

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9239 HOUSE JUDICIARY

Dolores M. Johnston
RD #11 Box 873
Greensburg, PA 15601
(412) 834-7823
August 3, 1996

RE: Case 3 PAS.94-1013

To the Alaska Dept. Of Corrections and to Whom it May Concern (and Especially Those Victims of Murder):

This letter is written in total disgust of the Correctional System for asking to place Frank Osborn on furlough and placing him in the public workplace.

I feel he received a light sentence for **Murder**, and this offering of work privileges is a real slap in the face to me as the mother of the victim. I was with the understanding at his sentencing in May that he was to serve five (5) years without parole -- WHAT DO YOU CALL THIS?! Maybe all of the intellectual people have forgotten the basics of conversation and statements. They seem to use "except", "if", "or" and "but" for all of their poor judgments in the court system. Excuses for CRIMINALS.

Concerning the five (5) year sentence, my heart was at ease for a while. How can you even recommend such a placement so soon after the sentence date, May 28, 1996? Doesn't the judge have the real say so?! Why bother having a judge if a lesser educated person is going to override his/her decisions. What a mockery! Go ahead, give Frank Osborn his request. It's your public surroundings, not mine. You can release him if I agree or not. I only hope that the next victim of his crime isn't your relative or daughter. You'll get to know the word "hurt". Do you know the mental anguish this has put me through, plus I've lost today's wages (8/2/96). I also understand a release date has been set for September 1997. This is not five (5) years! If pursuit of this furlough and release date is granted, I fear that a medical disability may occur due to the amount of stress I've endured, punishment more than the criminal Frank Osborn has to endure for **murder**. If work release is needed for finances, let him work in the facility cleaning the restrooms, etc., but he should remain behind bars! He already has three (3) balanced meals, housing, etc. -- better than most poor people -- more than a **murderer** deserves!!! I understand Frank didn't think I would have a problem with the furlough request. Well, "I DO"!!!

In my loving remembrance of Lorie.

Dolores M. Johnston

Alaska State Legislature



House of Representatives
House Judiciary Committee

State Capitol, Room 120
Juneau, Alaska 99801-1182
(907) 465-4990

MEMORANDUM

Date: April 15, 1997
To: Committee Members
From: Lisa Kirsch, House Judiciary Committee
Re: SB 67 --Truth in Sentencing

Because the function of section 2 is not immediately apparent, I have attached Margo Knuth's testimony in the Senate Judiciary Committee which explains the function of Section 2 in SB 67.

Margo Knuth will attend our meeting on Wednesday to answer any questions you may have.

JUDGE BUCKALEW: I have nothing to add. Tom Stewart did a magnificent job, he's a real scholar and I'm perfectly satisfied with the record as is, and I can't improve on it, and I'm overparked. It's nice hearing from you, Tom. That was a great job.

SENATOR TAYLOR: Seeborn, you run and catch your car and thank you ever so much and appreciate those good comments. Tuckerman, you are batting clean-up, I guess at this point. That's the only other witness I had. Did you ...

SENATOR MILLER: It's kind of like following a kid's act or an animal act - you don't win.

CHAIRMAN TAYLOR: It's my understanding you had some amendments being prepared. Did they arrive?

MR. BABCOCK: Yes, Mr. Chairman, they did, and I gave to your staff the amendments that are incorporated what might be considered as a committee substitute, should the committee so desire.

CHAIRMAN TAYLOR: If you wouldn't mind, what I would like to do at this time is, I will hold the bill until a future hearing - hopefully after we return from this five-day recess we'll bring you up first. By that time we can have a committee substitute prepared that you can work on staff with, and then go through those amendments with us and we can provide for further discussion because I realize that you were hit with a pretty good load there today and I want to give you a chance to respond or bring in such witnesses as you want to respond to that.

MR. BABCOCK: Thank you Mr. Chairman. I certainly appreciate the testimony from such an honorable and venerable Alaskan as Judge Stewart and I am in no hurry - Senator Green is in no hurry to have this committee act injudiciously, or more quickly than necessary so I appreciate the added time to discuss with the committee, and with committee staff, the proposed amendments to this constitutional amendment.

There being no further testimony on SJR 10, **CHAIRMAN TAYLOR** announced SJR 10 would be held in committee until further notice. The committee took a brief recess.

#

#SB67

SB 67 TRUTH IN SENTENCING

VICE-CHAIR PEARCE called the meeting back to order at 2:57 p.m. and announced SB 67 was next on the agenda.

SENATOR RICK HALFORD, sponsor of SB 67, explained the proposed committee substitute, which he supports, includes an amendment by

the Court System to clarify that the bill is asking judges to determine approximate dates of release that cannot be used against the Court System regarding accuracy, and a new Section 1 which may provide for the capture of federal funds. SB 67 requires, at the time a judge imposes a sentence, which is when the victims and/or family are most likely present, the judge also approximate how much time will actually be served.

Number 396

SENATOR PARNELL asked about Section 1. **SENATOR HALFORD** repeated that section pertains to the capture of federal funds in regard to how Alaska sets sentences.

VICE-CHAIR PEARCE asked about the new fiscal note. **SENATOR HALFORD** replied CSSB 67(JUD) has a positive fiscal impact of about \$617,000.

SENATOR MILLER moved to adopt CSSB 67(JUD) (version 0-LS0137\K) for discussion purposes. There being no objection, CSSB 67(JUD) was adopted.

PAUL SWEET, testifying via teleconference from Mat-Su, asked whether appeals with affect this bill. **VICE-CHAIR PEARCE** responded at the time of sentencing, the judge does not know whether an appeal will occur. Although everyone is aware of problems with abusing the appeal system, SB 67 does not address that issue.

MARGOT KNUTH, representing the Department of Corrections, informed committee members several years ago the federal government instituted a truth in sentencing intensive grant program which makes funds available to states for prison construction and expansion. The program has two components: truth in sentencing; and a requirement that states actually impose at least 85 percent of the period of incarceration. Alaska has not been able to qualify for those funds because it has a mandatory good-time provision that allows up to one-third of the sentence to be served on supervised release for felons, or any case with a sentence longer than two years. If the sentence is less than two years, mandatory good-time means early release for the prisoner. Good-time can be lost for disciplinary infractions within the institution. The federal government has recently decided that requiring states to keep prisoners incarcerated for a full 85 percent of their sentences is hardly affordable for most states. Consequently, it has recognized several different exceptions to the 85 percent requirement. One, the Minnesota exception, provides that the sentence be defined to exclude any statutorily required supervised release periods. For Alaska's violent offenders, that would amount to the "good time" because they are spending more than two years incarcerated and are not being released on discretionary parole. Alaska might now be able to meet that requirement, but needs a language change to bifurcate the sentence, which is what Section 1 does. If Alaska is able to

qualify for truth in sentencing funds, they will amount to \$617,000 for FY 98, and about \$500,000 for the following four years.

CHAIRMAN TAYLOR noted several years ago the Legislature was attempting to accomplish a similar goal. His concern at that time was the early release of violent prisoners, by the Parole Board, with no notification to witnesses or others who might be threatened, including the judge who imposed the sentence. He felt the appropriate solution was to require the sentencing judge's consent to an early release. **MS. KNUTH** agreed notification of victims and the court is entirely appropriate and added Senator Ellis has introduced a bill to create an automated victim notification system. **CHAIRMAN TAYLOR** noted his proposal was to make anyone responsible for early release personally and civilly liable to any victims for future conduct.

TAPE 97-14, SIDE A
Number 000

DEL SMITH, Deputy Commissioner of the Department of Public Safety, testified in strong support of SB 67. He and Commissioner Otte are concerned about the public's misperceptions of actual time served by prisoners, and the effect early release can have on the victims, witnesses, defendants and the public.

SENATOR PEARCE asked whether a jury is told how much time will actually be served when deliberating. **CHAIRMAN TAYLOR** replied they are not informed, because it is believed it might prejudice them against the prosecution. He explained there are states where one can choose who will impose the sentence; the jury or judge, but the judge has the right to overrule the jury.

CHAIRMAN TAYLOR asked why existing sentences cannot be structured by shifting the numbers so that one-third became three-quarters to bring us into federal compliance. **MS. KNUTH** agreed that there are several ways to accomplish the same thing that would do the least "tweaking" to our system.

CHAIRMAN TAYLOR asked what is wrong with a system that sentences a person for 15 years and tacks on additional years for acting out. He noted we assume and reward good conduct up front while most other penal institutions put a person in prison assuming good conduct and then punish them for misconduct. **MS. KNUTH** replied the difference in a bad-time state is the presumption that prisoners have to earn time off. Most states in the union are good-time states but the truth in sentencing program has caused some states to change to bad-time policies.

CHAIRMAN TAYLOR questioned why prisoners, using public defender services to appeal a criminal case, are given credit for prison time served while the appeal is pending. If they weren't, they would have something invested in the appeal. **MS. KNUTH** said that was an interesting proposal. **CHAIRMAN TAYLOR** commented the

appeal turnaround time in some other countries is three months, while it is two and one-half to three years here.

Number 55

SENATOR PEARCE moved to pass CSSB 67(Jud) from committee with individual recommendations and the appropriate fiscal notes. There were no objections and it was so ordered.

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#SB41

SB 41 ENVIRONMENTAL & HEALTH/SAFETY AUDITS

MR. MIKE PAULEY, staff to Senator Leman, sponsor of SB 41, noted he submitted a packet of 24 amendments from various sources: the sponsor, industries affected by the bill, DEC, and the Department of Law. (A COPY OF THE AMENDMENTS IS ATTACHED TO THE END OF THIS DOCUMENT.)

CHAIRMAN TAYLOR said the subject of the second amendment was reasonable: 90 days instead of 30. **MR. PAULEY** said DEC does not oppose amendments 1 and 2.

CHAIRMAN TAYLOR asked what impact deleting the word "only" in amendment #4 would have. **MR. PAULEY** explained it refers to the circumstances in which one could disclose the audit report, but not waive the privilege.

MR. PAULEY said amendment #5 specifies privileged information can only be disclosed to a lawyer or someone who works for that lawyer. Amendment #6 provides that if an audit report is shared with someone else under terms of a confidentiality agreement, anyone who violates that agreement is liable for damages. He thought that provision was omitted inadvertently.

MR. PAULEY continued explaining the amendments.

Amendment #7 clarifies that all parties agree that the privilege described in this bill does not shield underlying facts.

Amendment #8 relates to privilege for information relating to pipeline tariffs.

Amendment #9 provides that privilege and immunity can be overcome if the violation in question poses an imminent threat of injury, and is one of the things EPA looks for.

Amendment #10 adds an administrative hearing officer, in addition to the courts.

Amendment #11 is a semantic change for the purpose of consistency.

Amendment #12 specifies which portions of an audit can be viewed during an investigation.

Amendment #13 addresses EPA's concern by conditioning immunity.

MEMORANDUM

Date: April 14, 1997
To: Joe Green
From: Lisa Kirsch
Re: SB 67

*Lisa - Shouldn't
this bill be called
the "2/3rd Truth
in sentencing?"
Hey Dude - 3 yrs -
but really only 2!!
Truth in sentencing???*
Joe

We have this bill set for Wednesday's meeting. It requires judges to include the approximate minimum terms in a sentencing report. The bill is clear and straightforward for the most part and appears to enjoy broad support.

The one section that may cause some confusion is section 2. This section was added at the request of the Department of Law. Apparently, this section may allow us to capture some federal funds earmarked for those states who comply with truth in sentencing rules. Margo Knuth attended a conference on truth in sentencing and this section has the model language used in Minnesota which allowed that state to qualify for the federal funds.

Otherwise the Department of Law seems to be happy with the bill. Anne Carpeneti tells me the sponsor worked with them to make some changes to address the dept's concerns. The primary one was to add the word "approximate" to modify "minimum term." This change was made because it would be extremely difficult for the court to calculate the exact minimum term based on the many possible variables.

Both Anne Carpeneti and Margo Knuth plan to attend the hearing so that they will be available for any questions that arise.

SB

70

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: April 16, 1997

FURTHER REFERRALS:

Finance

Date of Committee Action: 5/1/97

The JUDICIARY Committee considered:

CSSB 70(JUD)

CS FOR SENATE BILL NO. 70(JUD)

DISCHARGE OF A FIREARM AT BLDGS.

"An Act relating to the discharge of firearms at or in the direction of buildings and dwellings."

recommends it be replaced with the following committee substitute HBS CSSB 70(JUD) 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) DEPT OF LAW & PUB. DEF.,

zero fiscal note(s) _____

zero fiscal note(s) PUB SAFETY, HSS,

CORR., COURT & ADMIN. (OPA)

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<u>Jim Wolf</u> CROFT			✓	
<u>Ed A. East</u> BERKOWITZ			✓	
<u>Robert J. Green</u> GREEN	✓			
<u>Richard D. Porter</u> PORTER	✓			

CHAIR'S SIGNATURE [Signature]

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

No. 11
Bill Version: CSB 70 (JUD)
(S) Publish Date: 4-10-97

Revision Date: _____
Title: An Act relating to the discharge of firearms at or in the direction of buildings and dwellings
Sponsor: Sen. Donley
Requestor: (S) FIN

Department Affected: Administration
BRU: Office of Public Advocacy
Component: Office of Public Advocacy

COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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						
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CHANGE IN REVENUES ()						
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FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 97) cost: \$ 0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

There is no fiscal impact to the Office of Public Advocacy.

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

Phone: 274-1684
Date: _____

Approved by Commissioner: Mark Boyer
Agency: Department of Administration

Date: 4/8/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

No. 10
Bill Version: CSB 70 (Jud)
(S) Publish Date: 4-10-97

Revision Date: 04/03/97
Title: Unlawful Discharge of a Firearm
Sponsor: Sen. Donlay
Requestor: _____

Dept. Affected: Alaska Court System
BRU: Trial Courts
Component: _____
COMPONENT SERIAL NO. 768

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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						
1037 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

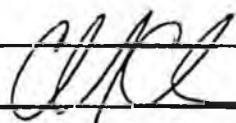
Estimate of any current year (FY 97) cost: None

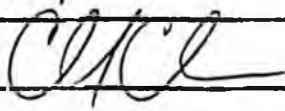
Positions

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

SB 70 redefines certain conduct that is already a crime, which should not result in a fiscal impact.

Prepared by: C. S. Christensen III, General Counsel 
Agency: Alaska Court System

Approved by: Stephanie J. Cole, Deputy Director 
Agency: Alaska Court System

Phone: 264-8228
Date: 04/03/97
Date: 04/03/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

No. 9
Bill Version: CSSB 70 (JUD)
(S) Publish Date: 4-10-97

Revision Date: 3/26/97 Dept. Affected: Corrections
Title: Unlawful discharge of a firearm BRU: All
Component: All
Sponsor: Senator Donley
Requester: Senate Judiciary COMPONENT SERIAL NO. #0694

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost: \$ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Bruce Richards Phone: 465-3307
Division: Commissioner's Office Date: 3/26/97
Approved by Commissioner: Margaret M. Pugh Date: 3/26/97
Agency: Department of Corrections

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SR 70

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

No. 8
Bill Version: CSSB 70 (JUD)
(S) Publish Date: 4-10-97

Revision Date: _____
Title: "An Act relating to the discharge of firearms..."
Sponsor: Senator Donley
Requestor: S (FIN)

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

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	37.5	37.5	37.5	37.5	37.5	37.5
TRAVEL	1.5	1.5	1.5	1.5	1.5	1.5
CONTRACTUAL	6.0	6.0	6.0	6.0	6.0	6.0
SUPPLIES	0.6	.6	0.6	.6	0.6	.6
EQUIPMENT	2.5	2.5	2.5	2.5	2.5	2.5
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	48.1	48.1	48.1	48.1	48.1	48.1

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	48.1	48.1	48.1	48.1	48.1	48.1
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	48.1	48.1	48.1	48.1	48.1	48.1

Estimate of any current year (FY 97) cost: \$ -0-

POSITIONS:

FULL-TIME	0.5	0.5	0.5	0.5	0.5	0.5
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

See attached sheet.

Prepared by: Barbara K Brink, Director
Division: Public Defender Agency

Phone: (907) 264-4414
Date: _____

Approved by Commissioner: Mark Boyer
Agency: Department of Administration

Date: 4/9/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. CSSB 70 *2*

ANALYSIS: (continued)

This sponsor substitute makes it a strict liability offense to discharge a firearm at or in the direction of an occupied building, punishable by up to 10 years in jail and a \$50,000 fine. It creates an anomaly in the Alaska Statutes, which normally punish conduct by considering the perpetrator's mental state (intentional crimes are punished more severely than reckless or negligent crimes) as well as the result (the seriousness of the injury or damage).

The Department of Law has estimated an increase in the numbers of serious felony offenses due to this legislative change. Currently such an offense would not be charged or would be charged as a much less serious crime of reckless endangerment (a misdemeanor) and often prosecuted by the local municipality. The Public Defender concurs in this analysis, and predicts a serious increase in these felonies, particularly in Anchorage. Therefore, a part-time felony attorney position is requested for Anchorage.

Of note: It is questionable whether the Due Process clause of the Alaska Constitution, Art. I, Section 7 permits imposing criminal sanctions for an offense in the absence of a minimally adequate level of mens rea. (Beran v. State, 705 P.2d 1280 (Alaska App. 1985)).

FISCAL NOTE

No. 7
 Bill Version: CSSB 70 (JUD)
 (S) Publish Date: 4-9-97

STATE OF ALASKA
 1997 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Department of Law
 Title: "An Act relating to the discharge of firearms
at or in the direction of buildings and dwellings." BRU: Criminal Division
 Sponsor: Senator Donley Component: Criminal Division
 Requester: Senate Judiciary Committee COMPONENT SERIAL NO. 2085

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	53.8	53.8	53.8	53.8	53.8	53.8
TRAVEL	0.7	0.7	0.7	0.7	0.7	0.7
CONTRACTUAL	8.0	8.0	8.0	8.0	8.0	8.0
SUPPLIES	1.1	1.1	1.1	1.1	1.1	1.1
EQUIPMENT	6.5					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	70.0	63.5	63.5	63.5	63.5	63.5

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	70.0	63.5	63.5	63.5	63.5	63.5
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	70.0	63.5	63.5	63.5	63.5	63.5

Estimate of any current year (FY97) cost: \$ 0.0

POSITIONS

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	1.0	1.0	1.0	1.0	1.0	1.0
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

CSSB 70 (JUD) elevates the crime of discharging a firearm at or in the direction of a building, or a dwelling, from misdemeanor conduct to a class B felony. The Department of Law anticipates the greatest impact from the proposed committee substitute would be in the Anchorage area as many of these misdemeanor weapons and property crimes are most likely handed as municipal offenses under current law. CSSB 70 (JUD) would make these offenses felonies under state jurisdiction.

The department anticipates the need for one-half an attorney position in the Anchorage District Attorney's Office to respond to the increased caseload from this bill. Using the Civil Division's standard attorney cost schedule (\$127,000 per year), the fiscal impact would be \$63,500, including clerical support, communications, space, supplies, data processing and other normal overhead expenses. The standard cost does not include one-time new equipment purchases, and \$6,500 is added for this purpose in FY 98. (Proportionate support position funding is included in the standard attorney cost schedule to reduce clerical support vacancy so that the new attorney's clerical burden can be handled.)

Prepared by: Joan M. Kasson
 Division: Administrative Services Division
 Approved by Commissioner: Bruce M. Botelho, Attorney General
 Agency: Department of Law

Phone: 465-5370
 Date: 4/4/97
 Date: 4/4/97

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STATE OF ALASKA
1997 LEGISLATIVE SESSION

No. 5
Bill Version: SB70
(S) Publish Date: 2/21/97

Revision Date: _____
Title: Discharge of a Firearm and Relating to the
Commission of those Offenses by Minors
Sponsor: Senator Dooley
Requestor: Senate (HES)

Dept. Affected: Health and Social Services
BRU: Family and Youth Services
Component: DFYS Central Office
COMPONENT SERIAL NO. 259
See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY98	FY99	FY00	FY01	FY02	FY03
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						
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CHANGES IN REVENUES						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
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 (FY97) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

There will be no fiscal impact on the department if this bill becomes law. While there will be no increase if this class of offenses is established, there will be no decrease in the funds required to operate DFYS if youth who commit these offenses are waived to the adult system. The department will still be faced with overcrowding in juvenile facilities and a waiting list of youth with incarceration orders even if a few more youth are waived under this bill.

Signature
2/14/97

Prepared by: L. Diane Worley, Director
Division: Family & Youth Services

Phone: 465-3191
Date: 02/14/97

Approved by Commissioner: Karen Perdue, Commissioner
Agency: Department of Health & Social Services

Date: 2/14/97

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FISCAL NOTE

r 4
 Bill Version: SB70
 (S) Publish Date: 2/21/97

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO:

Revision Date: 02/17/97 Dept. Affected: Public Safety
 Title: Create Unlawful Discharge of a Firearm BRU: Alaska State Troopers
Crimes Component: Detachments
 Sponsor: Sen. Donley
 Requestor: Senate HESS COMPONENT SERIAL NO. 0799

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

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ()	-0-	-0-	-0-	-0-	-0-	-0-
Revenue Code						

FUNDING: (Thousands of Dollars)

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

Estimate of current year (FY 97) impact: \$ _____

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.)

This bill would not have any significant impact on AST.

Prepared By: Capt. Ted M. Bachman Phone: 269-5650
 Division: Alaska State Troopers Date: 02/17/97
 Approved by Commissioner: Ronald L. Otte Date: 2/18/97
 Agency: Department of Public Safety

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HOUSE CS FOR CS FOR SENATE BILL NO. 70(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS DONLEY, Pearce, Leman, Green, Wilken, Mackie, Phillips, Ellis, Ward,
Duncan, Kelly

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the discharge of firearms at or in the direction of buildings
2 and dwellings."

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

4 * Section 1. AS 11.61.195(a) is amended to read:

5 (a) A person commits the crime of misconduct involving weapons in the
6 second degree if the person knowingly

7 (1) possesses a firearm during the commission of an offense under
8 AS 11.71.010 - 11.71.040; [OR]

9 (2) violates AS 11.61.200(a)(1) and is within the grounds of or on a
10 parking lot immediately adjacent to

11 (A) a public or private preschool, elementary, junior high, or
12 secondary school without the permission of the chief administrative officer of
13 the school or district or the designee of the chief administrative officer; or

14 (B) a center, other than a private residence, licensed under

1 AS 47.33 or AS 47.35 or recognized by the federal government for the care of
2 children; or

3 (3) discharges a firearm, without legal justification, at or in the
4 direction of

5 (A) a building with reckless disregard for a risk of physical
6 injury to a person; or

7 (B) a dwelling.

8 * Sec. 2. AS 11.61.210(a)(3) is amended to read:

9 (3) discharges a firearm with reckless disregard for a risk of damage
10 to property or a risk of physical injury to a person under circumstances other than
11 those described in AS 11.61.195(a)(3)(A):



SENATOR DAVE DONLEY
ALASKA STATE LEGISLATURE

**SPONSOR STATEMENT
FOR SENATE BILL 70 (JUD)
"UNLAWFUL DISCHARGES OF FIREARMS"**

Senate Bill 70 provides strong new deterrents to individuals who unlawfully discharge firearms at buildings or dwellings.

Last year an Anchorage family was awoken in the middle of the night to a barrage of gunfire. The next day, the Anchorage Police Department found five bullets lodged in various locations of the family's home. Juneau has witnessed seven separate accounts of shootings at dwellings in the last year alone. Under current state law, the unlawful discharge of a firearm at a building is only a misdemeanor.

Senate Bill 70 creates a new class B felony offense for the unlawful discharge of firearms at or in the direction of a dwelling. The legislation also creates a class B felony offense for discharging a firearm in the direction of a building and it is occupied or with reckless disregard to property or a risk of physical injury to a person.

Senate Bill 70 addresses the problem of random reckless discharges of firearms by instituting tough new penalties on those individuals who not only endanger property but innocent lives as well.

DD/jja

January-May: STATE CAPITOL • JUNEAU, AK • 99801-1182 • (907) 465-3892 • FAX: (907) 465-6595
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MEMBER: Senate Finance Committee • Legislative Budget & Audit Committee
• Senate Community & Regional Affairs Committee

Produced in House

STATE OFFICE
ALASKA PEACE OFFICERS ASSOCIATION

P.O. Box 240106 Anchorage, Alaska 99524-0106 Phone (907) 277-0515 Fax (907) 272-5355



March 8, 1997

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Pres. Prince of Wales Chapter

Senator Dave Donley
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

Dear Senator Donley,

On behalf of the Alaska Peace Officers Association, I would like to thank you for introducing Senate Bill 70 relating to the unlawful discharge of firearms at buildings. At a recent meeting of the APOA State Board Legislative Subcommittee, we decided to unanimously support this bill. We believe that this legislation will help provide stronger prosecution for offenses of this nature and will send out a clear message of deterrence.

We encourage you to call on us when there are hearings on this bill, so that we may testify about the need for this legislation. If you need assistance as you shepherd this bill through the legislative process, please call me at 451-5316, or our business manager, Joseph Young at 277-0515.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Corkill", written over a horizontal line.

Michael Corkill
APOA State President

BULLETS:
Five shots hit
Muldoon home

Continued from Page B-1

try to get even with a pistol in the dark of night. If the shooter is ever caught — something they don't expect — she said she'd first ask "Why did you do it?"

"They could have killed someone," Ronald Harper said. "It's like they didn't care."

As it happened, the main casualty besides peace of mind were two stuffed animals, a whale and a dolphin, in Theresa's room. The toys were on the bookshelf above her bed, Theresa said, a few feet away from where she was sleeping. The bullet blasted their stuffing out.

"It's scary," Theresa said. The 15-year old Bartlett High School sophomore said she thought she heard the last two shots. It sounded like someone trying to break the window.

"I woke straight up. I was petrified," she said.

She never imagined such a thing could happen she said. "There's no reason for it. I don't have any enemies, and I don't think my parents do either."

Her parents said the same thing.

Ronald Harper said he called the police, who arrived a few minutes later. The police officers said it looked like the shooter was on foot, he said. Other than that, the police didn't say much.

He said he wanted other people, especially other parents, to know what had happened. Maybe if people talk about it, some clue will emerge, he said.

No further details were available from the police department on Sunday.

**Bullets
puncture
house**

Muldoon shooting
perplexes family

By STEVE RINEHART
Daily News reporter

Ronald Harper paced the walkway in front of his home in Muldoon on Sunday afternoon, pointing out the bullet holes punched through the gray aluminum siding. They were big enough to wedge a finger in; they had opened the metal siding like a can-opener.

"That's the one that went through (Theresa's) bedroom," he said. "That one went over my computer."

Another went through the living room window, missing the big-screen television but gouging a trough through the woodwork. A fourth round plowed into a corner near the front door; a fifth drilled through at the right height to lodge between the upper and lower floors of the split level house on Dickerson Street, just off Turpin Street.

"The police found five (cartridge) casings in the street," he said. "I thought I heard six shots."

The Harpers — Ronald, Evangeline and their daughter, Theresa — were sleeping about 4 a.m. Sunday when they heard, and felt, the barrage. "It was like a shockwave," Ronald Harper said.

Sunday afternoon they were trying to figure out what it meant.

Evangeline Harper said she hoped the shooting was random, but no one was angry enough with them to



Theresa Harper, 15, holds her stuffed Shamu, which now sports bullet holes. Shamu and Flipper were on the top bookshelf, background, when they were hit.

Please see Page B-2, BULLETS

'The Voice of Alaska's Capital City'



OCT 30

No one hurt in drive-by shooting

By SVEND HOLST

THE JUNEAU EMPIRE

Gunfire rattled through a trailer at the Switzer Creek Mobile Home Park early this morning.

Capt. Michael DeCapua, spokesman for the Juneau Police Department, said the beginning stages of the investigation unveiled no rhyme or reason for why someone fired four bullets into a trailer off one of the main drives into the park at about 4:30 a.m.

"We're early in the investigation," he said. "We have several leads at this point but we're still asking for the public's help."

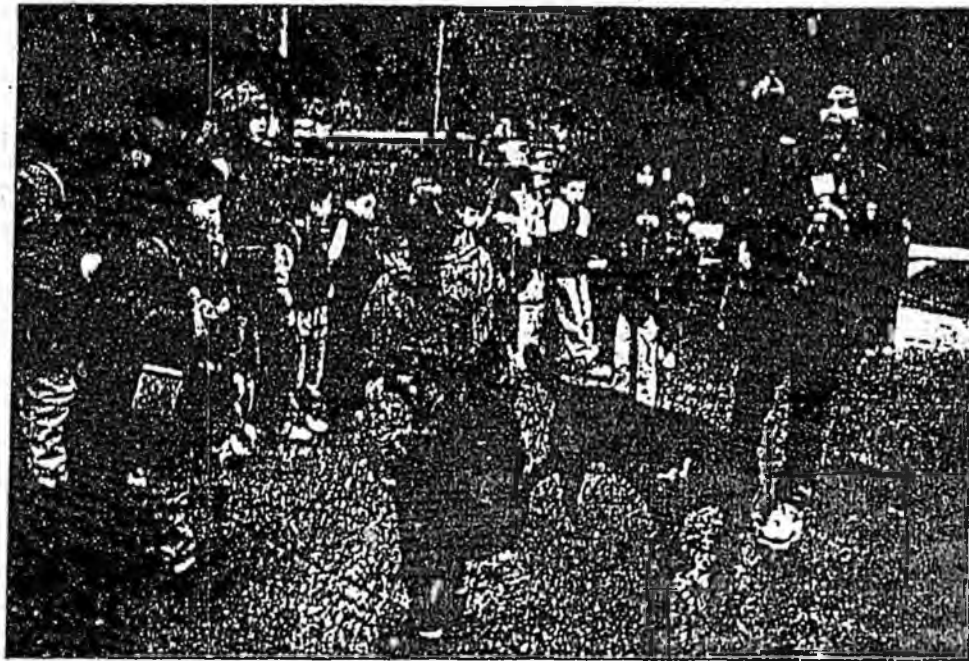
Police believe it was a drive-by shooting, DeCapua said.

None of the five occupants of the brown-and-beige trailer were injured by the flying bullets, some of which went completely through the mobile home and into another one behind it, said Sgt. Walter Bowman.

He said the shots most likely came from a street leading from the road that enters the mobile home park next to the Department of Transportation building off Glacier Highway.

Along with reports of five gun

Please see Drive-by, Page 8



MICHAEL PEHNI / JUNEAU EMPIRE

icy spot: Delores Wheaton, right, counts heads this morning at a bus stop on Cordova Street at Douglas Highway, where children have been falling on steep, icy sidewalks.

Slip sliding to school

By MARK SABBATINI

THE JUNEAU EMPIRE

For 11-year-old David Jones, the ice on the steep sidewalk is something to live up the morning trip to the school bus stop.

But for parents such as Delores Wheaton, it's a nightmare waiting to happen.

A wide sidewalk in West Juneau at the intersection of Cordova Street and Douglas Highway is

the problem. Water from a hillside drains onto the sidewalk, where it is trapped by retaining walls on either side.

When it gets cold, the water freezes into a slanted slate of ice that students and other residents must cross to get to the bottom of the hill. Residents have complained to the city, but an official said responsibility lies with the homeowners beside the sidewalk.

Jones and several other students waiting at the bus stop this morning said they didn't mind the ice, stating they walked close to the edges of the sidewalk to avoid the worst of it - or intentionally slid down for fun.

"I know if I fall it was my fault because I was sliding," said Jones, a fifth-grade student at Gastineau Elementary School.

Please see Slippery, Page 8

State coffers swell

High oil prices could balance the budget

By MARK SABBATINI

THE JUNEAU EMPIRE

Continuing high oil prices are expected to earn Alaska about \$400 million extra this year, which could be enough to balance the state's budget.

The average price of Alaska North Slope crude is expected to be between \$20 and \$20.50 a barrel for the current fiscal year, which began July 1, said Chuck Logsdon, chief petroleum economist for the state Department of Revenue.

The initial projected price was \$16.67 a barrel.

"That's a significantly higher price than I think most analysts, including ourselves, thought was possible when we were assessing the situation last year," he said today from Anchorage.

Logsdon said an increase of \$1 a barrel results in an additional \$100 million for the state. On Tuesday, prices were nearly \$23 a barrel.

Fluctuating oil prices mean the projected spending gap in the state's \$2.4-billion budget is a moving target, since 80 percent of Alaska's revenue comes from oil. Officials have previously placed

Please see Oil, Page 8

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The island and cove on Seymour Canal, about 25 miles southwest of Juneau, had been closed to hunting since 1984. In the time since then, the state game warden, Forest Service created the Stan Price Sitka Game Sanctuary, which has become an increasingly popular brown-bear viewing area on the beach of the canal and part way up Pack Creek. About 95 square miles around the area are closed to hunting.

Dinneford said public testimony at the Sitka meeting leaned in favor of keeping the area closed.

Murray, who traveled to Sitka to speak in favor of his proposal, said he wasn't surprised by the vote, "but you always hope."

He said state wildlife officials offered no biological reason to keep the area closed, so the vote by board members was in response to anti-hunting lobbying.

Murray's proposal was opposed by Fish and Game's Wildlife Conservation Division.

Murray said he is looking at other options to try

ne was opposed by the Juneau Audubon Society, Trail Mix and several people who testified at the meeting opposing the plan.

Trails include Perseverance, Mount Roberts, Moller, Point Bishop, Point Bridget, Eagle River and Herbert River. The Game Board voted in 1988 to prohibit trapping within one-quarter mile of those trails.

In Juneau, trappers are usually after marten, mink or river otters.

Fish and Game's Wildlife Conservation Division proposed allowing trapping, if traps were set at least 100 feet away from a trail. Under its plan, traps between 100 feet and one-quarter mile from the trail would be set at least four feet above the ground.

The provision was to ensure pets and small children wouldn't accidentally get caught.

A number of trails don't have the quarter-mile restriction, including Montana Creek, East and West Glacier trails, Salmon Creek, Treadwell Ditch, Mount Juneau and Mount Jumbo.

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Slippery sidewalk...

Continued from Page 1

That's little consolation for Wheaton, a member of the Gastineau Site Council who supervises an estimated 30 elementary kids at the bus stop each morning.

"Three kids fell yesterday," Wheaton said. "I'm surprised they didn't get hurt. (The city) is going to hear about it if somebody gets hurt."

Wheaton said many seniors live at the Cedar Park apartment complex nearby and have to descend the hill to reach the city bus stop. She said several have asked for help in getting past the ice.

The problem appears to stem from the rebuilding of the house

adjacent to the sidewalk about two years ago, said Kerry Finley, assistant street superintendent for the city. He said drainage from the foundation and gravel driveway runs onto the sidewalk, and the property owners need to build a catch basin to divert the water to the bottom of the hill.

A city engineer is working with the homeowners to try to resolve the problem, Finley said.

"It's one of those areas where we've fought the ice over there," he said. "We haven't realized where it's coming from until now."

Jeanne Farrell said there is nothing that can be done with the home or the driveway she and her husband, T.J., purchased a year

ago to solve the problem. She said the drainage comes from the hill next to her house and the city's rebuilding of the sidewalk is at fault.

"I don't know what happened when the city put in the retaining walls, why they didn't put in a better drainage system," she said.

Residents in the neighborhood said the problems began after the sidewalk reconstruction occurred a few years ago.

Finley said the city is putting sand and chemicals on the sidewalk to make it safer. Wheaton said she has not noticed any such efforts until this morning, when temperatures were above freezing and ice was not a threat.

Bal

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Drive-by shooting...

Continued from Page 1
shots, mobile home park residents said, police a speeding vehicle was seen leaving the area.

The number of bullets fired was yet to be confirmed, Bowman said.

"Bullets are hard to see sometimes," he said.

Police numbered the four bullet holes in the trailer they've found so far with orange paint. They were spaced along the length of the trailer about four feet from the ground.

Inside the house, Bowman

said, some clothes and a refrigerator were hit by the bullets. It was a drive-by shooting. It happened in the morning, he said.

Rafael Flores, 30, moved into a trailer with his wife and two children near the bullet-riddled home this month. He'd been told, he said, it was a quiet neighborhood.

"It was a strong weapon," he said. "It's scary."

Walking with two children she was baby-sitting this morning, Cindy Germain was also frightened by the early morning shots.

Her sister-in-law lives in the home hit by the bullets after they passed by the trailer. She said she was in the park, she said. "This is too close to home." After waking to the sound of gunfire, she heard of another shot fired while listening to a police scanner.

That shot was near Vanderbilt Hill, on the other side of Lemon Creek, said DeCapua. Police, however, are not sure if the two shootings are related. Police have yet to determine the caliber of the bullets recovered this morning.

Moggie is back at Ketchikan cafe

THE ASSOCIATED PRESS

KETCHIKAN - A familiar pooch is back guarding his owners' downtown coffee shop - legally. Moggie, a golden retriever, had been ousted from his long-time post after animal control authorities decided to enforce the local leash laws.

But the dog got a dispensation under a new law exempting canines that prove they can obey voice commands and aren't aggressive.

So now he's back lounging at the familiar spot in front of Moggie's Mochas, Mugs and

More.

"He went out and he took his test on Thursday and he earned license number 0001," said Joyce Hazelquist, who with her husband Don owns the dog and the coffee shop. "He's just as happy as can be."

SEASON'S EATINGS
Holiday Dining Guide

ALASKA

The Paper publishes final edition

■ *Without some major investors, editor says weekly cannot survive*

By LORI THOMSON
THE JUNEAU EMPIRE

As subscribers to The Paper read today's final edition, the weekly newspaper's staff will begin shutting down its office on Third and Franklin streets.

The weekly announced earlier this month it was seeking \$100,000 to keep the newspaper open. Ten different small investors committed a total of \$12,000 to \$15,000 to the publication since then, but no major investors came forward, said editor Larry Persily.

"I don't see anyone coming in to carry us through a second year," Persily said Thursday afternoon. "It's silly to run another month or two to spend all the money we have just to prove we can go 15½ months instead of 14."

Advertising revenue for the weekly fell short of expectations. Persily has attributing that to advertisers being cautious because The Paper was the new publication on the block.

Launched on Nov. 22, 1995, The Paper faced competition from the daily Juneau Empire and the free Capital City Weekly, as well as radio stations.

Empire Publisher John Winters said he did not think a town of 30,000 people could support two newspapers, when even big cities often cannot.

"We're sorry when any newspaper folds, but I did not think from day one this size market could support two weeklies and a daily," Winters said.

Having started with six full-time staff members, The Paper's staff was cut to two full-time and three "very part-time" employees, Persily said.

Persily and his staff will probably spend the next month

Around Juneau

Tank leaks oil into Gastineau Channel

JUNEAU - A leaking oil tank at a home above Aurora Harbor sent diesel fuel into Gastineau Channel on Thursday morning.

A large sheen was seen at Aurora Harbor at about 8 a.m., and the U.S. Coast Guard's Marine Safety Office, the city and the state Department of Environmental Conservation launched an investigation, said Ensign Vivianne Louie of the Marine Safety Office.

They traced the diesel up through a storm drain to a leaking home heating tank on Judy Lane, four blocks up-slope from Juneau-Douglas High School.

"Even a pin-hole leak will empty a whole tank," Louie said. "Not all four hundred gallons got in the water. Most of it, I would say, is in the storm drain system."

Thursday, the Coast Guard estimated less than five gallons of diesel made it into the channel, but no more specific estimate was available today.

The cost of the 400 gallons of diesel is about \$430. But, Louie said, the homeowner may end up paying thousands of dollars to clean up the spill.

Second trailer was hit by shots

JUNEAU - Police investigators have determined the second trailer hit by gunfire Thursday morning at the Switzer Village Mobile Home Park was struck by shotgun shot.

A third trailer may also have been hit by a projectile fired at a neighboring mobile home, police said today.

After responding to a report of a mobile home being shot up on Blue Jay Way, another report came in from the residents of a trailer close to the center of the park. Police found five holes, believed to have come from a shotgun blast, in the window of the trailer, said police spokesman Michael DeCapua.

At about 8:30 a.m., a resident next door to the second trailer hit by gunfire said his home had been hit as well, said Lt. Ron Forneris, an investigator for the Juneau Police department.

"The resident feels the event just occurred and was contemporaneous with the other event," he said. The bullet, which did not appear to be from a shotgun shell, was of a large caliber, but didn't penetrate into the trailer very far, he said.

Forneris said police have not been able to determine whether the bullet that was lodged in the trailer was related to the other shooting, or whether it was a recently fired shot or not. It's possible, he said, that the bullet hit the trailer at some point before Thursday, but was only noticed by the home's owner then.

The trailer on Blue Jay Way sustained a dozen holes in a window that faced the road.

Landslide expert in Juneau

JUNEAU - A Colorado consultant is assessing the slide danger for homes in the White Subdivision today.

The city flew Arthur Mears, co-author of a 1992 study on Juneau landslide and avalanche hazards, here to evaluate how tree cutting above the White Subdivision might have impacted their risk, said city engineer Ben Pollard.

Mears will meet with White Subdivision residents at 5 this evening in Juneau Assembly chambers to give his report and answer questions.



PHOTO BY THE JUNEAU EMPIRE
Juneau Police display confiscated Thursday students were having lunch break.

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of oil, which pro-
see see Oil, Page 6

We've got some real talent here."

Echo Bay Mines Ltd.'s board of directors decided this week to write off the Alaska-Juneau gold mine near downtown Juneau because feasibility studies showed it would be unprofitable to reopen.

No one has been laid off yet, and company officials say they are still evaluating what to do next - redesign the project, sell it or close it. However, Bill

Goodhard, project manager for Echo Bay Alaska Inc., said because the board is writing the project off, the local office is "prepared to move toward closure."

Jill Paukert, a spokeswoman for Echo Bay corporate offices in Englewood, Colo., said there is no timeline for when a definite decision will be made.

awime, regardless of the decision the company eventually makes, because even if the mine closes, there will be work associated with the closure for some time.

But he doesn't want to lose touch with co-workers he's grown close to, whom he fears will have to leave town to find work.

"They go someplace else and you never see them again," Farrell said.

It's also difficult to watch

was among about 12 employees laid off from Echo Bay last year, said she had hoped to go back to work there, but she was not shocked at the news.

"I think the writing was on the wall months ago," she said. "The feasibility studies weren't coming back really well. I didn't know for a fact, but I wasn't holding my breath."

Gallagher and Farrell said
Please see Echo Bay, Page 6

A taste of racial injustice brings message home

By CATHY BROWN
THE JUNEAU EMPIRE

It was a small injustice - some kids got a Hershey's kiss and others didn't - but it was enough to get Chris Ruiz's attention.

"It wasn't fair," the second-grader protested. "... I felt like a prisoner."

The only reason he didn't get candy right away was because he had the bad luck to get a green piece of paper taped under his chair, instead of a red one.

John Cashen also got green paper. "I was sad. I felt left out,"



the little boy said.

Second-grade Harborview Elementary School teacher Twyla Alexander set up the exercise to show her students what discrimination feels like and to teach them why Americans celebrate the birthday of civil rights leader Martin Luther King Jr.

Several teachers in the Juneau School District have spent time this week talking to their students about King, the non-violent protests he advocated and the reasons behind the civil

Please see Lesson, Page 6

Shots fired at Switzer

Police say two trailers were hit in mobile home park

By SVEND HOLST
THE JUNEAU EMPIRE

A shotgun was apparently used to blow holes in two trailers at the Switzer Village Mobile Home Park early this morning.

Reports of the first shooting came into police at about 1:45 a.m. from a woman living in a mobile home in the Blue Jay Way area of the park, which is close to Dzantik'i Heeni Middle School, according to Capt. Michael DeCapua, spokesman for the Juneau Police Department.

She said someone had fired a gun at her trailer.

Residents of another mobile

home in the same area called police later in the morning to report finding bullet holes in their trailer as well.

Details on the second incident were sketchy this morning as police, in patrol cars and on foot, combed the neighborhood. However, a shotgun seems to have been used in both shootings.

"We are working on a number of leads at this point," DeCapua said. As always, police are asking for anyone who may know anything about the shootings to call them.

He said investigators aren't sure if the shootings were drive-bys, and have not determined if the incidents were related to previous Switzer shootings or to gang activity.

Please see Shots, Page 6

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Juneau Empire

Thurs. 1/16/97 p. 1

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SPOTLIGHT

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SWITZER ROULETTE

By SVEND HOLST

THE JUNEAU EMPIRE

Shots in the dark. Bands of unruly teenagers. Children harassed by bullies on their way to and from school.

For some, life at the Switzer Village Mobile Home Park is becoming tense. For some, the sound of a car driving by is frightening.

Since last February, gunfire has put holes - bullet holes - in six trailers at the 300-lot trailer park, according to police. Several residents of the park said the bullets and other problems, such as vandalism, harassment and drugs, stem from unsupervised teen-agers, hooligans, who liken themselves to gangsters.

The president of the mobile home park's newly formed neighborhood watch group is worried that if his name or face were in the newspaper, a bullet could find its way into his trailer, which nine people call home.

"If they shot through my trailer, they aren't going to miss," he said. "This is scary."

When he sees the glare of headlights shine through his kitchen window, he said he gets jumpy. Since the last shooting, last week, the neighborhood watch patrols have stopped, he said. People don't want to put themselves at risk.

It's just a matter of time, he said, before someone gets hit by one of the bullets flying around Switzer. It's just a matter of time, he said, before someone gets killed.

Inside the Blue Jay Way trailer, the trail of shot from a shotgun blast runs through the front window, the kitchen, the living room and the bathroom. The frame of a picture of a baby granddaughter hangs crooked on the wall. It's been shattered by shot.

The gunshot came at about 2 a.m. Thursday. A boy was asleep on a couch just below the path of the pellets. Neighbors saw a vehicle leaving the scene, but police haven't found out who the gunman was.

A woman with a large family lives there. She spent her first night back at the home Saturday, but said she couldn't sleep until the sun came up. She has no idea why anyone would target her home, or would fire on the photograph of her granddaughter.

She lived at Switzer in the 1980s, and moved back recently.

"Switzer has changed significantly," she said. "We liked living in Switzer. I always thought that the people here were, basically, good people. I'm thinking now of selling the place."

The shooting left a scar on her mind in much the same way it left holes in her ceiling and window. She said she spends a lot of her time since the shooting in the part of the trailer furthest from the road.

"Psychologically, it leaves an imprint," she said.

She wants people to call the police, and tell them what's going on. She wants the perpetrators, who she said may be "kids

Matt Castillo, 19, said he's talked to law enforcement officials from a plethora of agencies, such as the Juneau police and the FBI, about the drive-by shooting of his trailer in October.

He thinks the shooters are wannabes - youths who call themselves gang members, but are still trying to figure out how to do it. He gave police, who he said are probably embarrassed by the violence, the names of the kids he thought might be involved.

"They're probably just bored," he said of the shooters. "They're just doing it for fun."

He said one kid was bragging about shooting the gun. He wants people in Juneau to know what's happening in Switzer because it could start happening elsewhere.

"This town isn't that big," Castillo said. "People should know about it."

He, and three friends, were playing video games when the shots rang out.

They heard a car drive by on the road next to the trailer at about 4:30 a.m., he said. The car stopped, idled for a few seconds, then peeled out, Castillo said. Then bullets, four or five of them, slammed into the trailer. One of the slugs missed his head by about a foot, he said. Another hit his refrigerator. Others passed through the trailer and into one behind it.

A side effect of being the target of a drive-by, he said, is people start talking, start making assumptions and spread dark rumors. He's heard, much to his surprise, that he's a drug dealer.

Castillo said he's noticed more police patrolling Switzer, though not all residents interviewed had seen more blue-and-whites.

Police are working with the neighborhood watch group, and continue to investigate the shootings, which are the most but not the only crimes being perpetrated at the mobile home park and the surrounding area.

"In the Gruening Park-Switzer area we have noticed an increase in vandalism," said Capt. Michael DeCapua. "We're concerned with an increase in gang activity and juvenile delinquent activity, some of which may be drug or gang related."

Where there's juvenile crime he said, parents have to be a part of the solution.

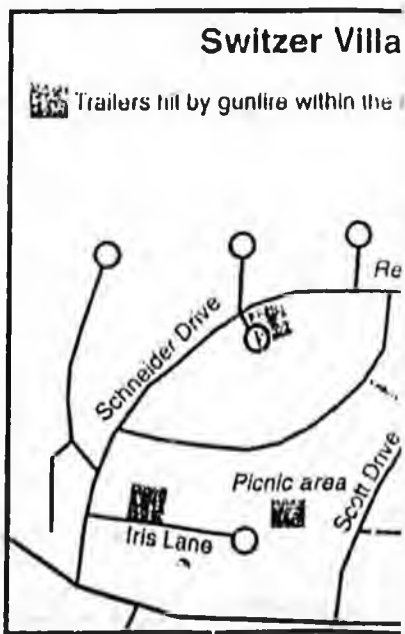
The neighborhood watch group forming at Switzer is one of three getting organized this winter. Gruening Park, neighboring Switzer, and a Douglas group are joining a dozen such neighborhood watches set up in Juneau.

The watch groups are important, DeCapua said, because police are spread thin. Usually, there are four police on patrol and one supervisor on duty. Lately, with a string of injuries and retirements sapping the Juneau Police Department of a quarter of its complement, police are being taken off investigations and out of Juneau schools to fill patrol cars.



COMPLIMENTS OF THE ALASKA STATE LIBRARY

Hitting home; Bullet holes in mobile home involved in a drive-by Home Park.



Switzer residents concerned

Continued from Page 9

"We're down twenty-five percent," DeCapua said. "We're using other personnel to cover patrol. We're robbing Peter to pay Paul."

Robert Fitch, the manager of the park, took over in December. He knew he had his work cut out for him, he said. Over the years, Switzer Village had started to get a bit run down, and he thinks the place's appearance may be a part of the problem.

Along with the neighborhood watch, he's fixing landscaping, covering the mailboxes and cutting down branches so police can see into wooded areas. He's also considering fencing off areas and is figuring out where the "hot spots" are, the places where problems seem to start.

One of the hot spots at Switzer is a covered picnic area between Scott and Schneider drives. There, empty vodka bottles sit next to empty beer cans, drained 40-ounce bottles of 8.2-percent-alcohol "ice" beer, fast food wrappers and square, white plastic frames torn from CDs stolen from Kmart across the road.

"I want to clean it up," Fitch said. "I want it back to the number one park in Juneau." He said he wants residents to be able to walk around at night without worrying about getting beat up or shot. It's not as if the whole trailer park is in ruin, he said, but there's definitely room for improvement.

He said there's a corps of about a dozen kids who seem to be the main problem, and he's trying to figure out who they are.

Fitch said he's encouraged by residents who are getting involved with the neighborhood watch. At the first meeting, about eight showed up. At the last one, last month, about 60 residents came. Some think the police aren't doing enough about Switzer because it's low-income housing, but Fitch said the police are doing what they can with what they've got.

"A lot of people were upset with the police force," he said. "They asked, 'How come there aren't

enough police officers to go around?' They don't get into the budgets."

With cellular phones and cameras, he said, the neighborhood watch patrols, once they get in full swing, could be a big help. Fitch said he thinks residents should be encouraged.

Down the street from the picnic area is a trailer that took gunfire at about 4 a.m. last Feb. 28. Residents called police after they heard four or five shots.

"To us it sounded like someone hitting the trailer with a baseball bat," said a man living at the trailer Monday. "We don't know who did it. I don't know why they picked us out."

He and his family call Switzer "Dodge City." He found bullet holes in his living room. A sturdy entertainment center slowed one slug down. He gave police the names of youths he thought may have been involved. He heard of kids bragging about it. Police haven't talked to him or his family for months, he said.

Down the street from the trailer that took bullets nearly a year ago is Buddy Tabor's trailer. He said the place is a deal, but the crime is getting to be too much.

Rent for a lot at Switzer runs from \$260 to \$285 per month. That's one draw to the area, which is one of the least expensive parts of town to live in.

"It's inexpensive," Tabor said. "I have my trailer paid for. It's a fantastic deal to live here." But he's been threatened, by adults, by teen-agers near his home. One of his boys was threatened by what he considers gang members. He thinks the schools could do more to keep tabs on kids causing problems.

"A lot of this could be stopped," Tabor said. "You could mark me down as scared."

He's scared by big bands of kids hanging out. He won't heal from a beating as fast as a teen-ager might. He drives around the park now rather than walking.

The drive-bys don't scare him as much as the bands of youths, he

said.

Bob Germain said the people causing the problems are new to town, kids who don't have their head on right. He said cars driving by late at night and backfires get his attention now in a way they never did before.

Above the entryway of his home, Germain tacked up some leftover crime scene tape. Two of the bullets that went through Castillo's mobile home made it into Germain's where he, his girlfriend, three boys, ages 4, 6 and 10, and a persnickety Yorkshire terrier called April live.

"It's probably drug and alcohol related," Germain said. "Nobody in their right mind is going to go around shooting up trailers."

He said he'd like to see the street lights turned on, and can't wait for the new police station to be built in Lemon Creek. Maybe, he said, close-by cops would stop the drive-bys.

Not far from Germain's trailer police found another home, on Forget-Me-Not Drive, which took shotgun fire Thursday, DeCapua said. Police believe there may be a connection to the Blue Jay Way incident. The investigation continues.

Drena Austin called police when she found a bullet hole in her trailer, down the street from Germain's home. She's thinking about solutions.

Along with cameras at the entryways into the park, to record the coming and going of cars, Austin said, street lights, speed bumps, fences and other measures should be taken at Switzer to supplement the neighborhood watch.

"I think they could afford to make it safer," she said.

While the manager and the neighborhood watch begin their efforts, the watch's president said another home or a Switzer resident could take a bullet.

"It's going to be a little kid or a bystander who is going to die if this keeps up," he said. "I'm thinking about putting everybody in the bathtub at night. They're looking for another target. It's like a big game they're playing."

Five scenic w... have been declare... to inhabit follow... that destroyed a... and killed a family...

Officials in this... pality west of Se... homes could be... early as today, tw... equivalent of 15... loads of mud, tr... slammed into the... school science t... Herren, 43, his wa... and their sons... Cooper, 3 months... scheduled today.

"We could poss... slides to the north... Engineer Jeff Je... day. "We are ori... of January, and w... months of wet we...

A red tag bars... home until soil st... neering tests that... \$2,000 are comple... five homes were c...

As many as s... will be marked w... a warning notice... are strongly advi... mandatory, said... the top building c... officer.

The Herrens'... family was rem... the base of a blu... Bay. The family... in the basement... ied in mud and de...

Jensen said he... City Administra... about barring pe... under the bluff d... when slides are r...

"Originally... summer beach... said. "They re... meant for full-tir...

"This is such... area. It's not a... only a matter of v...

The home de... slide Sunday ar... were red-tagged... 200 feet away on... tests were wa... Herrens never o... for the large bui... built in what pro... attempt to stat... Skinner said.

"The decision

The Rams don't seem to mind Vernell's lengthy absence from



LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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

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

MEMORANDUM

May 2, 1997

SUBJECT: HCS CSSB 70(JUD) (W.O.20-LS0272\Z)

TO: Representative Joe Green
Attn: Lisa Kirsch

FROM: Gerald P. Luckhaupt *GL*
Legislative Counsel

Enclosed is the HCS(JUD) you requested. I am concerned with the committee's insertion of the words "without legal justification" in sec. 2 of the bill. My concern has two bases.

First, the inclusion of "without legal justification" in sec. 2 of the bill without a corresponding inclusion in sec. 3 of the bill (sec. 3 proscribes conduct committed under circumstances other than in sec. 2) means that someone who recklessly discharges a firearm under sec. 2, with legal justification, is still subject to prosecution under sec. 3, because that reckless discharge of a firearm is under circumstances other than as described in sec. 2. If someone is legally justified in discharging a firearm, that justification should apply equally to both of these offenses. It could be interpreted not to apply equally to both offenses here due to the committee's action I have described.

Second, the placement of this justification is unnecessary as justification is already dealt with in AS 11, see AS 11.81.300 - 11.81.450, and these provisions concerning justification are fully applicable to these offenses. AS 11.81.310 provides that "[e]xcept as otherwise specified in this title, justification as provided in AS 11.81.320 - 11.81.430 is a defense."¹ Inserting "without legal justification" here, while not including that same language with regard to other offenses, could lead to the conclusion that the legislature does not intend for the justification to operate as a defense to other offenses where the legislature has not specifically said that legal justification is available. In my opinion, the inclusion of "without legal justification" here is unnecessary and could potentially cause problems in the implementation and enforcement of our criminal laws.

GPL:jdr
97-324.jdr

¹My review of AS 11 has disclosed only one instance where the legislature has used the term "legal justification" when defining a crime. In AS 11.61.110(a)(6), the crime of disorderly conduct is committed when a person "recklessly creates a hazardous condition for others by an act which has no legal justification or excuse."

AMENDMENT

OFFERED IN HOUSE JUDICIARY

TO: CSSB 70 (JUD)

Page 2, line 13, following "for":

Delete "a risk of damage to property or"

Rep. Croft

Adopted
5/1/97

SB

106

(7)

Date Referred to Committee: March 14, 1997

FURTHER REFERRALS:

Date of Committee Action: 4/25/97

The JUDICIARY Committee considered:

SB 106

SENATE BILL NO. 106

NOTARY PUBLIC BOND

"An Act relating to the bond required of a notary public."

recommends it be replaced with the following committee substitute _____ 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) _____

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

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Brian H. Porter</i>	PORTER	✓			
<i>John P. Green</i>	GREEN	✓			
<i>James Bunde</i>	JAMES	✓			
<i>John Bunde</i>	BUNDE	✓			
<i>Cheryl Berkowitz</i>	BERKOWITZ	✓			

CHAIR'S SIGNATURE *[Signature]*

FISCAL NOTE

No. 1

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. Bill Verson: SB 106
(S) Publish Date: 3/10/97

Revision Date: _____ Dept. Affected: Alaska Court System
 Title: Notary Public Bond BRU: Trial Courts
 Component: _____
 Sponsor: Judiciary by request
 Requestor: _____ COMPONENT SERIAL NO. 768

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 97) cost: None

Positions

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel *CSC* Phone: 264-8228
 Agency: Alaska Court System Date: 03/06/97
 Approved by: Stephanie J. Cole, Administrative Director *B7 CSC* Date: 03/06/97
 Agency: Alaska Court System

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

The lieutenant governor is charged by statute with accepting notary applications and appointing notaries. However, a law enacted shortly after statehood requires the clerk of the superior court to approve the \$1000 notary bond that is required to be submitted with the application. This means that applicants for a notary commission must hand carry or mail their application and bond to the nearest superior court location (only 15 statewide) before they can be sent to the lieutenant governor. The court clerk merely looks at the bond to make certain that it is filled out and signed; this is obviously not a function that court clerks have any special expertise at performing, and it results in delay for the applicant. This bill draft allows notary applications and bonds to be sent directly to the lieutenant governor, removing one layer of bureaucracy and a week or two of time from the notary appointment process.

At the present time, marriage licenses are issued by the Alaska Court System. After the ceremony, the licenses (which are then called certificates) are filed with the Bureau of Vital Statistics. The Bureau is part of the Department of Health & Social Services and is administered by the State Registrar who is authorized to appoint local registrars throughout the state.

Under this bill, the issuance of marriage licenses will become an executive branch rather than a judicial function. Judges will remain empowered to solemnize marriages and appoint marriage commissioners, but the issuance of licenses will be under the auspices of the Bureau rather than the judiciary. In practice, in those areas where the Bureau does not have a field office, court system employees will continue to act as local registrars. The difference will be that they will do so on behalf of the Bureau rather than as judicial employees.

Inasmuch as the Bureau of Vital Statistics creates the marriage license form and is the ultimate keeper of these and other vital human records, it is more efficient for the Bureau to manage the distribution and issuance of the licenses.

In locations where the Bureau has opened field offices, this bill will benefit the public by providing one location for applications, licensing, and recording. This bill will also increase the efficiency and streamline yet another function performed by government. The legislation has been drafted jointly by the court system and the Bureau of Vital Statistics.

2/3/97 draft

_____ BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - FIRST SESSION

BY THE Jud COMMITTEE *by Request*

Introduced:

Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the transfer of marriage licensing functions from the judiciary to the
2 executive branch of government."

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

4 * Section 1. As 18.50.310 is amended by adding a new section:

5 (i) marriage license applications shall be open for public inspection or examination
6 during normal business hours.

7 * Sec. 2. AS 18.50.330 is amended to read:

8 AS 18.50.330 FEES FOR SERVICES (a) The state registrar shall prescribe the fees to
9 be paid for certified copies of certificates, for issuing marriage licenses, for searches of the files
10 or records, for the filing of delayed or substitute certificates, for making amendments, for
11 supplying documentary evidence for these purposes, and for special services rendered by the
12 Bureau.

13 *(b) Repealed, § 28 ch 90 SLA 1991.]*

14 * Sec. 3. AS 22.15.100 is amended to read:

15 AS 22.15.100. FUNCTIONS AND POWERS OF DISTRICT JUDGE AND
16 MAGISTRATE. Each district judge and magistrate has the power

(1) to issue writs of habeas corpus for the purpose of inquiring into the cause of restraint of liberty, returnable before a judge of the superior court, and the same proceedings shall be had on the writ as if it had been granted by the superior court judge under the laws of the state in such cases;

(2) of a notary public;

(3) to [ISSUE MARRIAGE LICENSES AND TO] solemnize marriages;

(4) to issue warrants of arrest, summons, and search warrants according to manner and procedure prescribed by law and the supreme court;

* Sec. 4. AS 25.05.081 is amended to read:

AS. 25.05.081. MARRIAGE COMMISSIONERS. The presiding judge in each judicial district may, if the public interest requires, appoint one or more suitable persons as marriage commissioners. The presiding judge shall describe the marriage commissioner's area of jurisdiction in the order of appointment. A marriage commissioner may, within that jurisdiction, [ISSUE MARRIAGE LICENSES AND] solemnize marriages in the same manner as a district judge or magistrate and may exercise any power necessarily incident to the [DUTIES OF A MARRIAGE COMMISSIONER] solemnization of marriage. The clerk of court shall issue to the marriage commissioner a copy of the order of appointment and shall keep a copy of each order of appointment for one year.

* Sec. 5. AS 25.05.191 is repealed and reenacted to read:

AS 25.05.191. MARRIAGE LICENSE APPLICATION. A licensing officer shall make available the application for marriage license for completion by the parties who wish to be married. The officer shall keep the applications, a record of licenses issued, and all other information which the officer is required by law to obtain. These records shall be kept in the office of the licensing officer and shall be open for public inspection or examination during office hours.

* Sec. 6. AS 25.05.221 is amended to read:

AS 25.05.221 FORMS. (a) Forms for application, statements, consent of parents, affidavits, licenses, and other forms necessary to comply with this chapter shall be prescribed by the registrar and provided at the expense of the state. The registrar shall furnish all necessary forms to each licensing officer. [THE REGISTRAR SHALL ALSO PROVIDE THE OFFICER

1 WITH A SUITABLE BOOK IN WHICH TO KEEP THE MARRIAGE LICENSE DOCKET.]

2 (b) The registrar shall supervise the record work and required reporting of the licensing
3 officers. [IN OTHER RESPECTS THE LICENSING OFFICERS ARE UNDER THE
4 SUPERVISION OF THE SUPREME COURT].

5 * Sec. 7. AS 25.05.241 is amended to read:

6 AS 25.05.241 FEES. The registrar [SUPREME COURT] shall establish marriage
7 license fees and provide for accounting for and disposing of the fees.

8 * Sec. 8. AS 25.05.251 is amended to read:

9 AS 25.05.251. RELATIONSHIP TO VITAL STATISTICS ACT. Nothing in this
10 chapter repeals or abrogates any part of AS 18.50 (Vital Statistics Act). The records and
11 requirements leading up to and including the issuance of the marriage license are [NOT] included
12 in the definition of "vital statistics" under AS 18.50. The registrar shall supply the necessary
13 forms and instructions for [THE RECORD WORK OF] the licensing officers.

14 * Sec. 9. AS 25.05.321 is amended to read:

15 AS 25.05.321. CERTIFICATES. The person solemnizing the marriage shall, on the
16 forms provided by the bureau, complete two short-form certificates, and, after that person and
17 the two witnesses have signed them, give one to each of the parties to the marriage. A church
18 or congregation may design and furnish its own form for this purpose, containing as a minimum
19 the items contained in the form furnished by the bureau. The original marriage certificate [AND
20 ANY REQUIRED COPIES] shall be filed as required by AS 18.50 (Vital Statistics Act) and
21 regulations adopted under it. The person solemnizing the marriage shall complete the certificate
22 as required and submit it to the local registrar within seven days of the date the marriage
23 is solemnized [SHALL KEEP THE LICENSE].

24 * Sec. 10. AS 25.05.321 is amended to read:

25 Sec. 25.05.351. VIOLATION CONCERNING MARRIAGE LICENSE APPLICATION
26 [DOCKET]. A licensing officer who refuses or neglects to keep [ENTER UPON THE
27 MARRIAGE LICENSE DOCKET BEFORE THE LICENSE HAS BEEN ISSUED] a complete
28 record of each application and of each marriage license issued, or who fails to keep [THE]
29 marriage license applications [DOCKET] open for inspection or examination by the public
30 during office hours is guilty of a misdemeanor, and upon conviction is punishable by a fine of

1 not more than \$50. Each failure, neglect, or refusal constitutes a separate offense.

2 * Sec. 11. AS 25.05.381 is amended to read:

3 Sec. 25.05.381. DEFINITIONS. In this chapter

4 (1) "bureau" means the Bureau of Vital Statistics;

5 (2) "department" means the Department of Health and Social Services;

6 (3) "licensing officer" means the registrar or a local registrar [ANY DISTRICT JUDGE OR
7 MAGISTRATE OR A MARRIAGE COMMISSIONER APPOINTED UNDER AS 25.05.081];

8 (4) "registrar" means the state registrar of vital statistics;

9 (5) "local registrar" means any person appointed by the state registrar pursuant to AS
10 18.50.080.

11 * Sec. 12. AS 25.05.211 is repealed.

12

BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY: THE Jed COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the bond required of a notary public."

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

3 * Section 1. AS 44.50.120 is amended to read:

4 Sec. 44.50.120. Bond. Every person appointed a notary public after July 1,
5 1961 shall execute an official bond of \$1,000[, APPROVED BY THE CLERK OF
6 THE SUPERIOR COURT].

-1-

New Text Underlined [DELETED TEXT BRACKETED]

It has become common in recent years for "patriot" groups to record liens against the property of public officials with whom they disagree. The public official generally finds out about the lien when he attempts to obtain a loan or sell property, and discovers that he can't do so until the lien is released. This may take many months.

Until recently, this activity was most common in places like Montana and Idaho. Last year, however, a number of employees of the Municipality of Anchorage discovered that nonconsensual common law liens had been recorded against their property. It took the municipal attorney a substantial amount of time to release the liens.

The draft legislation attached makes it a misdemeanor to record a nonconsensual common law lien without the specific authorization of a court. It streamlines the judicial process for releasing a lien, and authorizes the attorney for a public official to record a "notice of invalid lien" pending the release of the lien by a court. Finally, it provides for civil remedies against persons who record or benefit from nonconsensual common law liens.

Filing false liens
updates the penalty for;
11.401.550 = first degree - C felony
11.402.500 = second " - A Misdem

BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY: THE Jud COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to nonconsensual common law liens."

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

3 * Section 1. AS 11.46.550 is amended to read:

4 Sec. 11.46.550. Offering a false instrument for recording in the first degree. (a)

5 A person commits the crime of offering a false instrument for recording in the first degree if,
6 knowing that a written instrument relating to or affecting property or directly affecting a
7 contractual relationship contains a false statement or false information, and with intent to
8 defraud, the person presents or offers it to a public office or public servant intending that it
9 be registered, filed, recorded or become part of the records of that public office or public
10 servant.

11 (b) Offering a false instrument for recording in the first degree is a class C felony.

12

1 * Sec. 2. AS 11.46 is amended by adding a new section to read:

2 **Sec. 11.46.560. Offering a False Instrument for Recording in the Second Degree.**

3 (a) A person commits the crime of offering a false instrument for recording in the second
4 degree if the person presents a lien to the recorder under AS 40.17 for registration, filing, or
5 recording, with reckless disregard that the lien

6 (1) is not provided for by a state or federal statute; and

7 (2) is not a lien imposed or authorized by a court recognized under state or
8 federal law.

9 (b) In a prosecution under (a) of this section it is an affirmative defense that the owner
10 of the property affected consented to the lien.

11 (c) In this section,

12 (1) "lien" means an encumbrance on property as security for the payment of
13 a debt;

14 (2) "recorder" means the commissioner of Department of Natural Resources
15 or the commissioner's designee.

16 (d) Offering a false instrument for recording in the second degree is a class A
17 misdemeanor.

18 * Sec. 3. AS 34.35 is amended by adding new sections to read:

19 **Article 14. Nonconsensual Common Law Liens.**

20 **Sec. 34.35.550. Nonconsensual Common Law Liens.** A nonconsensual common law
21 lien is invalid unless it is authorized by a court of competent jurisdiction recognized under
22 state or federal law. A person may not submit a nonconsensual common law lien to the

1 recorder under AS 40.17 for recording unless the lien is accompanied by a specific order from
2 such court authorizing the recording of the lien.

3 **Sec. 34.35.560. Lien Against Public Servant.** If a nonconsensual common law lien
4 is recorded against the property of a public servant based upon the performance or
5 nonperformance of the public servant's duties and is not accompanied by a specific order
6 from a court of competent jurisdiction recognized under state or federal law authorizing the
7 filing of such lien, a notice of invalid lien signed and submitted by the attorney representing
8 the public servant may be recorded. A copy of the notice of invalid lien shall be mailed by
9 the attorney to the person who filed the lien at the person's last known address.

10 **Sec. 34.35.550. Action for Release of Nonconsensual Common Law Lien.** (a) A
11 person whose real or personal property is subject to a recorded claim of nonconsensual
12 common law lien may file with a court of competent jurisdiction a petition requesting the court
13 to release the claim of lien. The petition shall state the grounds upon which relief is
14 requested, and shall be supported by the affidavit of the petitioner or the petitioner's attorney
15 setting forth a concise statement of the facts upon which the petition is based.

16 (b) The petition may request the court to order the lien claimant to appear at a hearing
17 within 20 days of service of petition and order, if facts alleging the need for an expedited
18 decision are averred. The order may be granted ex parte, and shall state that if the lien
19 claimant fails to appear at the time and place specified, the claim of nonconsensual common
20 law lien shall be released, and the lien claimant shall be ordered to pay the costs and actual
21 reasonable attorney's fees incurred by the petitioner.

1 (c) If the court determines that the claim of lien is invalid, the court shall issue an
2 order releasing the claim of lien and awarding costs and reasonable attorney's fees to the
3 petitioner. If the court determines that the claim of lien is valid, the court shall issue an order
4 so stating and shall award costs and actual reasonable attorney's fees to the lien claimant.

5 (d) A person who offers a claim of nonconsensual common law lien for recording
6 which is not accompanied by a specific order from a court of competent jurisdiction
7 recognized under state or federal law authorizing the recording of such lien shall be liable to
8 the owner of the property affected by the lien for actual and punitive damages, as well as costs
9 and actual reasonable attorney's fees. A grantee or other person purportedly benefited by a
10 recorded claim of nonconsensual common law lien who refuses to release such lien upon
11 request of the owner of the property affected by the lien shall be liable to the owner for actual
12 and punitive damages, as well as costs and actual reasonable attorney's fees.

13 **Sec. 34.35.570 Definitions.** In this article

14 (1) "nonconsensual common law lien" means a lien that

15 (A) is not provided for by a specific state or federal statute;

16 (B) does not depend on the consent of the owner of the property affected for
17 its existence; and

18 (C) is not an equitable lien imposed by a court recognized under state or
19 federal law;

20 (2) "public servant" means each of the following, whether compensated or not:

21 (A) an officer or employee of the state, a municipality or other political
22 subdivision of the state, or a governmental instrumentality of the state;

1 (B) a person who serves as a member of a board or commission created by
2 statute or by legislative, judicial, or administrative action by the state, a municipality
3 or other political subdivision of the state, or a governmental instrumentality;

4 (C) an officer or employee of the federal government as defined for purposes
5 of the federal tort claims act, 28 U.S.C. Sec. 2671;

6 (D) a person nominated, elected, appointed, employed, or designated to act in
7 a capacity defined in A - C of this paragraph, but who does not occupy the position;

8 (3) "record" means the acceptance of a document by the recorder that the recorder has
9 determined is recordable and that is presented for recording in the place of recording
10 designated for the recording district where affected property is located whether or not the
11 place of recording is in that district, and whether or not under applicable law the recorder is
12 directed to record the document;

13 (4) "recorder" means the commissioner of the Department of Natural Resources or
14 the commissioner's designee.

15 * Sec. 4. AS 34.35 is amended to read:

16 Article 15 [14] Miscellaneous Provisions.

S B

1 1 2



ALASKA COURT SYSTEM
State of Alaska
Office Of The Administrative Director

Doug Wooliver
Administrative Attorney

820 West 4th Avenue
Anchorage, Alaska 99501
(907) 264-8265
FAX (907) 264-8291

April 7, 1997

Dear Representative Green;

The Alaska Court System requests that CSSB 112(JUD) be scheduled for a hearing before the House Judiciary Committee at your earliest convenience.

This bill transfers responsibility for issuing marriage licenses from the judiciary to the executive branch of government.

Currently, marriage licenses are issued by the Alaska Court System. After the ceremony, the licenses (which are now called certificates) are filed with the Bureau of Vital Statistics. The Bureau is part of the Department of Health and Social Services and is administered by the State Registrar who is authorized to appoint local registrars throughout the state.

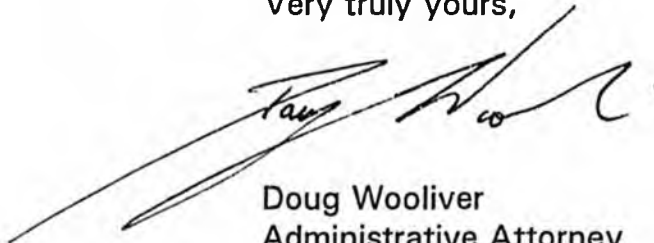
Under this bill, the issuance of marriage licenses will become an executive branch rather than a judicial function. Judges will remain empowered to solemnize marriages and appoint marriage commissioners, but the issuance of licenses will be under the auspices of the Bureau rather than the judiciary. In practice, in those areas where the Bureau does not have a field office, court system employees will continue to act as local registrars. The difference will be that they will do so on behalf of the Bureau rather than as judicial employees.

Inasmuch as the Bureau of Vital Statistics creates the marriage license form and is the ultimate keeper of these and other vital human records, it is more efficient for the Bureau to manage the distribution and issuance of the licenses.

in locations where the Bureau has opened field offices, this bill will benefit the public by providing one location for applications, licensing, and recording. This bill will also increase the efficiency and streamline yet another function performed by government.

Thank you for your consideration on this bill. If I can be of any assistance or provide you with any information please let me know.

Very truly yours,

A handwritten signature in black ink, appearing to read "Doug Wooliver", written over a horizontal line.

Doug Wooliver
Administrative Attorney

At the present time, marriage licenses are issued by the Alaska Court System. After the ceremony, the licenses (which are then called certificates) are filed with the Bureau of Vital Statistics. The Bureau is part of the Department of Health & Social Services and is administered by the State Registrar who is authorized to appoint local registrars throughout the state.

Under this bill, the issuance of marriage licenses will become an executive branch rather than a judicial function. Judges will remain empowered to solemnize marriages and appoint marriage commissioners, but the issuance of licenses will be under the auspices of the Bureau rather than the judiciary. In practice, in those areas where the Bureau does not have a field office, court system employees will continue to act as local registrars. The difference will be that they will do so on behalf of the Bureau rather than as judicial employees.

Inasmuch as the Bureau of Vital Statistics creates the marriage license form and is the ultimate keeper of these and other vital human records, it is more efficient for the Bureau to manage the distribution and issuance of the licenses.

In locations where the Bureau has opened field offices, this bill will benefit the public by providing one location for applications, licensing, and recording. This bill will also increase the efficiency and streamline yet another function performed by government. The legislation has been drafted jointly by the court system and the Bureau of Vital Statistics.

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. CSSB 112 (JUD)

Revision Date: 04/07/97
 Title: Marriage licensing

Dept. Affected: Alaska Court System
 BRU: Trial Courts

Sponsor: Judiciary by request
 Requestor: _____

Component: _____
 COMPONENT SERIAL NO. 768

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 97) cost: None

Positions

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel
 Agency: Alaska Court System

Phone: 264-8228
 Date: 04/07/97

Approved by: Stephanie J. Cole, Acting Administrative Director
 Agency: Alaska Court System

Date: 04/07/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

No. 1

BILL/Version: SB 112

(S) Publish Date: 4-1-97

Revision Date: _____

Dept. Affected: Alaska Court System

Title: Marriage licensing

BRU: Trial Courts

Component: _____

Sponsor: Judiciary by request

Requestor: _____

COMPONENT SERIAL NO. 768

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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						
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CHANGE IN REVENUES (
-----------------------------	--	--	--	--	--	--

Fund Source

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 97) cost: None

Positions

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel
 Agency: Alaska Court System

Phone: 264-8228
 Date: 03/10/97

Approved by: Stephanie J. Cole, Acting Administrative Director
 Agency: Alaska Court System

Date: 03/10/97

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STATE OF ALASKA
1997 LEGISLATIVE SESSION

No. 2
Bill Verson: SB 112
(S) Publish Date: 4-1-97

Revision Date: _____
Title: Transfer of marriage licensure from the
judicial offices to the state registrar of vital statistics
Sponsor: Senate JUD
Requestor: Senate JUD

Dept. Affected: Health and Social Services
BRU: State Health Services
Component: Bureau of Vital Statistics
COMPONENT SERIAL NO. 961
See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY98	FY99	FY00	FY01	FY02	FY03
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						
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CHANGES IN REVENUES						
---------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
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 (FY97) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

A C-4 transfer has been completed for this function in the FY 98 Governor's Request.

Prepared by: Peter M. Nakamura, MD, MPH *PMN*
Division: Public Health
Approved by Commissioner: Karen Perdue, Commissioner
Agency: Department of Health & Social Services

Phone: (907) 465-3090
Date: 03/14/97
Date: _____

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HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: April 4, 1997

FURTHER REFERRALS:

Date of Committee Action: 4/26/97

The JUDICIARY Committee considered:

CSSB 112(JUD)

CS FOR SENATE BILL NO. 112(JUD)

MARRIAGE LICENSING FUNCTIONS

“An Act relating to marriage licenses; and transferring responsibility for marriage licensing from judicial officers to the state registrar of vital statistics.”

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) _____ fiscal note(s) _____

zero fiscal note(s) _____ zero fiscal note(s) HSS, COURTS

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Brian Porter</i> PORTER	✓			
<i>Joseph Green</i> GREEN	✓			
<i>Alvin James</i> JAMES	✓			
<i>Con Bunde</i> BUNDE	✓			
<i>Chad Berkowitz</i> BERKOWITZ	✓			
	(5)			

CHAIR'S SIGNATURE *Joseph Green*
(Green)

SB

114

HOUSE JUDICIARY STANDING COMMITTEE

DATE: 5/5/98 ISSUE: Amend #3

	YEA	NAY	PRESENT
Representative Croft	✓		
Representative Rokeberg		✓	
Representative Porter		✓	
Representative James		✓	
Vice Chair Bunde			
Representative Berkowitz	✓		
Chairman Green		✓	
TOTALS:			

PASSED _____ FAILED ✓

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. CSSB 114(JUD)

Revision Date: 4/29/98
Title: "An Act relating to contributions from employees.."

Department Affected: Administration
BRU: Alaska Public Offices Commission
Component: Alaska Public Offices Commission

Sponsor: (S) JUD
Requestor: (H) JUD

COMPONENT SERIAL NO. 70

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	.5	0	.5	0	.5	0
CONTRACTUAL	60.9	47.1	60.9	42.1	60.9	42.1
SUPPLIES	.4	.3	.3	.3	.3	.3
EQUIPMENT	0	.0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	61.8	47.4	61.7	42.4	61.7	42.4

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

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

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	61.8	47.4	61.7	42.4	61.7	42.4
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	61.8	47.4	61.7	42.4	61.7	42.4

Estimate of any current year (FY 97) cost: \$ 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.)

SEE ATTACHED

Prepared by: Karen Boorman, Director
Division: Alaska Public Offices Commission

Phone: 276-4176
Date: _____

Approved by Commissioner: Mark Boyer
Agency: Department of Administration

Date: 4/29/98

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FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. CSSB 114(JUD)

ANALYSIS: (continued)

SB 114 requires employers to obtain written authorization from employees annually before they may withhold wages for political contributions. Employers must keep authorization forms and documents reflecting dates and amounts of contributions on file for three years. In addition, the bill prohibits giving in the name of another and discrimination against an officer or employee for failure to contribute or otherwise support or oppose a political candidate, group or issue.

The Commission estimates that this bill will result in three additional complaints each election year; two additional complaints in non-election years. Because of the complex nature of the evidence required to establish "giving in the name of another" or employment discrimination and because the new campaign finance law requires that complaints be resolved in 180 days, the Commission would need to secure additional investigative support on a contractual basis. In the complaints described, the Commission also estimates that allegations would require that the Commission retain a hearing officer to hold an administrative hearing to resolve factual disputes.

The Commission has not had to deal with employment discrimination in the past. If authority over discrimination complaints was assigned to a more appropriate regulatory agency with expertise in employment discrimination, the associated cost of complaint resolution would be reduced.

In summary, the fiscal note reflects contractual funds to handle additional complaints--including additional investigative support; retention of a hearing officer; deposition costs; and other investigative costs. Additional costs associated with complaint resolution include supply costs for paper, folders and file cabinets. Remaining contractual, supply and travel costs reflect development and distribution of forms; promulgation of regulations in the second year; and education of employers with payroll deduction plans. Specific costs include paper, internal copying costs, advertising notice, and postage charges. Educational efforts would be accomplished through mailings and training in Anchorage and Fairbanks. Travel to Fairbanks would occur in the first year of implementation of the bill, then each succeeding election year.

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

No. 1
Bill Version: SB 114
(S) Publish Date: 4-1-97

Revision Date: _____ Department Affected: Administration
Title: "An Act relating to contributions from employees."

Component: Alaska Public Offices Commission

Sponsor: (S) Judiciary Committee

Requestor: (S) JUD COMPONENT SERIAL NO. 70

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	.5	.5		.5	0	.5
CONTRACTUAL	33.6	60.9	47.1	60.9	42.1	60.9
SUPPLIES	.4	.3	.3	.3	.3	.3
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	34.5	61.7	47.4	61.7	42.4	61.7

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	34.5	61.7	47.4	61.7	42.4	61.7
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	34.5	61.7	47.4	61.7	42.4	61.7

Estimate of any current year (FY 97) cost: \$ 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.)

SEE ATTACHED

Prepared by: Karen Boorman Phone: 276-4176
Division: Alaska Public Offices Commission Date: _____

Approved by Commissioner: Mark Boyer *Mark Boyer*
Agency: Department of Administration Date: 3/19/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. SB114

ANALYSIS: (continued)

SB 114 requires employers to obtain written authorization from employees annually before they may withhold wages for political contributions. Employers must keep authorization forms and documents reflecting dates and amounts of contributions on file for three years. In addition, the bill prohibits giving in the name of another and discrimination against an officer or employee for failure to contribute or otherwise support or oppose a political candidate, group or issue.

The Commission estimates that this bill will result in three additional complaints each election year; two additional complaints in non-election years. Because of the complex nature of the evidence required to establish "giving in the name of another" or employment discrimination and because the new campaign finance law requires that complaints be resolved in 180 days, the Commission would need to secure additional investigative support on a contractual basis. In the complaints described, the Commission also estimates that allegations would require that the Commission retain a hearing officer to hold an administrative hearing to resolve factual disputes.

The Commission has not had to deal with employment discrimination in the past. If authority over discrimination complaints was assigned to a more appropriate regulatory agency with expertise in employment discrimination, the associated cost of complaint resolution would be reduced.

In summary, the fiscal note reflects contractual funds to handle additional complaints--including additional investigative support; retention of a hearing officer; deposition costs; and other investigative costs. Additional costs associated with complaint resolution include supply costs for paper, folders and file cabinets. Remaining contractual, supply and travel costs reflect development and distribution of forms; promulgation of regulations in the first year; and education of employers with payroll deduction plans. Specific costs include paper, internal copying costs, advertising notice, and postage charges. Educational efforts would be accomplished through mailings and trainings in Anchorage and Fairbanks. Travel to Fairbanks would occur in the first year of implementation of the bill, then each succeeding election year.

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

No. 3
Bill Verson: SB 114
(S) Publish Date: 4-1-97

Revision Date: _____
Title: An Act relating to contributions from employee compensation for political purposes
Sponsor: Senate Judiciary
Requestor: Senate Judiciary

Department Affected: Administration
BRU: Centralized Administrative Services
Component: Finance
COMPONENT SERIAL NO. 59

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	0.0	7.0	7.0	7.0	7.0	7.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	7.0	7.0	7.0	7.0	7.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	0.0	7.0	7.0	7.0	7.0	7.0

Estimate of any current year (FY 97) cost: \$ 0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.) Since some portion of all union dues deducted from employees in the state's 12 bargaining agreements covering 10,500 employees may be used for political purposes, union dues authorizations would have to be renewed in writing annually. This will generate a tremendous amount of paper and bureaucratic processing. To handle this extra work will require approximately 175 hours of a personnel assistant, and 200 hours of an administrative clerk annually for online data entry and filing.

Prepared by: Don Wanie
Division: Finance

Phone: 465-3435
Date: _____

Approved by Commissioner: Mark Bover
Agency: Department of Administration

Mark Bover
Date: 3/18/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. No. 4
Bill Verson: SB 114
(S) Publish Date: 4-1-97

Revision Date: _____
Title: Employees: Political contrib & activitie

Department Affected: Labor
BRU: Office of the Commissioner

Sponsor: Senate Judiciary
Requestor: Senate Judiciary

Component: _____
Alaska Labor Relations Agency

COMPONENT SERIAL NO. 1200

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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						
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CHANGE IN REVENUE FUND SOURCE #						
--	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY97) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)
AS 23.40.220 addresses a public employee's written authorization for deductions for dues, fees, and other employee benefits. Section 2 of SB 114 would amend AS 23.40.220 as follows: "If all or part of a deduction under this section will be used to make a political contribution, the written authorization must comply with AS 15.13.160." It is not anticipated that the proposed amendment to AS 23.40.220 would have a fiscal impact on the operation of the Alaska Labor Relations Agency (ALRA). Since July 1, 1990, approximately eight unfair labor practice charges relating to dues deductions have been filed with ALRA, one of which concerned use of dues for political contribution purposes. Though the proposed amendment to AS 23.40.220 could increase the number of unfair labor practice charges filed, a significant increase is not anticipated. Additional staff would not be needed.

Prepared by: Jan Hart DeYoung, Hearing Examiner Phone: 269-4896
Division: Alaska Labor Relations Agency Date: 3/17/97

Approved by Commissioner:  Tom Cashen, Commissioner
Agency: Department of Labor Date: 3/17/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

No. 5
Bill Version: CSSB 114 (JUD)
(S) Publish Date: 4-9-97

Revision Date: _____ Dept. Affected: Department of Law
Title: "An Act relating to contributions from
employee compensation for political purposes; . . . BRU: Civil Division
Sponsor: Senate Judiciary Committee Component: General Legal Services
Requester: Senate Judiciary Committee COMPONENT SERIAL NO. 2087

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	11.8	9.2	5.5	9.2	5.5	9.2
TRAVEL	0.8	0.7	0.6	0.7	0.6	0.7
CONTRACTUAL	2.3	1.9	1.3	1.9	1.3	1.9
SUPPLIES	0.2	0.2	0.1	0.2	0.1	0.2
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	15.0	12.0	7.5	12.0	7.5	12.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	15.0	12.0	7.5	12.0	7.5	12.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	15.0	12.0	7.5	12.0	7.5	12.0

Estimate of any current year (FY97) 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)

CSSB 114 (JUD) prohibits an employer or labor organization from increasing the salary of an officer or employee, or giving a emolument, with the intent that all or part of the increase or emolument be given as a political contribution ("giving in the name of another.") The bill also prohibits discrimination against an officer or employee for failure to contribute or otherwise support a political candidate, group or issue. CSSB 114 (JUD) further prohibits an employer from withholding wages for a political contribution without an annual written authorization from the employee.

Evidence in "giving in the name of another" cases are more time intensive and factually and legally complex than other Alaska Public Offices Commission (APOC) type cases. To do these cases, the Department of Law would need to commit more discovery, investigative, and research time. Employment discrimination cases would also be a new type of case for the commission and the Department of Law, as the APOC does not currently have this authority. They are also more factually complex. In addition, new regulations and criteria would need to be developed.

Prepared by: Juan M. Kasson *Juan M. Kasson* Phone: 465-5370
Division: Administrative Services Division Date: 4/4/97
Approved by Commissioner: Bruce M. Botelho, Attorney General *Bruce Botelho for* Date: 4/4/97
Agency: Department of Law

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ANALYSIS CONTINUATION:

The Department of Law has based its fiscal note costs on the assumption that there would be three additional cases each election year, and two additional complaints in non-election year (one "giving in the name of another" case and one discrimination case). In addition, in the first year, regulations development would occur. The department estimates that approximately 125 hours of attorney time would be required for the election year projected caseload, plus \$1,125 for direct case travel and deposition costs. In non-election years, approximately 75 hours would be needed, plus \$975 in direct case travel and contractual. In addition, in FY 98 approximately 35 hours of attorney time would be required for promulgation of the new regulations.

If the employment discrimination cases could be handled by another regulatory agency with experience in these types of cases, the Department of Law's cost projections could likely decrease.

The cost estimates are based on the department's FY 97 standard attorney cost schedule (\$87/hour) and include clerical support, communications, space, supplies, data processing, and other normal overhead expenses. Direct case costs are included separately.

1

AMENDMENT

BY REPRESENTATIVE CROFT

OFFERED IN HOUSE JUDICIARY

TO CSSB 114 (JUD)

1A Page 2, line 11" *will be drawn*

Delete "on a form prescribed by the commission"

1B Page 2, lines 13 - 14: *FAILED*

Delete "The written request is valid for no more than one calendar year from the date of signing by the employee."

AMENDMENT

3

BY REPRESENTATIVE CROFT

OFFERED IN HOUSE JUDICIARY
TO CSSB 114 (JUD)

FAILED

Page 2, line 9, following "contributions":

Delete "to groups or"

AMENDMENT

#4

BY REPRESENTATIVE CROFT

OFFERED IN HOUSE JUDICIARY
TO CSSB 114 (JUD)

Page 2, line 9, following "groups":

Delete "or"

FAILED

AMENDMENT

5

BY REPRESENTATIVE CROFT

OFFERED IN HOUSE JUDICIARY
TO CSSB 114 (JUD)

FAILED

Page 2, line 29, following "AS 15.13.160.":

Insert "A labor organization shall provide each employee whose dues or fees are contributed to a political action committee an opportunity to request that that portion of the dues or fees that are intended to be used as a political contribution be refunded. The request is valid until revoked. The labor organization shall refund the amount intended to be used as a political contribution to the employee no later than 30 days after the labor organization receives the payroll deduction from the employer."

2

House Judiciary Committee

Page 2 line 11.
delete prescribed
add approved

Adopted (Rescind)

6

House Judiciary Committee

P 2 line 15

in excess of \$100,000 PER YEAR

FAILS

ALASKA PUBLIC OFFICES COMMISSION

POSITION PAPER ON CSSB 114(JUD)

Introduction:

The Public Offices Commission met on March 13, 1997 to discuss SB 114, which will amend AS 15.13 by prohibiting employers or labor organizations from giving officers or employees money to contribute to political campaigns; prohibiting discrimination for political activity; and requiring employers to obtain written authorization before withholding money for political purposes. The Commission identified the following concerns still applicable to CSSB114(JUD):

Analysis of AS 15.13.160 as Proposed:

(1) Subparagraph (a)(1) is currently illegal under existing law which prohibits "giving in the name of another." See AS 15.13.120(a)(4); 2 AAC 50.357. The Commission had no objection to the inclusion of the provision in state statute.

(2) Subparagraph (a)(2) which prohibits discrimination for failure to make political contributions or otherwise support or oppose a political candidate, group, or issue requires that the Commission exercise authority over an area of law outside the purview of campaign finance law. It would require the Commission to delve into the complex field of employment discrimination. The Commission believes that authority over employment discrimination is best assigned to the regulatory entity with existing expertise in employment matters.

(3) The Commission is concerned about the chilling effect of the requirement in paragraph (c) that authorization forms and other documents be available for public inspection. Under current campaign disclosure law, the names of individuals who contribute more than \$250 to a candidate, group or party are accessible to the public via Individual Contributor's Statements (15-5 reports) and candidate, group and party reports. The names of individuals who give less than \$100 are kept on file by the candidate or group but need not be disclosed unless required by the Commission in the course of an investigation. The requirement that employers produce the names and amounts of any employee participating in a payroll deduction plan, extends the requirements of public disclosure to new levels. Rather than further the purposes of the campaign disclosure law, that the public be aware of the potential influences on public officials, the Commission is concerned that this new requirement will discourage individuals from participating in the political process at all.

(4) Paragraph (c) requires that copies of the authorization forms along with documents and books of accounts be maintained by the "person or entity who withheld a contribution." The Commission is concerned that union political action committees have no responsibility to maintain authorization forms, even though they are the entities that participate in the political campaign.

With regard to labor organization political action committees (PACs), the employer withholds

union dues for an employee, then the employer transfers those dues to the labor PAC for use in a political campaign. As currently written, the bill places the responsibility of maintaining the documents solely on the shoulders of the employer. The Commission believes that responsibility should be shared with the labor PACs that actually make the political contributions. To address this concern, the Commission recommends that paragraph (c) be amended to read as follows:

For a period of at least four years after a disbursement under (b) of this section, a person or entity who withheld a contribution under (b) of this section shall maintain documents and books of accounts, including a copy of each employee's written request, the amounts and dates funds were actually withheld, and the amounts and dates funds were transferred to a group. In addition, copies of the form should be kept by the entity that files group reports with the APOC. These documents and books of account are open to public inspection at the entity that files group reports with the APOC during normal business hours.

SB

119

5/7/97
Rules

(7)
Date Referred to Committee: April 16, 1997

FURTHER REFERRALS:

Date of Committee Action: _____

The JUDICIARY Committee considered:

CSSB 119(L&C)

CS FOR SENATE BILL NO. 119(L&C)

FRATERNAL BENEFIT SOCIETIES

"An Act relating to fraternal benefit societies; and providing for an effective date."

recommends it be replaced with the following committee substitute _____ [] 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) _____

[] zero fiscal note(s) _____ [X] ^{Senate} zero fiscal note(s) DCED 3.14.97

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Brian Porter</i>	Porter	✓		
<i>Nancy Rokeberg</i>	Rokeberg	✓		
<i>John Croft</i>	Croft	✓		
<i>Green</i>	Green	✓		
<i>Don Bunde</i>	Bunde		✓	
<i>Barlowitz</i>	Barlowitz		✓	
		(4)	(2)	

CHAIR'S SIGNATURE *[Signature]*
Green

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

1. . 1
 Bill Version: CS3B 119 (LRC)
 (S) Publish Date: 3-14-97

Revision Date: _____
 Title: An Act relating to fraternal societies; and providing for
an effective date.
 Sponsor: Senate L & C
 Requestor: _____

Department: Commerce and Economic Development
 BRU: Insurance
 Component: Insurance
 COMPONENT SERIAL NO. _____ 324

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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)

FUND SOURCE	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
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 97) cost: \$ 0.0

POSITIONS

POSITIONS	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)
 This bill will not have a fiscal impact on the component.

Prepared by: Marianne K. Burke, Director *Marianne K. Burke* Phone: 465-2515
 Division: Insurance Date: _____
 Approved by Commissioner: William L. Hensley *William L. Hensley* Date: 3-10-97
 Agency: Commerce and Economic Development

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**LUTHERAN
BROTHERHOOD**

H. Wayne Berg
District Representative

P.O. Box 3247
Ketchikan, AK 99901
Phone: (907) 225-8965

March 10, 1997

Senator Loren Lemman
Chairman, Senate Labor and Commerce Committee
Alaska State Legislature

Dear Mr. Chairman;

I am writing to indicate my support of H.F. 179 and S.F. 119, which would bring the Model Fraternal code to Alaska. As a fraternalist, member of and District Representative for Lutheran Brotherhood, this bill is important to me as it will allow fraternalists the flexibility to meet the needs of their members now and in the future. It will not change our basic nature as not-for-profit, self-help membership organizations, with local lodges throughout our state and the rest of the nation.

Thank you for your support of this bill.

Sincerely,

H. Wayne Berg
600 Main St.
Ketchikan, Ak. 99901

Registered Representative, LUTHERAN BROTHERHOOD SECURITIES CORP., 625 Fourth Avenue South, Minneapolis, MN 55415
Call Toll Free: 1-800-326-4552. In Minnesota, call (612) 339-8091.

END

**WOODMEN OF THE WORLD/OMAHA WOODMEN
LIFE INSURANCE SOCIETY**



WOODMEN TOWER, 1706 FARNAM ST.
OMAHA, NEBRASKA 68101
TELEPHONE (402) 543-1800
FACSIMILE (402) 541-0666

March 11, 1997

VIA FACSIMILE 907-465-3810

The Honorable Loven Leman
Alaska State Senate
Juneau, Alaska

MARK D. THEISEN
*Vice President and
General Counsel*

CAVIN E. ROBINSON
*Vice President and
Associate General Counsel*

JAMES M. GLEASON
*Assistant Vice President and
Associate General Counsel*

LYNN L. ESPELAND
Assistant General Counsel

S. JAMES PATTERSON
Assistant General Counsel

Dear Senator Leman:

Re: S.119 (Model Fraternal Code)

On behalf of our 117 members in the State of Alaska, Woodmen of the World/Omaha Woodmen Life Insurance Society strongly supports the adoption of the Model Fraternal Code in Alaska. We hope that Alaska will join the over two-thirds of other states who have adopted the Model Code on behalf of fraternal benefit societies and fraternalists in their states.

Again, we support S.119 and concur with statements made in support of S.119 by the individual who will be representing the National Fraternal Congress of America (NFCA), who I believe will be Mr. Rick Kleven of Lutheran Brotherhood.

Sincerely,

Mark D. Theisen
Vice President and
General Counsel

lj

cc: David Brummond, General Counsel
National Fraternal Congress of America

John L. George & Associates
3328 Fritz Cove Road
Juneau, Alaska 99801
Tel. 907 789-4172 Fax 907 789-6964

March 10, 1997

The Honorable Loren Leman
Chairman Senate Labor and Commerce Committee
State Capitol
Juneau, Alaska 99801

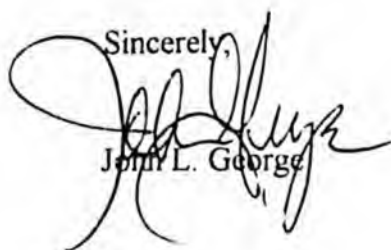
Reference: SB 119

Dear Senator Leman,

On behalf of the American Council of Life Insurance, I would like to express our support for SB 119 which up dates the insurance statutes relating to fraternal benefit societies. Fraternal provide insurance products to their members in competition with products provided by stock and mutual life insurance companies. Although fraternal serve a relatively small and specialized membership, we believe that they are an important provider of coverage to their members.

The proposed legislation modernizes the current statutes and does not create a significant competitive advantage or disadvantage for fraternal benefit societies. Although I do not plan to testify on this bill before your committee, I wanted to express to you that we support passage of this legislation.

Sincerely,



John L. George