronic
3 transmission must

4 (1) contain the following statement: "I understand that by using electronic
5 transmission to return my marked ballot, I am voluntarily waiving my right to a secret
6 ballot.", followed by the voter's signature and date of signature; and

7 (2) be accompanied by a statement executed under oath as to the voter's
8 identity; the statement under oath must be witnessed by

9 (A) a commissioned or noncommissioned officer of the armed
10 forces of the United States;

11 (B) an official authorized by federal law or the law of the state in
12 which the absentee ballot is cast to administer an oath; or

13 (C) two United States citizens who are 18 years of age or older.

14 * Sec. 2. AS 15.20.081(a) is amended to read:

15 (a) A qualified voter may apply by mail or by electronic transmission to the
16 director for an absentee ballot. The application must [SHALL] include the address or, if
17 the application requests delivery of an absentee ballot by electronic transmission, the
18 telephone electronic transmission number, to which the absentee ballot is to be
19 returned, the applicant's full Alaska residence address, and the applicant's signature.
20 However, a person [PERSONS] residing outside the United States and applying to vote
21 absentee in federal elections in accordance with AS 15.05.011 need not include an Alaska
22 residence address in the application.

23 * Sec. 3. AS 15.20.081(b) is amended to read:

24 (b) An application requesting delivery of [FOR] an absentee ballot to the
25 applicant by mail must be received by the division of elections not less than seven
26 [FOUR] days before the election for which the absentee ballot is sought. An application
27 for an absentee ballot for a state election from a qualified voter requesting delivery
28 of an absentee ballot to the applicant by electronic transmission must be received by
29 the division of elections not less than four days before the election for which the
30 absentee ballot is sought. An [THE] absentee ballot application submitted by mail
31 under this section must permit the person to register to vote under AS 15.07.070 and to

1 request an absentee ballot for each state election held within that calendar year for which
2 the voter is eligible to vote. An absentee ballot application submitted by electronic
3 transmission under this section may not include a provision that permits a person
4 to register to vote under AS 15.07.070.

5 * Sec. 4. AS 15.20.081(c) is amended to read:

6 (c) After receipt of an application [BY MAIL], the director shall send the absentee
7 ballot and other absentee voting material to the applicant by the most expeditious mail
8 service. However, if the application requests that an absentee ballot for a state
9 election be sent by electronic transmission, the director shall send the absentee ballot
10 and other absentee voting material to the applicant by electronic transmission. The
11 absentee ballot and other absentee voting [THE] material shall be sent as soon as they
12 are ready for distribution. If the absentee ballot and other absentee voting material
13 are mailed to the applicant, the [THE] return envelope sent with the ballot and other
14 materials shall be addressed to the election supervisor in the district in which the voter is
15 a resident.

16 * Sec. 5. AS 15.20.081(e) is amended to read:

17 (e) An absentee ballot must be marked on or before the date of the election.
18 Except as provided in (h) of this section, a voter who returns the absentee ballot by mail,
19 whether provided to the voter by mail or by electronic transmission, shall use a mail
20 service at least equal to first class and mail the ballot not later than the day of the election
21 to the election supervisor for the election district in which the voter seeks to vote. Except
22 as provided in AS 15.20.480, the ballot may not be counted unless it is received by the
23 close of business on the 10th day after the election. If the ballot is postmarked, it must be
24 postmarked on or before election day. After the day of the election, [NO] ballots may not
25 [SHALL] be accepted unless received by mail.

26 * Sec. 6. AS 15.20.081(g) is amended to read:

27 (g) The director shall maintain a record of the name of each voter to whom an
28 absentee ballot is sent under this section [BY MAIL]. The record must list the date on
29 which the ballot is mailed or provided by electronic transmission and the date on which
30 the ballot is received by the election supervisor and the dates on which the ballot was
31 executed and postmarked.

1 * Sec. 7. AS 15.20.082 is amended by adding a new subsection to read:

2 (e) The provisions of AS 15.20.066 and 15.20.081 relating to electronic
3 transmission absentee voting do not apply to the procedures established in this section.

4 * Sec. 8. AS 15.20.211(b) is amended to read:

5 (b) If a voter requested an absentee ballot [BY MAIL] and the proper absentee
6 ballot was not sent to the voter, the votes cast by the voter on the ballot received which
7 are for write-in candidates the voter could have voted for if the voter had received and
8 voted the proper absentee ballot shall be counted.

9 * Sec. 9. AS 15.20 is amended by adding a new section to read:

10 Sec. 15.20.225. DEFINITION OF "STATE ELECTION." In AS 15.20.010 -
11 15.20.225, "state election" means a primary, general, or special election a purpose of
12 which is to

13 (1) select, nominate, or elect a governor, a lieutenant governor, an acting
14 governor, a state senator, or a state representative;

15 (2) select, nominate, or elect delegates to a constitutional convention;

16 (3) approve or reject an initiative submitted under art. XI of the state
17 constitution and AS 15.45.190 - 15.45.200 or a referendum submitted under art. XI of the
18 state constitution and AS 15.45.420 - 15.45.440;

19 (4) recall an official identified in (1) of this section when authorized by art.
20 XI of the state constitution and AS 15.45.650 - 15.45.690;

21 (5) approve or reject a proposed constitutional amendment submitted
22 under AS 15.50; or

23 (6) ratify or reject a state general obligation bond when authorized by
24 AS 37.15.

REPRESENTATIVE
TERRY MARTIN
CHAIRMAN
BUDGET & AUDIT COMMITTEE
MEMBER
HOUSE FINANCE COMMITTEE

Alaska State Legislature



MAY 15 - JAN 15 258-8169
716 W. 4TH, SUITE 650
ANCHORAGE, AK 99504

JAN 15 - MAY 15 465-3783
STATE CAPITOL
JUNEAU, AK 99801-1182

HOME 333-6990
355 DONNA DRIVE, #111
ANCHORAGE, AK 99504

SPONSOR SUMMARY

HB 42

An Act relating to absentee voting by electronic transmission.

The intent of HB42 is to allow residents of Alaska voting absentee to utilize electronic transmission (fax), whether in-state, out-of-state in the United States, or outside of the United States.

Need for Legislation

Alaska's voter population is diverse and geographically dispersed. Many individuals require assistance in voting, specifically the physically challenged, elderly, and non-English speaking voters. In addition, our Armed Service members stationed outside of Alaska have encountered difficulties in absentee voting. Military members outside the U.S. have reported an escalation in absentee problems through failures in our postal system, changes in electoral regulations, and simple misinstruction. With regard to the military, 1993 reports reveal that there are 26,281 Alaska residents serving in the Armed Forces alone, with over 19,000 spouses and dependents of voting age, and almost 5,750 residents not affiliated with the federal government, but eligible to vote in Alaska.

These figures do not include the other Alaskan residents who vote out-of-state by absentee such as college students, state employees, private business people who must leave state for work, and even vacationers. Nor do the statistics reference in-state travelers who may not be in their election district during a state election but could utilize electronic transmission to cast their absentee ballot. This is especially helpful when one considers the potential delays and difficulties in traveling throughout Alaska.

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



and if received by the Division of Elections by the tenth day following the election. Ballots returned by voters outside the United States must be received by the Division of Elections by the fifteenth day following the election. Alaska also provides a Special Write-in Absentee Ballot, which is available 60 days before the election.

Over the last two decades, absentee ballot procedures and postal service problems have resulted in the loss and delay of numerous absentee voters' ballots. In the 1988 presidential election, 200,000 U.S. military personnel alone tried to vote absentee but were unable to do so because they didn't receive their ballot on time or at all. Presently, the following ten (10) states and territories accept a voted ballot by fax: Hawaii, Indiana, Kansas, Louisiana, Montana, North Dakota, Utah, Washington, District of Columbia, and Virgin Islands. In the 1992 presidential election 699 election offices in 49 states operated fax machines to distribute information and material to voters.

The purpose of HB42 is not to substitute the use of electronic transmission over mail service, but to decrease lost, delayed, or denied absentee ballots due to time constraints. The use of electronic transmission maintains confidentiality while furthering speed and efficiency. In essence, it expands the use of alternative voting procedures which, if not utilized, might otherwise disenfranchise an Alaskan resident voting absentee when time is of the essence.

REPRESENTATIVE
TERRY MARTIN
CHAIRMAN
BUDGET & AUDIT COMMITTEE
MEMBER
HOUSE FINANCE COMMITTEE

Alaska State Legislature



MAY 15 - JAN 15 258-8100
716 W. 4TH, SUITE 650
ANCHORAGE, AK 99504
JAN 15 - MAY 15 465-3783
STATE CAPITOL
JUNEAU, AK 99801-1182
HOME 333-6990
355 DONNA DRIVE, #11
ANCHORAGE, AK 99504

SECTIONAL ANALYSIS *HB 42*

An Act relating to absentee voting by electronic transmission.

Section 1.

Directs Division of Elections to adopt regulations establishing absentee voting by fax. Requires compliance with current deadlines while ensuring accuracy, integrity and secrecy. Requires signature by absentee voter of a secrecy waiver and an oath to be taken before commissioned/non-commissioned Armed Services member, federal or state official authorized to administer oath (in state where fax will emanate), or by two U.S. citizens 18 or older. Requires faxed receipt by Division of Elections.

Section 2.

Allows a qualified voter to apply for an absentee ballot by fax and to provide a corresponding fax number for confirmation.

Section 3.

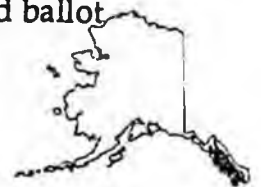
Requires a mailed application to be received by Division of Elections not less than seven days (changed from four days) before the election and a faxed application to be received not less than four days. Prohibits registering to vote by fax.

Section 4.

Allows an absentee voter to request an absentee ballot by fax and to receive an absentee ballot by fax.

Section 5.

Allows a completed ballot to be faxed by voter, but requires that any faxed ballot be received by Division of Elections by the day of the election.



Section 6.

Requires the Division of Elections to record any faxed ballot.

Section 7.

Removes applicability of faxing from AS15.20.082 which clarifies absentee voting by mail.

Section 8.

Allows absentee voter to write in eligible candidates if the wrong ballot was sent or faxed.

Section 9.

Defines "State Election" and lists potential candidates and issues that could be voted on by fax.



3710 Woodland Drive, Suite 900
Anchorage, AK 99517-2571
Toll Free: (800) 770-4488
(907) 248-4777
Fax: (907) 248-0639
TTY/TDD 248-8799

3550 Airport Way, Suite 3
Fairbanks, AK 99709-4772
Toll Free: (800) 777-7940
(907) 479-7940
Fax: (907) 474-4052

January 23, 1995

Members of the House of Representatives
State Capitol
Juneau, Alaska 99811

Dear House Members:

I am writing to express Access Alaska's strong support of HB 42, the Voting by Electronic Transmission bill, submitted by Representative Terry Martin.

For many Alaskans with disabilities finding accessible transportation to and from polling places is very difficult and causes them to forego voting due to the hassle. The Voting by Electronic Transmission bill provides an easy and effective way to remedy many of the voting problems experienced by voters with disabilities.

In passing the Voting by Electronic Transmission bill you are increasing opportunities for all Alaskans, including people with disabilities, to take part in the democratic process.

Again, Access Alaska strongly encourages you to pass HB 42 the Voting by Electronic Transmission bill

If you have any questions regarding Access Alaska's support of HB 42, please give me a call.

Thank you!

Sincerely,

Duane M. French
Executive Director



FEDERAL VOTING ASSISTANCE PROGRAM
OFFICE OF THE SECRETARY OF DEFENSE
WASHINGTON, DC 20301-1155

February 6, 1995

The Honorable Brian Porter
Chair, House Judiciary Committee
State Capitol
Juneau, Alaska 99801

Dear Mr. Porter:

The *Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)*, which this office administers, concerns the absentee voting rights of over 15,600 Alaskan citizens currently serving in the Armed Forces. In addition, there are approximately 12,000 voting age spouses and dependents, and nearly 6,000 Alaskan citizens overseas not affiliated with the federal government that claim Alaska as their legal residence.

It is our understanding that CS HB 42 (SA) relating to the electronic transmission of election materials is again being considered this legislative session. We feel passage of this legislation as amended would greatly facilitate the enfranchisement of citizens voting under the *Act*.

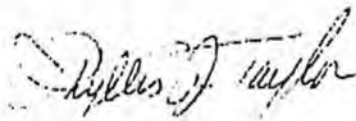
The primary problem citizens covered by *UOCAVA* experience is insufficient mail transit time for the entire process of requesting registration and ballot, receiving it and returning it in time to be counted. When this situation occurs, the alternative method of electronically transmitting election materials, may be the only option to help ensure these citizens are not disenfranchised. In fact, allowing for this alternative procedure will cut the transit time at least in half, thereby reducing the major obstacle to voting absentee by these citizens.

We also bring to your attention that this alternative procedure is at no cost to local election offices since all materials are faxed, toll free, on the secure fax line provided by the Federal Voting Assistance Program (FVAP), (800-368-8683). Once sent to the FVAP-operated processing center, the materials are routed to the fax number specified by the voter.

In 1992, voting materials were electronically routed to 699 local election offices in 49 states, the Virgin Islands, Puerto Rico and the District of Columbia. Voters served were located in 38 foreign countries as well as throughout the U.S. Currently, 36 states have successfully implemented electronic transmission of election materials.

On behalf of citizens covered by the UOCAVA, we urge Alaska legislators to adopt this alternative procedure which helps ensure voters are not disenfranchised.

Sincerely,



Phyllis J. Taylor
Director

cc: Rep. Terry Martin

1/18/95

| Status of Electronic Transmission in the States & Territories* | | |
|--|-----------------------------------|---------------------------------|
| Allow FPCA by fax (37) | Accept blank ballot by fax (18) | Accept voted ballot by fax (10) |
| Arkansas | Arizona | Hawaii (under certain conds.) |
| Arizona | California | Indiana (declared emerg.only) |
| California | Hawaii (under certain conditions) | Kansas |
| Colorado | Idaho (in emergency only) | Louisiana |
| Connecticut | Indiana (declared emerg.only) | Montana (some counties) |
| Delaware | Kansas | North Dakota |
| Georgia | Louisiana | Utah |
| Hawaii (under certain conditions) | Montana (some counties) | Washington (some counties) |
| Idaho | Nevada (if reg. & OCONUS) | |
| Illinois (Armed Forces only) | New Jersey | District of Columbia |
| Indiana (declared emerg. only) | North Dakota | Virgin Islands |
| Iowa | Oregon | |
| Kansas | Utah | |
| Louisiana | Vermont | |
| Massachusetts | Washington | |
| Michigan | Wisconsin | |
| Minnesota | | |
| Mississippi | District of Columbia | |
| Montana | Virgin Islands | |
| Nebraska | | |
| Nevada (if reg. & OCONUS) | | |
| New Jersey | | |
| North Dakota | | |
| Ohio (for ballot request only) | | |
| Oklahoma | | |
| Oregon | | |
| Tennessee | | |
| Texas | | |
| Utah | | |
| Vermont | | |
| Virginia | | |
| Washington | | |
| Wisconsin | | |
| American Samoa | | |
| District of Columbia | | |
| Guam | | |
| Virgin Islands | | |

* The above states have enacted either legislation or administrative instructions to allow for electronic transmission of voting materials.



DEPARTMENT OF THE AIR FORCE
PACIFIC AIR FORCES

11 AF/CC
5800 G St Ste 101
Elmendorf AFB AK 99506-2130

21 DEC 1991

Representative Terry Martin
355 Donna Dr, #11
Anchorage AK 99504

Dear Representative Martin

I received your letter of November 30 requesting my support and assistance for your efforts to modify absentee voting requirements in Alaska to authorize use of telefax to request, receive, and return absentee ballots.

Federal laws and Department of Defense directives limit my ability to engage in activity in support of, or opposition to, particular issues. Specifically, I cannot use my official authority or influence in support of your bill.

I personally support your effort because it affects Alaska residents who are in the armed forces and stationed outside Alaska. Your proposal would make absentee voting easier and, therefore, should increase participation in the democratic process.

In my personal capacity, I support your efforts and could so indicate by signing a petition in support of your bill. Beyond that, my support is constrained by current guidelines.

Sincerely

A handwritten signature in cursive script, reading "Larry Boese", is written over the typed name.

LAWRENCE E. BOESE
Lieutenant General, USAF
Commander

PIONEERS' HOMES ADVISORY BOARD



Amos "Joe" Alter, Chair

P O Box 20304
Juneau, AK 99802-0304

January 23, 1995

Mr. Tom Anderson
Alaska State Legislature
State Capitol MS 3100
Juneau, AK 99801-1182

Dear Tom:

I have reviewed HB42, "An Act relating to absentee voting, to electronic transmission of absentee ballot applications, and to delivery of ballots to absentee ballot applications by electronic transmission, and enacting a definition of the term 'state election' for purposes of absentee voting." This review has been from the viewpoint of potential effect upon Pioneers' Homes residents. The following comments are a summary of my findings in talking with Pioneers' Homes Advisory Board members and others.

The objective is excellent and changes proposed by the bill should facilitate voting as well as encourage greater individual voter participation in the election process.

Some further clarification may be necessary as the bill is advanced. A specific point raised in our discussions involves potential abuse which might arise when cognitively impaired persons are represented by others. Although there are very few persons who may be declared legally incompetent many persons may be suffering from Alzheimer's or related dementias, and they must rely on others for help in voting.

Sincerely,

Amos J. "Joe" Alter Chair
Pioneers' Homes Advisory Board

Robert Gore, Vice Chair
Donald M. Hoover, Member
Dan Pistoresi, Member

Vallie Byrdsong, Member
Robert Kallenberg, Member

Rocky Gutierrez, Member
Estella Odsather, Member

HB

44

#1

AMENDMENT

OFFERED IN THE HOUSE

BY REP. FINKELSTEIN

TO: CSHB 44 (STA)

Page 1, lines 5 - 8:

Delete "providing that a political group is not a qualified organization for purposes of charitable gaming, other than raffles; relating to what is a qualified organization for the purpose of charitable gaming permitting;"

Page 3, lines 9 - 19:

Delete all material.

Re-number the following bill sections accordingly.

Page 4, lines 18 - 19:

Delete "a political use as provided in AS 05.15.155"
Insert "political uses other than political campaigns"

Page 4, line 27, through page 5, line 17:

Delete all material.

Re-number the following bill section accordingly.

*Failed by
Roll call
Vote*

9-LS0213VG
Luckhaupt
3/6/95

CS FOR HOUSE BILL NO. 44(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES MARTIN, Rokeberg, Porter, Bunde, Green

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to reporting by permittees, licensees, and vendors; providing that
2 a political use is not an authorized use of charitable gaming proceeds, other than
3 proceeds from raffles; prohibiting the contribution of charitable gaming proceeds,
4 other than proceeds from raffles, to candidates for certain public offices, their
5 campaign organizations, or to political groups; providing that a political group is
6 not a qualified organization for purposes of charitable gaming, other than raffles;
7 relating to what is a qualified organization for the purpose of charitable gaming
8 permitting; and providing for an effective date."

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

10 * Section 1. AS 05.15.060(a) is amended to read:

11 (a) The department shall adopt regulations under AS 44.62 (Administrative
12 Procedure Act) necessary to carry out this chapter covering, but not limited to,

1 (1) the issuance, renewal, and revocation of permits, licenses, and
2 vendor registrations;

3 (2) a method of ascertaining net proceeds, the determination of items
4 of expense that may be incurred or paid, and the limitation of the amount of the items
5 of expense to prevent the proceeds from the activity permitted from being diverted to
6 noncharitable, noneducational, nonreligious, or profit-making organizations, individuals,
7 or groups;

8 (3) the immediate revocation of permits, licenses, and vendor
9 registrations authorized under this chapter if this chapter or regulations adopted under
10 it are violated;

11 (4) the requiring of detailed, sworn, financial reports of operations from
12 permittees and licensees including detailed statements of receipts and payments;

13 (5) the investigation of permittees, licensees, registered vendors, and
14 their employees, including the fingerprinting of those permittees, licensees, registered
15 vendors, and employees whom the department considers it advisable to fingerprint;

16 (6) the method and manner of conducting authorized activities and
17 awarding of prizes or awards, and the equipment that may be used;

18 (7) the number of activities that may be held, operated, or conducted
19 under a permit during a specified period; however, the department may not allow more
20 than 14 bingo sessions a month and 35 bingo games a session to be conducted under
21 a permit; the holders of a multiple-beneficiary permit under AS 05.15.100(d) may hold,
22 operate, or conduct the number of sessions and games a month equal to the number
23 allowed an individual permittee per month multiplied by the number of holders of the
24 multiple-beneficiary permit;

25 (8) a method of accounting for receipts and disbursements by operators,
26 including the keeping of records and requirements for the deposit of all receipts in a
27 bank;

28 (9) the disposition of funds in possession of a permittee, a person,
29 municipality, or qualified organization that possesses an operator's license, or a
30 registered vendor at the time a permit, a license, or a vendor registration is
31 surrendered, revoked, or invalidated;

1 (10) restrictions on the participation by employees of the Department
2 of Fish and Game in salmon classics; and in king salmon classics, and by employees
3 of Douglas Island Pink and Chum in king salmon classics;

4 (11) the requiring of reports of all donations or contributions by
5 permittees, licensees, or vendors to political candidates or their campaign
6 organizations or to political groups;

7 (12) other matters the department considers necessary to carry out this
8 chapter or protect the best interest of the public.

9 * Sec. 2. AS 05.15.100 is amended by adding a new subsection to read:

10 (e) The department may issue a permit to a political organization for activities
11 conducted under AS 05.15.155. A permit issued under this subsection gives the
12 political organization the privilege of conducting raffles but no other forms of
13 charitable gaming. A political organization receiving a permit under this subsection
14 must satisfy all the requirements of this chapter relating to permittees. A political
15 organization may not hold or otherwise participate in a multiple-beneficiary permit.

16 * Sec. 3. AS 05.15.115 is amended by adding a new subsection to read:

17 (e) A political organization holding a permit to conduct raffles under
18 AS 05.15.100(e) may not enter into a contract with an operator to conduct, on behalf
19 of the political organization, the raffles permitted under the authority of the permit.

20 * Sec. 4. AS 05.15.150 is amended to read:

21 Sec. 05.15.150. LIMITATION ON USE OF PROCEEDS. (a) The authority
22 to conduct the activity authorized by this chapter is contingent upon the dedication of
23 the net proceeds of the charitable gaming activity to the awarding of prizes to
24 contestants or participants and to [POLITICAL,] educational, civic, public, charitable,
25 patriotic, or religious uses in the state. "Educational [POLITICAL, EDUCATIONAL]
26 , civic, public, charitable, patriotic, or religious uses" means uses benefiting persons
27 either by bringing them under the influence of education or religion or relieving them
28 from disease, suffering, or constraint, or by assisting them in establishing themselves
29 in life, or by providing for the promotion of the welfare and well-being of the
30 membership of the organization within their own community, [OR THROUGH
31 AIDING CANDIDATES FOR PUBLIC OFFICE OR GROUPS THAT SUPPORT

1 CANDIDATES FOR PUBLIC OFFICE,] or by erecting or maintaining public
2 buildings or works, or lessening the burden on government, but does not include

3 (1) the direct or indirect

4 (A) payment of any portion of the net proceeds of a bingo or
5 pull-tab game to a lobbyist registered under AS 24.45;

6 (B) contribution of any portion of the net proceeds of a
7 charitable gaming activity, other than raffles, to a candidate for a public
8 office of the state or a political subdivision of the state, to the candidate's
9 campaign organization, to a political party as defined under AS 15.60, or
10 to an organization or club organized under or formally affiliated with a
11 political party; or

12 (2) the erection, acquisition, improvement, maintenance, or repair of
13 real, personal, or mixed property unless it is used exclusively for one or more of the
14 permitted uses.

15 (b) The net proceeds derived from the activity must be devoted within one
16 year to one or more of the uses stated in (a) of this section. If the net proceeds are
17 derived from raffles, the proceeds must be devoted within one year to one or
18 more of the uses stated in (a) of this section or to political uses as provided in (c)
19 of this section.) A municipality or qualified organization desiring to hold the net
20 proceeds for a period longer than one year must apply to the department for special
21 permission and upon good cause shown the department may grant the request.

22 * Sec. 5. AS 05.15.150 is amended by adding a new subsection to read:

23 (c) In addition to the uses specified in (a) of this section, a permittee may
24 dedicate the net proceeds of raffles to political uses within the state. In this
25 subsection, "political uses" means uses benefiting persons through aiding candidates
26 for public office or groups that support candidates for public office.

27 * Sec. 6. AS 05.15 is amended by adding a new section to read:

28 Sec. 05.15.155. POLITICAL ORGANIZATION RAFFLES. A political
29 organization that holds a permit under AS 05.15.100(e) may conduct raffles. The
30 authority to conduct the raffles under this section is contingent upon the dedication of
31 the net proceeds of the raffles to political, educational, civic, public, charitable,

1 patriotic, or religious uses in the state and to the awarding of prizes to contestants or
2 participants. "Educational, civic, public, charitable, patriotic, or religious uses" means
3 those uses described in AS 05.15.150(a). "Political uses" has the meaning given in
4 AS 05.15.150(c). The net proceeds derived from raffles under this subsection must be
5 devoted within one year to one or more of the uses described in this section. A
6 political organization desiring to hold the net proceeds for a period longer than one
7 year must apply to the department for special permission and upon good cause shown
8 the department may grant the request.

9 * Sec. 7. AS 05.15.690(34) is amended to read:

10 (34) "qualified organization" means a bona fide civic or service
11 organization or a bona fide religious, charitable, fraternal, veterans, labor,
12 [POLITICAL,] or educational organization, police or fire department and company,
13 dog mushers' association, outboard motor association, or fishing derby or nonprofit
14 trade association in the state, that operates without profits to its members and that has
15 been in existence continually for a period of three years immediately before applying
16 for a license; the organization may be a firm, corporation, company, association, or
17 partnership;

18 * Sec. 8. This Act takes effect January 1, 1996.

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. CSHB 44

Revision Date: 2/13/95 Dept. Affected: Revenue
 Title: Gaming proceeds/Define Charitable Gaming BRU: Revenue Operations
 organizations: _____ Component: Charitable Gaming Division
 Sponsor: Representative Martin
 Requester: Judiciary COMPONENT SERIAL NO. 1883

Expenditures/Revenues (Thousands of Dollars)

| OPERATING EXPENDITURES | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 |
|------------------------|------------|------------|------------|------------|------------|------------|
| 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 EXPENDITURES | | | | | | |
|----------------------|--|--|--|--|--|--|

| | | | | | | |
|------------------------|--------|--------|--------|--------|--------|--------|
| CHANGE IN REVENUES () | (19.2) | (20.2) | (21.2) | (22.2) | (23.4) | (24.5) |
|------------------------|--------|--------|--------|--------|--------|--------|

FUND SOURCE (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 |

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

The Department of Revenue, Charitable Gaming Division anticipates a slight decrease of program receipts due to a loss of pull-tab taxes and net proceeds tax for political permittees.

Prepared by: Dennis Poshard, Director *Dennis Poshard* Phone: 465-2279
 Division: Charitable Gaming Division Date: 3/2/95
 Approved by: _____
 Commissioner: Wilson L. Condon *Wilson L. Condon* Date: 3/2/95
 Agency: Department of Revenue

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. CSHB 47 (STA)

Revision Date: _____
Title: "An Act relating to the crime of unlawful evasion."

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

Sponsor: Rep. Brown
Requestor: (H) JUD

COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING EXPENDITURES | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 |
|------------------------|-------|-------|-------|-------|-------|-------|
| 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 EXPENDITURES | 0 | 0 | 0 | 0 | 0 | 0 |
|-----------------------------|---|---|---|---|---|---|

| | | | | | | |
|-------------------------------|---|---|---|---|---|---|
| CHANGE IN REVENUES () | 0 | 0 | 0 | 0 | 0 | 0 |
|-------------------------------|---|---|---|---|---|---|

FUND SOURCE: (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 |

Estimate of any current year (FY 95) cost: \$ -0-

POSITIONS:

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS: (Attach a separate page if necessary.)

No measurable impact on the Public Defender Agency is anticipated.

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

Phone: 264-4400
Date: _____

Approved by Commissioner: Mark Bover
Agency: Department of Administration

Date: 3/3/95

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HOUSE COMMITTEE REPORT

2/22/95

(7)

Date Referred: January 16, 1995

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 2/21/95

The STATE AFFAIRS Committee considered:

HB 44

HOUSE BILL NO. 44

GAMING PROCEEDS/DEFINE CHARITABLE ORG'NS

"An Act providing that a political use is not an authorized use of charitable gaming proceeds; prohibiting the contribution of charitable gaming proceeds to candidates for certain public offices, their campaign organizations, or to political groups; providing that a political group is not a qualified organization for purposes of charitable gaming; relating to what is a qualified organization for the purpose of charitable gaming permitting; and providing for an effective date."

recommends it be replaced with the following committee substitute CS HB 44 (STA) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal note(s) REVENUE fiscal note(s) _____
 zero fiscal note(s) _____ zero fiscal note(s) _____

| SIGNING WITH RECOMMENDATIONS | | DP | DNP | NR | AM |
|------------------------------|----------|-----|-----|-----|----|
| <i>Bruce Porter</i> | Porter | ✓ | | | |
| <i>Jack Green</i> | Green | ✓ | | | |
| <i>Ivan</i> | IVAN | | | ✓ | |
| <i>Caren Robinson</i> | ROBINSON | | | ✓ | |
| <i>Ed Willis</i> | Willis | | | ✓ | |
| <i>Scott Ogan</i> | Ogan | ✓ | | | |
| <i>Jeanette James</i> | James | ✓ | | | |
| | | (4) | | (3) | |
| | | | | | |
| | | | | | |

CHAIR'S SIGNATURE Jeanette James

FISCAL NOTE

No. 1
 Bill Vers: CS HB 44 (STA)
 (H) Publish Date: 2/22/95

STATE OF ALASKA
 1995 LEGISLATIVE SESSION

Revision Date: 2/13/95 Dept. Affected: Revenue
 Title: Gaming proceeds/Devine Charitable Gaming BRU: Revenue Operations
 Organizations: _____ Component: Charitable Gaming Division
 Sponsor: Representative Martin
 Requester: State Affairs COMPONENT SERIAL NO. 1883

Expenditures/Revenues (Thousands of Dollars)

| OPERATING EXPENDITURES | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 |
|------------------------|-------|-------|-------|-------|-------|-------|
| 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 EXPENDITURES | | | | | | |
|----------------------|--|--|--|--|--|--|

| | | | | | | |
|------------------------|--------|--------|--------|--------|--------|--------|
| CHANGE IN REVENUES () | (19.2) | (20.2) | (21.2) | (22.2) | (23.4) | (24.5) |
|------------------------|--------|--------|--------|--------|--------|--------|

FUND SOURCE (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 |

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

The Department of Revenue, Charitable Gaming Division anticipates a slight decrease of program receipts due to a loss of pull-tab taxes and net proceeds tax for political permittees.

Prepared by: Jeff Prather, Acting Director Phone: 465-2279
 Division: Charitable Gaming Division Date: 2/13/95
 Approved by: _____ Date: 2/13/95
 Commissioner: Wilson L. Condon
 Agency: Department of Revenue

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REPRESENTATIVE
TERRY MARTIN
CHAIRMAN
BUDGET & AUDIT COMMITTEE
MEMBER
HOUSE FINANCE COMMITTEE

Alaska State Legislature



MAY 15 - JAN 15 258-8169
716 W. 4TH, SUITE 650
ANCHORAGE, AK 99504

JAN 15 - MAY 15 465-3783
STATE CAPITOL
JUNEAU, AK 99801-1182

HOME 333-6990
355 DONNA DRIVE, #11
ANCHORAGE, AK 99504

SPONSOR STATEMENT CSHB 44 (STA)

Providing that a Political Use is not an Authorized Use
of Charitable Gaming Proceeds.

In August of 1994 before the Primary Election, the Anchorage Daily News published an informative article disclosing where candidates for the governorship were receiving financial support. Lawyers became very prominent, as did construction and the oil industries, as well as the fishing industry who flapped its wings to get candidates' attention. Five days later the Voice of the Times brought into focus two other major players who financed political campaigns - unions and state employee groups.

Both articles missed the real *Motherload*. The newest, most prolific motherload to fill Alaska's campaign coffers is Gam(b)ling - or more specifically, pull-tab permits. Alaska is the only state that allows political parties and local political districts to maintain gambling permits while also allowing a limitless contributory ability from political units and pull-tab permittees to candidates. The lack of restrictions on gambling dollars directed to political campaigns has given those in control over permits an incalculable influence and control over elected officials who are beholden to them for special voting and political generosity. The process is one in which the operators and political district officers decide who will receive the largest gambling receipts, thus gaining the highest level of control. The operators of the permits can and do use the political permits at the most profitable places and at the most prolific times, while the true charitable permittees suffer accordingly.

There should be an outcry of public disdain for this practice in Alaska, but it will not be heard until the facts of gambling's influence are exposed. The gurus of ethics who, for the last ten years, have been shouting the virtues of reform of special interests in political campaigns, have developed a scam of the worst kind involving political parties posing as charitable organizations in the name of reform.



What we have seen guised as a 'charity' is nothing less than raw political abuse of influence peddling and powers to corrupt the minds of the innocent for personal gains. This misuse of charity is no longer to be concealed. Rather it should be brought to bear before the public, in its true form, as an instrument of power that attracts the greed of elected officials.

Since the passage of legislation orchestrated through several Spenard lawyer/legislators and gam(bl)ing operators that legalized pull-tabs and licensing (monopolizing) operators under the guise of "reform", we see the industry's growth escalate from an annual gross revenue of \$60 million dollars in 1988 to over \$227 million in 1993.

When zeroing in on just political permits we see a phenomenal growth of gross revenues in 1989 of \$874,958 to \$3,978,179 in 1993. There are currently 11 distinct political organizations, including Democrat and Republican district organizations, that have pull-tab permits.

Labor organizations also depend on gam(bl)ing activities, especially pull-tabs, to fuel their political machinery. During 1993, 21 labor unions received \$4,269,972 in gross revenues through their permits. By holding gaming permits, politicians, political parties and precincts strip millions of dollars away from the true charities.

True charities serve a purpose in that they assist those who require aid, whether by training to work, or by clothing and feeding. The gaming process in-turn reduces state expenditures and services. Those who own gaming permits for reasons other than charity control the distribution to political groups and candidates, and end up controlling the legislature in a more sinister way than true advocates of ideologies in a democratic-representative government. This new motherload that fills political coffers must be eliminated. As evident by the 1994 Primary and General Elections, the amount of political contributions and proceeds originating from charitable gaming (pull tab) receipts distributed to Alaskan political candidates is overwhelming. House Bill 44 is the vehicle through which to change this problem. I urge your support.

REPRESENTATIVE
TERRY MARTIN
CHAIRMAN
BUDGET & AUDIT COMMITTEE
MEMBER
HOUSE FINANCE COMMITTEE

Alaska State Legislature



MAY 15 - JAN 15 258-8169
716 W. 4TH, SUITE 650
ANCHORAGE, AK 99504

JAN 15 - MAY 15 465-3783
STATE CAPITOL
JUNEAU, AK 99801-1182

HOME 333-6990
355 DONNA DRIVE, #11
ANCHORAGE, AK 99504

SECTIONAL ANALYSIS CSHB44 (STA)

Providing that a Political Use is not an Authorized Use of Charitable Gaming Proceeds

Section 1:

Adds (11) to AS05.15.060, requiring reports of all donations or contributions by permittees, licensees, or vendors to political candidates or their campaign organizations or to political groups.

Section 2:

Allows for the issuance of a charitable gaming permit to a political organization to conduct a raffle only, but no other form of charitable gaming. Restricts a political organization from holding a multiple-beneficiary permit.

Section 3:

Disallows a political permittee conducting a raffle from entering into a contract with an operator.

Section 4:

Eliminates "political uses" as a designation or beneficiary of gaming proceeds. Prohibits any contribution raised from charitable gaming activity, other than raffles, to be distributed to a public office candidate, political subdivision of the state, or a political party, club, or organization. (b) requires net proceeds derived from raffles to be devoted within one year to the required uses designated under AS05.15.155.

Section 5:

Defines "political uses" as uses benefiting persons through aiding candidates for public office or groups that support candidates for public office.

Section 6:

Requires raffle proceeds to be distributed to educational, civic, public, charitable, patriotic, or religious uses. Allows for special permission to be applied for if a political organization holding raffle proceeds has not distributed its earnings within a year.

Section 7.

Defines "qualified organization".

Section 8.

Effective January 1, 1996



(1993)

Department of Commerce and Economic Development
Division of Occupational Licensing
Games of Chance and Skill
Permittee Activity
1909

Political Parties Raffles

Report Date: 02/09/95

Page: 1

Annual Totals for game type : RAFFLES & LOTTER

| | |
|----------------|--------------|
| Gross Receipts | 50,380.01 |
| Taxes | (271.49) |
| Prizes Awarded | (20,740.00) |
| Expenses | (644.68) |

Net Proceeds 28,723.74

Percent Net Proceeds is of Gross Receipts: 57.0

Break down of expenses:

| | | | |
|-------------------|-------|-------------------|--------|
| Rent | 0.00 | Ticket printing | 290.56 |
| Janitorial | 0.00 | Pull-Tab Purchase | 0.00 |
| Utilities | 0.00 | Singo Supplies | 0.00 |
| Building Repair | 0.00 | Supplies | 75.65 |
| Bldg Depreciation | 0.00 | Other Printing | 0.00 |
| Bldg Insurance | 0.00 | Postage | 93.06 |
| Contract Services | 0.00 | Equipment Purchas | 0.00 |
| Accounting | 0.00 | Equipment Repairs | 0.00 |
| Wages | 0.00 | Non Alcoholic | 70.66 |
| Payroll Taxes | 0.00 | Door Prizes | 0.00 |
| Services | 0.00 | Advertising | 0.00 |
| Lit Fees | 60.00 | From Operator | 0.00 |
| Pull-Tab Tax | 0.00 | Door Prizes | 0.00 |
| Other Expenses | 54.75 | | |

* All numbers are as reported by the Permittees.

Total Number of reco 6

(1993)

Department of Commerce and Economic Development
Division of Occupational Licensing
Games of Chance and Skill
Permittee Activity

Report Date: 02/09/95

1909

Page: 1

Annual Totals for game type: PULL-TABS TRUE POL ORGANIZATIONS

POLITICAL
PARTIES
PULLTABS

Gross Receipts 2,035,396.82
Taxes (3,786.94) (CITY/FED TAXES)
Prizes Awarded (1,508,491.00)
Expenses (332,086.94) (RENT, WAGES, ETC.)

Net Proceeds 181,031.94

Percent Net Proceeds is of Gross Receipts: 8.8

Break down of expenses:

| | | | |
|-------------------|--------|-------------------|--------------------|
| Rent | 564.75 | Ticket printing | 0.00 |
| Janitorial | 0.00 | Pull-Tab Purchase | 1,432.94 |
| Utilities | 0.00 | Singo Supplies | 0.00 |
| Building Repair | 0.00 | Supplies | 0.00 |
| Blgd Depreciation | 0.00 | Other Printing | 0.00 |
| Blgd Insurance | 0.00 | Postage | 0.00 |
| Contract Services | 0.00 | Equipment Purchas | 0.00 |
| Accounting | 0.00 | Equipment Repairs | 0.00 |
| Wages | 0.00 | Non Alcoholic | 0.00 |
| Payroll Taxes | 0.00 | Door Prizes | 0.00 |
| Prof. Services | 0.00 | Advertising | 0.00 |
| Franchise Fees | 30.00 | From Operator | 329,925.00 |
| Franchise Tax | 0.00 | Door Prizes | 329,925.00 |
| Other Expenses | 133.25 | | (PAID TO OPERATOR) |

* All numbers are as reported by the Permittees.

Total Number of reco 7

DONT GET 1994 INFO. UNTIL MARCH.

(1993)

Political Parties Bingo

Department of Commerce and Economic Development
Division of Occupational Licensing
Games of Chance and Skill
Permittee Activity

Report Date: 02/09/95 1909 Page: 1

Annual Totals for game type : BINGO

| | |
|----------------|-----------------|
| Gross Receipts | 1,375,517.20 |
| Taxes | (25.34) |
| Prizes Awarded | (1,228,945.12) |
| Expenses | (276,439.60) |

Net Proceeds - 129,856.86

Percent Net Proceeds is of Gross Receipts: 9.4

Break down of expenses:

| | | | |
|------------------|--------|-------------------|------------|
| rent | 564.75 | Ticket printing | 0.00 |
| amortial | 0.00 | Pull-Tab Purchase | 0.00 |
| ilities | 0.00 | Bingo Supplies | 0.00 |
| ilding Repair | 0.00 | Supplies | 0.00 |
| og Depreciation | 0.00 | Other Printing | 0.00 |
| og Insurance | 0.00 | Postage | 0.00 |
| ontract Services | 0.00 | Equipment Purchas | 183.60 |
| ccounting | 0.00 | Equipment Repairs | 0.00 |
| ages | 0.00 | Non Alcoholic | 0.00 |
| ayroll Taxes | 0.00 | Door Prizes | 0.00 |
| . Services | 0.00 | Advertising | 0.00 |
| mit Fees | 30.00 | From Operator | 275,528.00 |
| ull-Tab Tax | 0.00 | Door Prizes | 275,528.00 |
| ther Expenses | 133.25 | | |

* All numbers are as reported by the Permittees.

Total Number of reco 6

State of Alaska
Department of Revenue

TONY KNOWLES
Governor
P.O. Box 110001
Juneau, Alaska 99811-0001
NEWS RELEASE



Wilson Condon
Commissioner
907-465-2300
FAX: 907-465-2389

FOR IMMEDIATE RELEASE: January 25, 1995

R95-01

CHARITABLE GAMING TASK FORCE NAMED

Recognizing the need for a well-regulated, viable charitable gaming industry that provides funding for non profit organizations, Governor Tony Knowles today appointed an eleven-member task force to make recommendations regarding administration of charitable games.

The task force will address such questions as: Are charities receiving appropriate proceeds from gaming? What can government do to ensure that gaming is run fairly? How can government make gaming more efficient?

The eleven members named to the task force are all knowledgeable about charitable gaming. Most are operators of such games or represent permittees. They include: Father Francis McGuigan of Fairbanks, Ruth Shannon of Fairbanks, Jim Harmon of Anchorage, Mark Higgins of Anchorage, Dmitri Philemonof of Anchorage, Theodore Boom of Anchorage, George Wright of Juneau, Gerald Richards of Fairbanks, and Kilsoo Seo of Bethel. Lanie Fleischer of Anchorage will serve as chair of the task force.

The task force will hold public meetings in Anchorage, Fairbanks, and Juneau. The meetings will be held during the first two weeks of February and will be teleconferenced across the state. The public is encouraged to participate. All requests for teleconference access will be honored.

The task force will present a report making recommendations for the administration of charitable gaming to the commissioner of revenue by May 1, 1995. Minority viewpoints will be included in the report.

-30-

Contact: Jeff Prather - 465-2279

House Democratic Campaign Committee

| <u>Gaming Operator</u> | <u>Date</u> | <u>Amount</u> |
|------------------------|--------------|---------------|
| Northern Lights Bingo | Feb. 14, '94 | \$2,462.00 |
| Northern Lights Bingo | Mar. 11, '94 | \$2,000.00 |
| Northern Lights Bingo | Apr. 14, '94 | \$2,000.00 |
| Northern Lights Bingo | May. 10, '94 | \$2,000.00 |
| Northern Lights Bingo | Jun. 15, '94 | \$1,000.00 |
| Northern Lights Bingo | Jul. 14, '94 | \$4,000.00 |
| Northern Lights Bingo | Aug. 16, '94 | \$8,000.00 |
| Northern Lights Bingo | Oct. 7, '94 | \$4,000.00 |
| Northern Lights Bingo | Oct. 21, '94 | \$3,000.00 |
| <hr/> | | |
| | 1994 TOTAL | \$28,462.00 |

Alaska Democrat Party

| <u>Gaming Operator</u> | <u>Date</u> | <u>Amount</u> |
|------------------------|--------------|---------------|
| Northern Lights Bingo | Jan. 29, '93 | \$5,664.00 |
| Northern Lights Bingo | Feb. 17, '93 | \$3,427.00 |
| Northern Lights Bingo | Mar. 30, '93 | \$3,172.00 |
| Northern Lights Bingo | May. 3, '93 | \$3,043.00 |
| Northern Lights Bingo | May. 17, '93 | \$2,225.00 |
| Northern Lights Bingo | Jun. 16, '93 | \$2,513.00 |
| Northern Lights Bingo | Jul. 26, '93 | \$1,531.00 |
| Northern Lights Bingo | Aug. 30, '93 | \$1,032.00 |
| Northern Lights Bingo | Sep. 30, '93 | \$798.00 |
| Northern Lights Bingo | Oct. 30, '93 | \$3,804.00 |
| Northern Lights Bingo | Nov. 28, '93 | \$2,705.00 |
| Northern Lights Bingo | Dec. 31, '94 | \$2,780.00 |
| <hr/> | | |
| | 1993 TOTAL | \$32,784.00 |
| | | |
| Rippie World | Aug. 12, '94 | \$1,827.00 |
| Rippie World | Oct. 7, '94 | \$4,000.00 |
| Rippie World | Nov. 9, '94 | \$6,000.00 |
| <hr/> | | |
| | 1994 TOTAL | \$11,827.00 |

Anchorage Republican Woman's Club

| <u>Gaming Operator</u> | <u>Date</u> | <u>Amount</u> |
|------------------------------------|--------------|--------------------|
| Alaska Bingo Management | Mar. 24, '94 | \$2,000.00 |
| Alaska Bingo Management | Apr. 25, '94 | \$1,841.00 |
| Alaska Bingo Management | Jun. 1, '94 | \$1,000.00 |
| Central AK Fund Raising Activities | Jun. 26, '94 | \$4,000.00 |
| Central AK Fund Raising Activities | Aug. 10, '94 | \$5,000.00 |
| Central AK Fund Raising Activities | Sep. 15, '94 | \$3,151.00 |
| Central AK Fund Raising Activities | Oct. 19, '94 | \$5,000.00 |
| 1994 TOTAL | | \$21,992.00 |

District 25 Democrats

| <u>Gaming Operator</u> | <u>Date</u> | <u>Amount</u> |
|---------------------------|-------------|-------------------|
| State Fair Bingo proceeds | Sep. 2, '94 | \$1,545.00 |
| State Fair Bingo proceeds | Sep. 8, '94 | \$2,270.00 |
| State Fair Bingo proceeds | Sep. 8, '94 | \$1,571.05 |
| State Fair Bingo proceeds | Sep. 8, '94 | \$330.00 |
| 1994 TOTAL | | \$5,716.05 |

Valdez Democratic Precinct

| <u>Gaming Operator</u> | <u>Date</u> | <u>Amount</u> |
|------------------------|--------------|--------------------|
| Rippie World | Jan. 17, '94 | \$5,000.00 |
| Rippie World | Feb. 22, '94 | \$4,000.00 |
| Rippie World | Mar. 17, '94 | \$9,000.00 |
| Rippie World | Apr. 20, '94 | \$4,000.00 |
| Rippie World | May. 16, '94 | \$6,000.00 |
| Rippie World | Jun. 27, '94 | \$8,000.00 |
| Rippie World | Jul. 19, '94 | \$8,000.00 |
| Rippie World | Sep. 2, '94 | \$3,500.00 |
| 1994 TOTAL | | \$52,500.00 |

Alaska Ironworkers PAC

| <u>Gaming Operator</u> | <u>Date</u> | <u>Amount</u> |
|------------------------|--------------|---------------|
| Rippie World | Aug. 10, '94 | \$7,000.00 |
| Rippie World | Sep. 8, '94 | \$11,000.00 |
| Rippie World | Oct. 7, '94 | \$9,000.00 |
| Rippie World | Nov. 11, '94 | \$11,000.00 |
| <hr/> | | |
| | 1994 TOTAL | \$38,000.00 |

Mat-Su Democrats

| <u>Gaming Operator</u> | <u>Date</u> | <u>Amount</u> |
|-----------------------------------|--------------|---------------|
| State Fair Bingo/Pulltab proceeds | Aug. 25, '94 | \$8,599.00 |
| State Fair Bingo/Pulltab proceeds | Sep. 6, '94 | \$6,104.01 |
| <hr/> | | |
| | 1994 TOTAL | \$14,703.01 |

1994 TOTALS \$173,200

HB

47

SECTIONAL ANALYSIS

CSHB 47(STA)

An Act relating to the crime of unlawful evasion.

Sections 1 & 2

References to unlawful evasion in the second degree are deleted from statutes referring to the crime of escape in the second and third degree.

Section 3

The crime of unlawful evasion in the second degree is eliminated--leaving the single crime of unlawful evasion for those charged with, or convicted of either a felony or misdemeanor who "walk away" from detention, correctional facilities or half-way houses. Unlawful evasion is a class "A" misdemeanor.

Section 4

Cites unlawful evasion and the *former* unlawful evasion in the second degree (repealed by this bill) as offenses creating ineligibility for a concealed handgun permit.

Section 5

References the single crime of unlawful evasion in Department of Corrections statutes.

Section 6

Unlawful evasion in the second degree is repealed.

B

HOUSE COMMITTEE REPORT

2/3/95

(7)

Date Referred: January 16, 1995

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: _____

The STATE AFFAIRS Committee considered:

HB 47

HOUSE BILL NO. 47

UNLAWFUL EVASIONS CLASS A MISDEMEANOR

"An Act relating to the crime of unlawful evasion."

recommends it be replaced
with the following committee substitute

CSHB 47(STA)

the same title
 a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

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

APPROVES PREVIOUS: (Dept/Date) _____

fiscal note(s) _____

fiscal note(s) _____

a) zero fiscal note(s) Law

zero fiscal note(s) _____

corrections

| SIGNING WITH RECOMMENDATIONS | | DP | DNP | NR | AM |
|------------------------------|----------|-----|-----|-----|----|
| <i>Jeanette James</i> | James | ✓ | | | |
| <i>Scott Ogan</i> | Ogan | | | ✓ | |
| <i>Ed Willis</i> | Willis | ✓ | | | |
| <i>Carol Robinson</i> | ROBINSON | ✓ | | | |
| <i>Ivan</i> | Ivan | ✓ | | | |
| <i>Brian Porter</i> | Porter | | | ✓ | |
| | | (4) | | (2) | |
| | | | | | |
| | | | | | |
| | | | | | |

CHAIR'S SIGNATURE *Jeanette James*

SPONSOR STATEMENT

CSHB 47(STA)

An Act relating to the crime of unlawful evasion.

Current law has two degrees of unlawful evasion--which is the failure to return to detention at a correctional facility or a "half-way" house when so required. For individuals charged with or convicted of a felony, the offense of unlawful evasion is a class "A" misdemeanor, carrying a sentence of up to one year. For those charged with or serving time for misdemeanor offenses, the crime becomes unlawful evasion in the second degree and is lowered to a class "B" misdemeanor.

CSHB 47 would eliminate the distinction between first and second degree unlawful evasion, creating a single crime of unlawful evasion with a possible maximum class "A" misdemeanor penalty.

The success of a community corrections program depends on responsibility and trust. An individual serving time for a felony or a serious misdemeanor like drunk driving, earns the privilege of participating in a community corrections program by demonstrating personal responsibility and trustworthiness. Appropriate sanctions for violating that trust must be in place for the system to have the respect of participants.

A class "B" misdemeanor charge for unlawful evasion in the second degree, is not considered a serious enough offense to warrant efforts by law enforcement and prosecutors to apprehend and convict offenders. The penalties are relatively insignificant and carry little or no leverage to deter an inmate from simply failing to return to custody when required.

The crime of unlawful evasion is as much a violation of trust by an individual serving time for a serious misdemeanor as for one serving time for a felony.

It is appropriate that there be only the single crime of unlawful evasion carrying the potential maximum class "A" misdemeanor penalty. When it comes to a violation of trust, the status of the offender (felon or misdemeanant) should be irrelevant.

FISCAL NC I

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 47

Revision Data: NA Dept. Affected: Corrections
 Title: _____ BRU: institutions
An Act relating to the crime of unlawful evasion Component: all inst.
 Sponsor: Rep. Brown
 Requester: Rep. Brown COMPONENT SERIAL NO. _____

Expenditures/Revenues (Thousands of Dollars)

| OPERATING EXPENDITURES | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 |
|------------------------|------------|------------|------------|------------|------------|------------|
| 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 EXPENDITURES | 0.0 | | | | | |
|----------------------|-----|--|--|--|--|--|

| | | | | | | |
|------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|------------------------|--|--|--|--|--|--|

FUND SOURCE (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 |

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

This bill removes the phrase in the first degree for the crime of unlawful evasion in AS11.56.340 and expands it to include those convicted of a misdemeanor. Sec. 5 of the bill amends AS 33.30.141 to include the changes to AS 11.56.340.

The impact of this bill on DOC are deemed to be negligible based on the following assumptions:

- 1/ Furloughed felons are currently returned to prison in incidents that would be within the scope of of 11.56.340. Thus there would be no additional impact.
- 2/ Prosecutors would continue the past practice of declining to charge in these cases.

Assumption 2 is based on very limited past practice and is not a position taken by the Department of Law. Should this practice change, DOC would be required to re-evaluate this issue as DOC would have no choice but to accept the offender into the prison system to serve any additional sentence.

Prepared by: Jerry Shriner
 Division: Comm. Office

Phone: 465-4640
 Date: 1/19/95

Approved by Commissioner: *Wendell M. Pugh*
 Agency: Department of Corrections

Date: 1-21-95

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FISCAL NO' 1

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 47

Revision Date: _____ Dept. Affected: Department of Law
 Title: "An Act relating to the crime of unlawful evasion." BRU: Prosecution
 Component: All
 Sponsor: Representative Brown
 Requester: Representative Brown COMPONENT SERIAL NO. 0085 - 0090

Expenditures/Revenues (Thousands of Dollars)

| OPERATING EXPENDITURES | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 |
|------------------------|------------|------------|------------|------------|------------|------------|
| 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 EXPENDITURES | | | | | | |
|----------------------|--|--|--|--|--|--|

| | | | | | | |
|------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|------------------------|--|--|--|--|--|--|

FUND SOURCE (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 |

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

| | | | | | | |
|-----------|-----|-----|-----|-----|-----|-----|
| FULL-TIME | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 11.56 to consolidate the crimes of unlawful evasion in the first and second degrees into a single offense. Under current law, unlawful evasion in the first degree applies to persons charged or convicted of a felony, and the penalty is a class A misdemeanor. And, currently, unlawful evasion in the second degree applies to persons charged or convicted of a misdemeanor, and the penalty is a class B misdemeanor. The bill has the effect of raising the penalty for a person charged or convicted of a misdemeanor, who fails to return to official detention within the time authorized following temporary leave, or who, while on furlough under AS 33.30, fails to return to the place of confinement or residence, from a class B misdemeanor to a class A misdemeanor. Typically, this offense occurs when an offender walks away from or fails to return to a half-way house or residential treatment center. As a result, the bill treats all unlawful evasion offenses consistently by making them class A misdemeanors. The department believes that the change in penalties is not sufficiently different to cause many defendants to go to trial. Therefore, a fiscal impact is not expected.

Prepared by: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Division Date: 1/23/95
 Approved by Commissioner: Bruce M. Botelhof, Attorney General Date: 1/23/95
 Agency: Department of Law

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A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: HB 47

1 Page 2, following line 17:

2 Insert new bill sections to read:

3 *** Sec. 4.** AS 12.55.135(e) is amended to read:

4 (e) Except as provided in AS 12.55.055(f), if a defendant is sentenced under
5 (c), (d), [OR] (f) or (g) of this section,

6 (1) execution of sentence may not be suspended and probation or
7 parole may not be granted until the minimum term of imprisonment has been served:

8 (2) imposition of a sentence may not be suspended except upon
9 condition that the defendant be imprisoned for no less than the minimum term of
10 imprisonment provided in the section; and

11 (3) the minimum term of imprisonment may not otherwise be reduced.

12 *** Sec. 5.** AS 12.55.135 is amended by adding a new subsection to read:

13 (g) A defendant convicted of ~~unlawful~~ evasion shall be sentenced to a
14 minimum term of imprisonment of 180 days."

15 Renumber the following bill sections accordingly.

Not included in CSRS-VA (SM)

180 days

doubling

SPONSOR STATEMENT

HB 47

An Act relating to the crime of unlawful evasion.

Current law has two degrees of unlawful evasion--which is the failure to return to detention at a correctional facility or a "half-way" house when so required.. For individuals charged with or convicted of a felony, the offense of unlawful evasion is a class "A" misdemeanor, carrying a sentence of up to one year. For those charged with or serving time for misdemeanor offenses, the crime becomes unlawful evasion in the second degree and is lowered to a class "B" misdemeanor.

HB 47 would eliminate the distinction between first and second degree unlawful evasion, creating a single crime of unlawful evasion with the maximum class "A" misdemeanor penalty.

The success of a community corrections program depends on responsibility and trust. An individual serving time for a felony or a serious misdemeanor like drunk driving, earns the privilege of participating in a community corrections program by demonstrating personal responsibility and trustworthiness. Appropriate sanctions for violating that trust must be in place for the system to have the respect of participants.

A class "B" misdemeanor charge for unlawful evasion in the second degree, is not considered a serious enough offense to warrant efforts by law enforcement and prosecutors to apprehend and convict offenders. The penalties are relatively insignificant and carry little or no leverage to deter an inmate from simply failing to return to custody when required.

The crime of unlawful evasion is as much a violation of trust by an individual serving time for a serious misdemeanor as for one serving time for a felony.

It is appropriate that there be only the single crime of unlawful evasion carrying the maximum class "A" misdemeanor penalty. When it comes to a violation of trust, the status of the offender (felon or misdemeanant) should be irrelevant.

Legislative Information Office
716 W. 4th Ave., #420
Anchorage, AK 99501-2133
(907) 258-8162

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

January 25, 1995

Representative Jeanette James
Chair, State Affairs Committee

Dear Representative James;

Attached is an amendment I propose to HB 47, An Act relating to the crime of unlawful evasion.

I believe this is of particular interest to you because it would correct an inadvertent oversight in the concealed weapons permit statutes.

While preparing the sectional analysis for HB 47, I noticed that conviction for unlawful evasion in the second degree (AS 11.56.350, a class "B" misdemeanor) was cited as one of the offenses that would result in a five-year prohibition on eligibility for a concealed weapons permit. However, no citation was made to the crime of unlawful evasion in the first degree, a class "A" misdemeanor (AS 11.56.340).

The purpose of HB 47 is to clarify the crime of unlawful evasion—failure to return to a community corrections facility when required. The bill would eliminate the class "B" misdemeanor and leave only the single offense of unlawful evasion, a class "A" misdemeanor. The penalty would be the same whether the individual was serving a sentence for a felony or misdemeanor.

The attached amendment to HB 47 conforms the concealed weapons permit statutes to provide that conviction for unlawful evasion (AS 11.56.340) would make an individual ineligible for a permit for five years.

Please contact me or my staff (Dan Austin) at 465-4998/3768 if you have any questions on the bill or this proposed amendment.

Sincerely,



Representative Kay Brown

DISTRICT 15

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

AMENDMENT

OFFERED IN THE HOUSE
TO: HB 47

BY REPRESENTATIVE BROWN

- 1 Page 2, line 26, following "AS 11.56.330,":
- 2 Insert "11.56.340."

For HB 47

**MUNICIPALITY OF ANCHORAGE
1995 LEGISLATIVE PROGRAM**

**OTHER LEGISLATIVE ISSUES
DESCRIPTION**

**Page/
Reference**

- 8-2 • **Real Property Tax Collection on Contaminated Properties - AS 29.45.320**
- 8-3 • **Paying Interest on Tax Remittance Refunds - AS 29.45.500(b)**
- 8-4 • **Priority of Liens for Building Abatement and Demolition - AS 29.35.010**
- 8-5 • **Alaska Statute Change Concerning Public Utilities**
- 8-7 • **Providing for Defense and Indemnification of Public Employees - AS 39.90.160**
- 8-8 • **Purchase by Record Owner - Extinguishment of Right of Redemption - AS 29.45.470**
- 8-9 • **Establishment of a 50/50 Capital Matching Grant Program to Provide Funding for Road and Drainage Capital Improvements within Road Improvement Districts and Limited Road Service Areas**
- 8-10 • **AS 9.65.090 Regarding Immunity for Volunteer Crossing Guards**
- 8-12 • **AS 47.10.020 and Delinquency Rule 6 of the Alaska Rules of Court - Revision to Delegate Juvenile Intake Authority to Municipalities**
- 8-14 • **Requesting the State to Abide by Local Codes**
- 8-15 • **Senate Bill No. 6 or Similar Legislation Relating to Registration of a Motor Vehicle and Suspension of a Driver's License for Failure to Appear in Court or Failure to Pay a Fine**
- 8-16 • **House Bill No. 47 or Similar Legislation Relating to the Crime of Unlawful Evasion**

**MUNICIPALITY OF ANCHORAGE
1995 LEGISLATIVE PROGRAM**

LEGISLATIVE ISSUES

TITLE: House Bill No. 47 or Similar Legislation Relating to the Crime of Unlawful Evasion

In 1994, the Anchorage Assembly passed legislation regarding unlawful evasion similar to what is outlined HB No. 47(b). We believe that extending the crime of unlawful evasion to misdemeanants is a step in the right direction and consistent with local law.

The Municipality of Anchorage strongly supports amendments to Alaska State Statutes to include misdemeanors to those committing crimes relating to unlawful evasion.

**Contact: Mark Begich
Assemblymember**
Phone: 337-6748