

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9426 HOUSE STATE AFFAIRS

62

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Anchorage, Ak 99508
ph 271-2382 fax 271-2390

Paula Cullenberg
North Pacific Fisheries Observer Training Center 707 "A" Street, Suite 207 Anchorage, Ak.
99501 ph 257-2770 fax 257-2774 e-mail ampic@uaa.alaska.edu



Alaska Marine Safety Education Association

P.O. Box 2592, Sitka, Alaska 99835 PH (907) 747-3287 FAX (907) 747-1406

August 4, 1995

Alan Austerman
P.O. Box 2368
Kodiak, Ak. 99615

Dear Representative Austerman:

I am writing this letter to you in regards to funding for AMSEA's statewide training and education efforts in marine safety. Our financial situation now is critical. This summer, our budget (which comes solely from federal sources) has been cut by 75% from an already very minimal staff and low overhead program.

Through AMSEA's efforts in FY 95, over 7,500 people in trained in marine safety. Over of those trained are children, and over 1,000 were commercial fishermen, who are required to take USCG approved training in conducting emergency on board drills and survival. The AMSEA network of community based marine safety instructors has been responsible for training over 2,800 commercial fishermen in this requirement over the last 4 years. This has resulted in training being brought into over 60 Alaskan fishing ports. As a recent study has indicated (Perkins study enclosed), this training has been at least partly responsible for the 50% reduction in commercial fishing fatalities over the last 3 years in Alaska.

Alaska is the only state in the nation without a safe boating program, yet Alaska has the highest drowning rate in the nation (12x the national average). AMSEA has tried to fill in this education gap for the last 10 years, but without some state support at this point, AMSEA's efforts will be reduced to near zero.

AMSEA recognizes that fiscal belt tightening needs to occur at both the state and federal level. However, there is a source of fishermen contributed revenues that could be used to support AMSEA's work. The Fishermen's Fund was established in the early 1950's to help defray minor medical costs suffered by fishermen on the job. This fund is totally contributed to by fishermen. Income to this fund has greatly increased over the past few years and expenses keep decreasing. Although this is a grandfathered dedicated fund, the interest it is now earning goes into state general operating revenues. At this time there is over 7.2 million dollars in this Fund. AMSEA cannot and does not wish to tap into this dedicated fund's principal itself, but thinks it would make common sense to use just 50% or so of the \$300,000 in interest the Fund generates annually and put this back into injury prevention in fisheries and marine users.

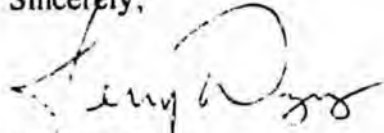
AMSEA is seeking your support for this funding in the next legislative session. We have the support from a number of fishing groups on this issue. Sitka's Representative, Ben Grussdendorf is interested in working with you and Carl Moses this summer to pave the way for introducing a bill in the next legislature and working this through the budgetary process.

We hope that we can gain your support for this important work. AMSEA has worked for over

10 years to build expertise in marine safety relevant to the Alaska working, recreational and subsistence environment. It would be grossly inefficient to lose this expertise and then have to recreate it all again at a future date because the need was still great.

Please feel free to contact this office or Rep. Grussendorf if you need any other information on this matter at this time. Thank you in advance for your support.

Sincerely,



Jerry Dzugan
Director/Training Coordinator

c.c. Rep. Ben Grussendorf
Rep. Carl Moses

enc: Perkins study
AMSEA Accomplishments
Proposal for long term funding base for AMSEA
Port list of AMSEA outreach delivered Drill Instructor courses
AMSEA brochure

ALASKA COUNCIL ON EMERGENCY MEDICAL SERVICES

ACEMS
P.O. Box 110616
Juneau, Alaska 99811-0616
(907) 465-3027



RECEIVED
MAR 03 1996
Ans'g.....

February 15, 1996

The Governor's Alaska Council on Emergency Medical Services has voted unanimously to support proposed legislation for marine safety training programs, sponsored by the Alaska Marine Safety Education Association (AMSEA). On behalf of the Council I urge you to support the intent of C.S. for House Bill No. 366, which would provide a stable source of funding for marine safety training in Alaska.

A paper titled "AMSEA Accomplishments in Last 10 Years" is enclosed. Another paper, "Evaluation of an Alaska Marine Safety Training Program," by Ron Perkins, MPA, Injury Prevention Coordinator, Alaska Area Native Health Service, also is enclosed, which shows that AMSEA training has resulted in statistically significant reductions in loss of life among commercial fishers in Alaska.

Commercial fishing is the most dangerous occupation in Alaska, resulting in many deaths and serious injuries each year. About nine years ago, the EMS Section, in the Department of Health and Social Services, obtained a grant from the National Marine Fisheries Service to develop marine safety training and instructor training for commercial fishers. Most of these funds were passed through to the Alaska Marine Safety Education Association (AMSEA), based in Sitka, which began developing training programs and training instructors from throughout the state. After three years, that grant program expired, but the EMS Section was able to continue funding AMSEA with a CDC Injury Prevention and Control Capacity Building grant. When eligibility for this grant program expired in FY 94, AMSEA was able to obtain some additional funding from the U.S. Coast Guard and the National Institute for Occupational Safety and Health (NIOSH). As these sources of funding expire, the financial viability of AMSEA is in serious jeopardy.

I suggest you contact Mark Johnson, Chief of the Community Health and Emergency Medical Services Section, in the Department of Health and Social Services, for more information on this important, lifesaving program.

Sincerely,

John Hall, M.D.
Chairman
Alaska Council on EMS

Enclosures (2)

cc: Karen Perdue, DHSS Commissioner
Elmer Lindstrom, DHSS Special Assistant
Peter M. Nakamura, MD, MPH, Division of Public Health Director
Jerry Dzugan, Alaska Marine Safety Education Assoc. Exec. Director



UNIVERSITY OF ALASKA ANCHORAGE

211 West 7th Avenue
Anchorage, Alaska 99501
(907) 272-2704
FAX: (907) 272-5269

North Pacific Fisheries
OBSERVER TRAINING PROGRAM
COLLEGE OF COMMUNITY AND
CONTINUING EDUCATION

February 11, 1997

Representative Con Bunde
Alaska State Legislature
State Capitol (MS3100)
Juneau, AK 99811-1182

Dear Representative Bunde,

I am writing on behalf of the approximately 350 groundfish and shellfish observers working in Alaska's commercial fisheries, in support of HB 13. The bill directs a percentage of the annual interest from the Fishermen's fund toward the educational activities of the Alaska Marine Safety Education Association. The Fishermen's Fund is in support of this bill.

The Observer Training Center is a subset of the University of Alaska Anchorage. Annually, we train over 150 observers for either the National Marine Fisheries Service's groundfish program or the Alaska Department of Fish and Game's crab and scallop program. Following training, observers head out to sea for approximately 90 days, collecting biological information about target fisheries, bycatch, birds and marine mammals. Approximately 25% of the observers trained in Anchorage are Alaska residents.

Safety training encompasses a full day of our training and is critical to the well being of our observers, many of whom have never been to sea before. Both of our instructors have gone through AMSEA's safety instructor training program. AMSEA's curriculum materials, including videos and handouts are used in all of our training classes.

Without reservation, I can say that AMSEA's training and materials are top notch. Their program has been instrumental in ensuring the safety of observers. AMSEA's staff is approachable and flexible; their materials are affordable and are clearly in touch with Alaska's commercial fishing industry.

I urge you to support AMSEA in face of their financial cuts from Congress. They are undoubtedly one of the most valuable programs to the State's commercial fishing industry.

Sincerely,

A handwritten signature in black ink, appearing to read "Paula Cullenberg".

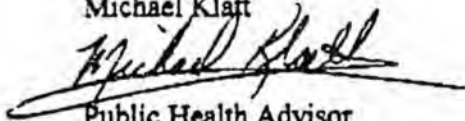
Paula Cullenberg, Director
North Pacific Fisheries Observer Training Center

To: Representative Alan Austerman

As a safety and health professional, I am keenly aware of the importance of training to prevent drownings and cold water immersion, hypothermic-related deaths. Unfortunately, our State has the highest work and non-work-related drowning rates in the nation. A recent study by the Alaska Area Native Health Service showed that all the commercial fishermen, who had received marine safety training from the Alaska Marine Safety Education Association and who were involved in a vessel sinking/capsizing or man-overboard event, survived, while many others perished. Therefore, I strongly encouraged that members of the House Finance Committee and the House as a whole pass HB 366. Please share this with members of the House Finance Committee.

Thank you for your consideration.

Michael Klatt



Public Health Advisor
Alaska Field Station
Division of Safety Research
National Institute for Occupational Safety and Health (NIOSH)

&

Chairman
Alaska Federal Safety and Health Council

&

Co-chair
Interagency Working Group for the Prevention of Occupational Injuries in Alaska

3151 Rosalind Loop
Anchorage, AK 99507
271-2382 (w)
349-3419 (h)



907-486-3910
Box 991

Kodiak, Alaska
99615

October 12, 1995

FAX 486-6292

Governor Tony Knowles
c/o Mary McDowell
P.O. Box 110001
Juneau, Alaska 99811-0001

Dear Governor Knowles,

I am writing to express our continued support for the Alaska Marine Safety Education Association (AMSEA) and to suggest a source of funding to continue its efforts to reduce loss of life in the fishing industry.

We have been strong supporters and advocates of AMSEA since its inception nine years ago. During that time AMSEA has never received any direct funding from the State, but has relied on grant funding from federal sources and income generated through its extensive offerings of classes to fishermen. AMSEA's budget was cut over 75% last year by Congress and sources of other grant funds have dried up due to budget cuts. We are very concerned about AMSEA's future as an ongoing source of safety training for fishermen.

The fishing industry by their own initiative contributes a portion of their license fees to the Fisherman's Fund to defray costs of injuries occurring within state waters. That fund has now grown to 7.2 million dollars, but the more than \$300,000 annual interest on the fund is deposited to the General Fund, rather than to programs that can further reduce injuries and loss of life in our dangerous industry.

We propose that a percentage of that interest be "earmarked" on a year to year basis for support of AMSEA. We recognize that by state law funds cannot be "dedicated" to any source, but that the legislature can earmark funds as we propose. This funding would in no way jeopardize the principal or viability of the Fisherman's Fund, and in fact, the effort would help the state to be more categorically responsible for the use of its revenues. The money for the Fishermen's Fund is generated by the fishing industry, and this proposed use of the income from the Fund would directly benefit the industry in assuring the continued viability of the successful, effective, and important AMSEA safety program.

Sincerely,

Al Burch
Executive Director

Jay E. Stinson
President

cc: Fred Zharoff, Allen Austerman, AMSEA

Harvesting Alaskan Shrimp and Whitefish

9727 Wren Lane
Eagle River, AK. 99577

Constitution

September 26, 1995

Representative Pete Kott
State Capitol
Juneau, AK. 99801-1182

Dear Representative Kott:

You frequently send newsletters asking for my views on a variety of topics, and today I have some input for you. I have worked for the U.S. Public Health Service for the past 24 years, 16 of which have been in Alaska. I have a Bachelors and a Masters degree in Public Health. I recently completed a research project that might be of interest to you. The research project evaluated a marine safety training program that is conducted by the Alaska Marine Safety Education Association (AMSEA). This research paper will be published in the national peer review journal, Public Health Reports, in the November/December issue in 1995. The paper was also selected as one of 300 out of 900 papers for oral presentation at the World Injury Control Conference in Melbourne, Australia in February 1996.

The bottom line according to my research is that the AMSEA program is very effective in preventing deaths among the fishermen who took the course. The distressing point is that AMSEA relies entirely on short term grants for their funding. We need to support this effective program with recurring funding from the State. The funding could and should come from excess revenues of the Fishermen's Fund. This money originally came from the fishermen and AMSEA directly benefits the fishermen.

I realize there are obstacles to overcome in order to be able to use this excess funding but please see if it can be accomplished.

Thank you for your time and interest. If I can answer any questions, please call.

Ron Perkins

Ron Perkins, MPH
Tel 273-0102

RECEIVED

MAR 08 1996

Ans'd.....

Stickeen Wilderness Adventures

The oldest operating business on the Stikine River and the Anan bear observatory.

P.O. Box 934
107 Front Street
Wrangell, Alaska 99929

A division of TH Charters/Marine

Telephone (907) 874-2085
U.S.A. 800-874-2085
Fax (907) 874-2285

March 4, 1996

Dear Representative Hanley ;

My name is Todd Harding, I am the owner/operator of Stickeen Wilderness Adventures, and a member of the Wrangell Volunteer Fire dept., & Search and Rescue, and an A.M.S.E.A. (Alaska Marine Safety Education Association) instructor.

Michael Clemmans and I became A.M.S.E.A. instructors in October of 1994, when we both saw the need for this type of training and education for Commercial Operators and the general public of Wrangell, as most of the people do not have the time or they do not have the money due to Wrangell's economic depression to travel to other communities to get this kind training and education. There for I support A.M.S.E.A. for what they have done and can continue to do for Alaskans, especially those of us in isolated rural communities. I would like to ask you to support A.M.S.E.A. and House Bill Number 366.

Mark if you ever get the chance to take one of A.M.S.E.A. Survival Equipment, Procedures, and on board Drill course, which is mandatory for commercial fishing vessels, as per 46CFR 28.270, you will find, the self confidence and ability gained cannot be measured by money. As you may know, when you are on the water, and for what ever reason, it happens, it is only you and your abilities and confidence within your self that will bring you home.

Mike and I thank you for your for your help and support in this matter.

Sincerely,

Todd E. Harding

Todd E. Harding
Stickeen Wilderness Adventures
Michael Clemmans
Campbell Towing

c.c. Wrangell Economic Dir.. Carol Rushmore
Representative Alan Austerman

October 13, 1995

Governor Tony Knowles
P.O. Box 110001
Juneau, AK 99811-0001

Dear Governor Knowles,

You might remember during a campaign trip to Kodiak at the time of our annual Crab Festival, that you were involved in one of the highlights of our festivities, the survival suit race. You might also remember the frustration you experienced when getting into your suit during the race. (I'm the gal that was helping you.) I am pleased to let you know that this past year one of the Kodiak High School teams won the race. This is the first time in years that the United States Coast Guard team did not win. Needless to say the Kodiak High School students are very proud of this accomplishment and they intend to do their best at keeping the trophy this coming year. So what is this all leading up to?

I teach Marine and Wilderness Survival Training as well as Fisheries Science at Kodiak High School. I am also an instructor for the ALASKA MARINE SAFETY EDUCATION ASSOCIATION, and include this training as part of my high school curriculum. At the present time I have 50 students involved in this training and have trained 40 other students as well as 40 adults in the past two years.

AMSEA is facing a major loss of funding from the Federal Government this year and I am very concerned about the future of AMSEA. AMSEA has provided invaluable training to the members of our community as well as members of many maritime dependent communities around the state and the nation. AMSEA has proven itself a leader in marine safety training and has filled a need in Alaska's maritime industries. Federal Regulations have made this type of training mandatory for persons onboard all commercial vessels. The healthy future of AMSEA and its ability to continue to provide this training depends on continued funding from somewhere. We are looking to the State of Alaska to help us with that funding.

I am asking you to please support reliable long term state funding of the AMSEA Program. I have read the proposal of using interest money from the Fishermen's Fund to support AMSEA and think this would be a fine way to use those resources. AMSEA is saving fishermen and fisherwoman's lives as well as lives of those involved in other

marine related industries. AMSEA could help you become a condender in the 1996 Kodiak Crab Festival Survival Suit races. We sincerely invite you to be a member of one our teams. We also sincerely thank you for your consideration towards this very important matter.

Hope to see you this spring!



Jane Eisemann
Kodiak High School Fisheries Instructor

cc/ Lieutenant Governor Fran Ulmer
Jerry Dzugan Director AMSEA

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HB 13

Revision Date: _____
 Title: Marine Safety Training & Education
 Sponsor: Representative Austerman
 Requestor: Hcuse STA

Department Affected: Labor
 BRU: Fishermen's Fund
 Component: Fishermen's Fund

COMPONENT SERIAL NO. 343

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)

A Bill to identify the interest earned off the fisherman's fund as a source of revenue to fund marine safety training and education.

Prepared by: Paul Grossl, Director *Paul Grossl* Phone: 465-2790
 Division: Workers' Compensation Date: 1/21/97

Approved by Commissioner: Tom Cashen, Commissioner *Tom Cashen*
 Agency: Department of Labor Date: 1/21/97

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Revision Date: _____ Dept. Affected: Revenue
 Title: Marine Safety Training and Education BRU: Revenue Operations
 Component: Treasury
 Sponsor: Rep. Ivan Austerman
 Requestor: (H) STA COMPONENT SERIAL NO. 121

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	239.0	239.0	239.0	239.0	239.0	239.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	239.0	239.0	239.0	239.0	239.0	239.0

Estimate of any current year (FY97) cost \$ 0.00

POSITIONS:

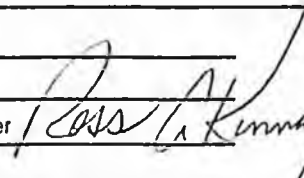
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS:

Earnings on the Fisherman's Fund currently are left with the General Fund and do not belong to the fund. This bill would allow for appropriating upto one-half of the interest that currently goes to the General Fund to be used for marine safety and education programs. Treasury will incur no additional costs if this bill is passed. While we have shown the funding source above as General Fund, it is unclear which agency would reflect the expenditure of the money as the bill does not address the administration of the programs.

ASSUMPTIONS:

Current balance is approx \$9 million. If we assume the balance of the fund stays stable and use 5.32% (the 12/30/96 480 T-bill rate) as our interest rate assumption, the fund will earn approx \$478,000 interest per year. One-half of this amount would then be \$239,000.

Prepared by: Betty Martin, Comptroller Phone: 465-2350
 Division: Treasury Date: 2/19/97
 Approved by Commissioner: Ross Kinney, Deputy Commissioner  Date: 2/19/97
 Agency: Department of Revenue

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HB

20

Alaska State House of Representatives
House District 39

Session
Alaska State Capital
Juneau, Alaska 99801-1182
Phone: (907) 465-4942



Interim
P.O. Box 137
Akiak, Alaska 99552
Phone: (907) 765-7526

Representative Ivan M. Ivan

SPONSOR STATEMENT - HOUSE BILL 20

House Bill 20 would authorize dog mushers' associations, which run races recognized by the Division of Charitable Gaming, to conduct statewide games of chance. The division recognizes those associations which have been in existence for at least three years, have at least 25 Alaskan members and be a not for profit organization. Prizes may be awarded for the closest guesses of at least three elements of uncertainty about a sled dog race that cannot be determined before the start of the race. The intent is to provide a mechanism to assist race organizing committees to become financially self-sufficient.

High profile protests from animal rights activists have caused important corporate sponsors to withdraw financial support. House Bill 20 would create a sweepstakes similar to that currently being used by the Iditarod Race Committee and, hopefully, allow sled dog races which do not have strong financial backing to continue.

House Bill 20 will allow contestants to purchase raffle tickets on which the contestant would guess the checkpoints and finish line arrival times, the temperature when a particular team crosses the finish line, total number of dogs that finish the race, etc. The dog mushers' associations will administer the mushers' contests in conjunction with state regulatory authority.

Alaska State House of Representatives
House District 39

Session
Alaska State Capital
Juneau, Alaska 99801-1182
Phone: (907) 465-4942



Interim
P.O. Box 137
Akiak, Alaska 99552
Phone: (907) 765-7526

Representative Ivan M. Ivan

SECTIONAL ANALYSIS - HOUSE BILL 20

Section 1: Amends AS 05.15.180(b) by adding dog mushers' contests to the list of permissible activities.

Section 2: Amends AS 05.15.690(12) by adding dog mushers' association and adding that a game of chance may be conducted by the association in conjunction with the race.

Section 3: Repeals and reenacts AS 05.15.180 (b). This new section reverts to original statute to include dog mushers' contests due to the sunset clause which was adopted with the passage of House Bill 146 in 1995.

PERMITTEE

Tuesday January 14, 1997

0:47 AM

Page 1

PERMIT NUMBER	THE ORGANIZATION	ADDRESS	PERM CITY	PERM STATE	PERM ZIP	PERMITTEE TYPE
60010	GREATER ANCHORAGE, INC.	327 EAGLE STREET	ANCHORAGE	AK	99501	PERMITTEE
960018	KUSKOWIM 300 RACE COMMITTEE, INC.	P.O. BOX 300	BETHEL	AK	99559	PERMITTEE
960077	MONTANA CREEK DOG MUSHERS ASSOC. INC.	P.O. BOX 873278	WASILLA	AK	99687	PERMITTEE
960121	NOORVIK SPORTS CLUB	P.O. BOX 141	NOORVIK	AK	99763	PERMITTEE
960128	YUKON QUEST INTERNATIONAL	P.O. BOX 75015	FAIRBANKS	AK	99707	PERMITTEE
960131	IDITAROD TRAIL COMMITTEE, INC.	P.O. BOX 870800	WASILLA	AK	99687	PERMITTEE
960253	TANANA DOG MUSHERS ASSN	PO BOX 55	TANANA	AK	99777	PERMITTEE
960313	GREATER FAIRBANKS CHAMBER OF COMMERCE	250 CUSHMAN STREET SUITE 2 0	FAIRBANKS	AK	99701	PERMITTEE
960335	KIANA BLUFF JUMPERS SEARCH & RESCUE	P.O. BOX 74	KIANA	AK	99749	PERMITTEE
960408	CHRISTCHINA VILLAGE COUNCIL	PO BOX 241	GAKONA	AK	99586	PERMITTEE
960434	ALPINE CIVIC CLUB	P.O. BOX 344	SUTTON	AK	99674	PERMITTEE
960521	CITY OF MOUNTAIN VILLAGE	P.O. BOX 32085	MOUNTAIN VILLAGE	AK	99632	PERMITTEE
960549	ST MARYS FIRE DEPARTMENT	P.O. BOX 163	ST. MARYS	AK	99658	PERMITTEE
960635	NOME KENNEL CLUB	P.O. BOX 1892	NOME	AK	99762	PERMITTEE
960660	CHATANIKA NONPROFIT COMMUNITY COUNCIL	5760 OLD STEES HWY NORTH	FAIRBANKS	AK	99712	PERMITTEE
960818	INTERIOR DOG MUSHERS, INC.	P.O. BOX 30	MANLEY	AK	99756	PERMITTEE
960854	ALASKAN SLED DOG RACING ASSOCIATION	P.O. BOX 110569	ANCHORAGE	AK	99511	PERMITTEE
960994	GALENA DOG MUSHERS	PO BOX 14	GALENA	AK	99741	PERMITTEE
961051	CITY OF HUSLIA	P.O. BOX 10	HUSLIA	AK	99746	PERMITTEE
961062	NORTHWAY VILLAGE COUNCIL	P.O. BOX 476	NORTHWAY	AK	99764	PERMITTEE
961133	ALASKA DOG MUSHERS ASSOCIATION	PO BOX 70662	FAIRBANKS	AK	99707	PERMITTEE
961176	VENETIE VILLAGE COUNCIL	P.O. BOX 119	VENETIE	AK	99781	PERMITTEE
961279	BRISTOL BAY WINTERFEST	P.O. BOX 433	KING SALMON	AK	99613	PERMITTEE
961283	SHISHMAREF DOG MUSHERS ASSOCIATION (DONT	GENERAL DELIVERY	SHISHMAREF	AK	99772	PERMITTEE
961285	KING SALMON NATIVE ASSOCIATION	P.O. BOX 68	KING SALMON	AK	99613	PERMITTEE
961407	NORTHERN LIGHTS BADGER LIONS	P.O. BOX 58117	FAIRBANKS	AK	99711	PERMITTEE
961544	AURORA INTERNATIONAL****SEE COMMENTS****	P.O. BOX 520581	BIG LAKE	AK	99652	PERMITTEE
961580	HUSLIA HUSLER'S SPORTS ASSOCIATION	P.O. BOX 64	HUSLIA	AK	99746	PERMITTEE
961592	FAIRBANKS CONVENTION & VISITORS BUREAU	550 FIRST AVENUE	FAIRBANKS	AK	99701	PERMITTEE
961650	MUSHERS CLUB	P.O. BOX 21	RUSSIAN MISSION	AK	99657	PERMITTEE
961688	IDITAROD ELEMENTARY SCHOOL	801 N WASILLA FISHHOOK RD	WASILLA	AK	99654	PERMITTEE
961784	ALASKA BIRD OBSERVATORY	P.O. BOX 80505	FAIRBANKS	AK	99709	PERMITTEE

ISSUE PERMIT)

Sec. 05.15.180. Limitations on authorized activity.

(a) This chapter does not authorize the use of playing cards, dice, roulette wheels, coin-operated instruments or machines, or other objects or instruments used, designed, or intended primarily for gaming or gambling or any other method or implement not expressly authorized by the department.

(b) With the exception of raffles, lotteries, bingo games, pull-tab games, rain classics, goose classics, mercury classics, deep freeze classics, snow machine classics, mushing sweepstakes, canned salmon classics, salmon classics, king salmon classics, an activity may not be licensed under this chapter unless it existed in the state in substantially the same form and was conducted in substantially the same manner before January 1, 1959. A snow machine classic may not be licensed under this chapter unless it has been in existence for at least five years before the licensing.

(c) [Repealed, sec. 5 ch 105 SLA 1995].

(d) The total value of door prizes offered or awarded under authority of a permit issued to a municipality or qualified organization under this chapter or under authority of a multiple-beneficiary permit may not exceed \$20,000 a month or \$240,000 a year.

(e) The total value of all door prizes offered or awarded at a single facility or bingo hall or parlor by an operator on behalf of authorizing permittees may not exceed \$20,000 a month or \$240,000 a year.

(f) A person under the age of 19 years may not play a bingo game.

(g) A municipality or a qualified organization may award a maximum of \$1,000,000 in prizes each year in activities authorized under this chapter; however, if a municipality or a qualified organization contracts with an operator to conduct on its behalf activities authorized under this chapter, the municipality or qualified organization may award a maximum of \$500,000 in prizes each year. The holders of a multiple-beneficiary permit under AS 05.15.100(d) may award a maximum in prizes each year of \$1,000,000 times the number of holders of the permit for activities authorized under this chapter. In this subsection "activities authorized under this chapter" means all activities subject to this chapter other than bingo.

History -

(sec. 2 ch 27 SLA 1960; am sec. 3 ch 66 SLA 1976; am sec. 5, 6 ch 59 SLA 1983; am sec. 2 ch 93 SLA 1986; am sec. 3 ch 94 SLA 1986; am sec. 20, 21 ch 99 SLA 1988; am sec. 4 ch 24 SLA 1991; am sec. 23 - 25 ch 70 SLA 1993; am E.O. No. 82 sec. 12, 13 (1993); am sec. 3 ch 16 SLA 1994; am sec. 5 ch 13 SLA 1995; am sec. 3 ch 104 SLA 1995; am sec. 3 - 5 ch 105 SLA 1995)

Delayed Action -

of subsection (b). - Under sec. 6, ch. 13, SLA 1995, effective January 1, 2000, subsection (b) is amended to delete the reference to mushing sweepstakes.

Amendment Notes -

The 1991 amendment, effective June 11, 1991, in subsection (b), inserted "king salmon classics."

The first 1993 amendment, effective June 26, 1993, inserted "or under authority of a multiple-beneficiary permit" in subsection (d); deleted "or by a permittee in conjunction with other permittees" preceding "may not exceed" in subsection (e); and added the second sentence in subsection (g)

The second 1993 amendment, effective July 1, 1993, substituted "department" for "commissioner" in subsection (a) and in paragraph (c)(4).

The 1994 amendment, effective April 30, 1994, inserted "canned salmon classics," in

subsection (b).

The first 1995 amendment, effective July 31, 1995, inserted "mushing sweepstakes," in subsection (b).

The second 1995 amendment, effective July 1, 1995, in subsection (b), inserted "deep freeze classics, snow machine classics," in the first sentence and added the second sentence.

The third 1995 amendment, effective October 6, 1995, in subsection (a), deleted "Except as provided in AS 05.15.100(b)," from the beginning; in subsection (b), deleted "and other activities authorized under AS 05.15.100(b)," following "salmon classics"; and repealed subsection (c), relating to limitations on the operation activities licensed under AS 05.15.100(b).

AG Opinions -

Opinions of attorney general. - The limitation in subsection (a) on machines intended primarily for gaming or gambling applies to token-operated bingo machines. November 6, 1987, Op. Att'y Gen.

Decisions -

Computerized bingo games. - Commissioner [now department] properly denied an application for permission to operate computerized bingo games after reasonably interpreting the statutes to authorize a game played with mechanical rather than electronic devices. *Malone v. Anchorage Amateur Radio Club, Inc.*, 781 P.2d 576 (Alaska 1989).

Quoted in *PinBall Mach.*, Serial No. 2334 v. State, 371 P.2d 805 (Alaska 1962).

Sec. 05.15.690. Definitions.

In this chapter

(1) "adjusted gross income" means gross income less prizes awarded and state, federal, and municipal taxes paid or owed on the income;

(2) "authorizing permittee" means a municipality or qualified organization that authorizes an operator to conduct an activity subject to this chapter on its behalf;

(3) "bingo" means a game of chance of, and restricted to, the selling of rights to participate, and the awarding of prizes, in the specific kind of game of chance sometimes known as bingo or lotto, played with cards bearing numbers or other designations, five or more in one line, the holder covering numbers when objects similarly numbered are drawn from a receptacle, and the game being won by the person who first covers a previously designated arrangement of numbers on the card;

(4) "canned salmon classic" means a game of chance where a prize of money is awarded to the closest guess of the total number of cases of canned salmon that will be packed at the Petersburg salmon canneries during a certain period of time and is limited to the canned salmon classic operated and administered by the Petersburg Chamber of Commerce;

(5) "charitable organization" means an organization, not for pecuniary profit, that is operated for the relief of poverty, distress, or other condition of public concern in the state;

(6) "civic or service organization" means any branch or lodge or chapter of a national or state organization that is a civic or service organization, not for pecuniary profit, and authorized by its written constitution, charter, or articles of incorporation, or bylaws to engage in a fraternal, civic, or service purpose in the state;

(7) "contest of skill" means a contest or game in which prizes are awarded for the demonstration of human skills in marksmanship, races, and other athletic events;

(8) "deep freeze classic" means a game of chance where a prize of money is awarded to the closest guess of the date, time, and temperature of the lowest temperature recorded at a specific location in the Delta Junction area on the coldest day during December through February, inclusive, and is limited to the deep freeze classic operated and administered by the Delta Chamber of Commerce;

(9) "department" means the Department of Revenue;

(10) "distribute" means sell, distribute, furnish, or supply;

(11) "dog mushers' association" means a civic, service, or charitable organization in the state, not for pecuniary profit, formed exclusively to promote interest in the breeding and training of dog teams for work or recreational and racing purposes, but does not include an organization formed or operated for gaming or gambling purposes;

(12) "dog mushers' contest" means a contest in which prizes are awarded for the correct guess of the racing time of a dog team or of team position in the race, including prizes to the race contestants;

(13) "educational organization" means a civic, service, or charitable organization in the state, not for pecuniary profit, whose primary purpose is educational in nature and designed to develop the capabilities of individuals by instruction;

(14) "established village" means an unincorporated community that is in

(A) the unorganized borough and that has 25 or more permanent residents;

or

(B) an organized borough, has 25 or more permanent residents; and

(i) is on a road system and is located more than 50 miles outside

the boundary limits of a unified municipality; or

(ii) is not on a road system and is located more than 15 miles outside the boundary limits of a unified municipality;

(15) "fishing derby association" means a civic, service, or charitable organization in the state, not for pecuniary profit, whose primary purpose is to promote interest in fishing for recreational purposes, but does not include an organization formed or operated for gaming or gambling purposes;

(16) "fish derby" means a contest in which prizes are awarded for catching fish;

(17) "fraternal organization" means a civic, service, or charitable organization in the state, except a college and high school fraternity, not for pecuniary profit, that is a branch or lodge or chapter, of a national or state organization and exists for the common business, brotherhood, or other interest of its members;

(18) "fund raiser or consultant" means a person who provides advice or technical assistance in support of or concerning the conduct of gaming activities under this chapter, whether the person is or is not an employee of a licensee;

(19) "goose classic" means a game of chance where a prize of money is awarded for the closest guess of the time of the arrival of the first goose in spring to Creamer's Field in Fairbanks or to the Kenai River Flats near Kenai and is limited to the goose classics operated and administered

(A) jointly or by either the Fairbanks Montessori Association or the Friends of Creamer's Field; and

(B) by the Kenai Chamber of Commerce;

(20) "governing body" has the meaning given in AS 29.71.800;

(21) "gross receipts" means receipts from the sale of shares, tickets, or rights connected with participation in any activity permitted under this chapter or the right to participate, including admission, fee or charge, sale of equipment or supplies, and all other miscellaneous receipts;

(22) "ice classic" means a game of chance where a prize of money is awarded for the closest guess of the time the ice moves in a body of water or watercourse in the state and is limited to the Nenana and Chena Ice Pools in the same manner as they were conducted in 1959 and previous years, a Kuskokwim Ice Classic to be operated and administered by Bethel Social Services, Inc., a Kenai River Ice Classic to be operated and administered by the Kenai and Soldotna Rotary Clubs jointly or by either the Kenai Rotary Club or the Soldotna Rotary Club, a Yukon River Ice Classic to be operated and administered by the City of Fort Yukon, an Alaska-Soviet Ice Classic to be operated and administered jointly by CAMAI, Inc., and the City of Diomedea, a Big Lake Ice Classic to be operated and administered by the Houston Junior-Senior High School Booster Club and the Big Lake Chamber of Commerce jointly or by either the Houston Junior-Senior High School Booster Club or the Big Lake Chamber of Commerce, and a McGrath Ice Classic to be operated and administered by the Kuskokwim Public Broadcasting Company;

(23) "ideal net" means an amount equal to the total amount of receipts that would be received if every individual pull-tab ticket in a series were sold at face value, less the prizes to be awarded for that series;

(24) "king salmon classic" means a game of chance where a prize of money is awarded for the closest guess of the time of the arrival of the first king salmon of the year at a designated spot on the fish ladder in the Douglas Island Pink and Chum hatchery at Salmon

Creek in Juneau and is limited to the king salmon classic operated and administered by the Greater Juneau Chamber of Commerce;

(25) "labor organization" means an organization, not for pecuniary profit, constituted wholly or partly to bargain collectively or deal with employers, including the state and its political subdivisions, concerning grievances, terms, or conditions of employment or other mutual aid or protection in connection with employees;

(26) "managerial or supervisory capacity" means that the employee

(A) is responsible for gaming receipts;

(B) has the authority to hire employees or to dismiss or otherwise discipline them;

(C) prepares financial reports required under this chapter;

(D) is responsible for keeping the accounts for activities under this chapter;

(E) is responsible for conducting activities under this chapter, including the arranging for locations at which those activities will occur; or

(F) is a fund raiser or a consultant;

(27) "mercury classic" means a game of chance where a prize of money is awarded for the closest guess of the time the temperature reaches a certain degree and is limited to the mercury classic operated and administered by the Greater Fairbanks Chamber of Commerce or jointly, in the discretion of the Greater Fairbanks Chamber of Commerce, by the Greater Fairbanks Chamber of Commerce and the Fairbanks Convention and Visitors' Bureau;

(28) "mushing sweepstakes" means a game of chance where a prize of money is awarded for the closest guess or guesses of at least three elements of uncertainty about a sled dog race that cannot be determined before the commencement of the race, and is limited to the Iditarod Sweepstakes operated and administered by the Iditarod Trail Committee;

(29) "net proceeds" means the gross receipts from an authorized activity less the fee described in AS 05.15.020(b), the expenses authorized by AS 05.15.160, and the prizes awarded at the activity;

(30) "numbers wheel" means any electronic, mechanical, or other device with numbers or other figures that are selected randomly and used in a game of chance in which the outcome is determined by the number or figure selected by the device; not including games in which a hamster or other animal is placed in an enclosure with several numbered exit holes and the winner is determined by which hole the hamster or other animal exits, or slot machines or other devices that operate by insertion of a coin or other object that may entitle the person operating the machine to receive a prize by strict dependence on the element of chance;

(31) "operator" means a natural person who, or a municipality or qualified organization that, has obtained a license to conduct an activity subject to this chapter on behalf of a permittee;

(32) "permittee" means a municipality or a qualified organization that holds a valid permit under AS 05.15.100;

(33) "police or fire department and company" means a civic, service, or charitable organization in the state, not for pecuniary profit, consisting of members of a police department or fire company established by the state or a political subdivision of the state;

(34) "political organization" means an organization or club organized under or formally affiliated with a political party as defined in AS 15.60.010;

(35) "pull-tab game" means a game of chance where a card, the face of which is covered to conceal a number, symbol, or set of symbols, is purchased by the participant and where a prize is awarded for a card containing certain numbers or symbols designated in advance and at random;

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

(37) "raffle and lottery" means the selling of rights to participate and the awarding of prizes in a game of chance conducted by the drawing for prizes by lot;

(38) "rain classic" means a game of chance in that a prize is awarded for the closest guess of the amount of precipitation that is recorded at a certain location during a certain length of time;

(39) "religious organization" means an organization, church, body of communicants, or group, not for pecuniary profit, gathered in common membership for mutual support and edification in piety, worship, and religious observances, or a society, not for pecuniary profit, of individuals united for religious purposes at a definite place and that is recognized as a religious organization under the federal income tax laws and the selective service law;

(40) "salmon classic" means a game of chance, to be operated and administered by the United Fishermen of Alaska, in which a prize of money is awarded for the closest guess of the total number of salmon harvested commercially statewide, as determined by the Department of Fish and Game, during a certain period of time;

(41) "series" means a unit of pull-tabs with the same serial number;

(42) "snow machine classic" means (A) a contest in which prizes are awarded for the correct guess of the racing time of a snow machine or of the snow machine's position in the race, including prizes to the race contestants; or (B) a game of chance where a prize of money is awarded for the closest guess or guesses of at least three elements of uncertainty about a snow machine race that cannot be determined before the commencement of the race; in this paragraph, "race" includes a race solely among snow machines or a race among teams consisting of a combination of a person involved in a contest of skill and a snow machine;

(43) "vendor" means a business whose primary activity is not regulated by this chapter but that

(A) is engaged in the sale of pull-tabs on behalf of a permittee;

(B) holds a business license under AS 43.70; and

(C) is an establishment holding a

(i) beverage dispensary license under AS 04.11.090 that has not been designated by the Alcoholic Beverage Control Board under AS 04.16.049(a)(2) - (3), has not been exempted by the Department of Labor under AS 04.16.049(c) and AS 23.10.355, and if the establishment is a hotel, motel, resort, or similar business that caters to the traveling public as a substantial part of its business, does not allow the sale of pull-tabs in a dining room, banquet room, guest room, or other public areas other than a room in which there is regularly maintained a fixed counter or service bar

at which alcoholic beverages are sold or served to members of the public for consumption;

(ii) package store license under AS 04.11.150;

(44) "veterans organization" means a civic, service, or charitable organization in the state, or a branch or lodge or chapter of a national or state organization in the state, not for pecuniary profit, the membership of which consists of individuals who were members of the armed services or forces of the United States or persons who served in the Alaska Territorial Guard.

History -

(sec. 1 ch 27 SLA 1960; am sec. 4, 5 ch 66 SLA 1976; am sec. 6 - 8 ch 27 SLA 1982; am sec. 8 ch 59 SLA 1983; am sec. 1 ch 27 SLA 1985; am sec. 3, 4 ch 93 SLA 1986; am sec. 4 ch 94 SLA 1986; am sec. 23 - 35 ch 99 SLA 1988; am E.O. No. 74 sec. 4, 5 (1989); am sec. 1 ch 76 SLA 1989; am sec. 1 ch 22 SLA 1990; am sec. 62 ch 21 SLA 1991; am sec. 5 ch 24 SLA 1991; am sec. 2 ch 93 SLA 1991; am sec. 1 ch 30 SLA 1992; am sec. 36 ch 70 SLA 1993; am E.O. No. 82 sec. 14, 16 (1993); am sec. 4 ch 16 SLA 1994; am sec. 7, 8 ch 13 SLA 1995; am sec. 4, 5 ch 104 SLA 1995; am sec. 1 ch 11 SLA 1996; am sec. 1 ch 98 SLA 1996)

Delayed repeal of paragraph (28). - Section 8, ch. 13, SLA 1995, repeals paragraph (28), the definition of "'mushing sweepstakes", effective December 31, 1999.

Revisors Notes -

Formerly AS 05.15.210. Renumbered in 1994. Reorganized in 1983 to alphabetize the defined terms and in 1986, 1988, 1991, 1993, 1994, and 1995 to maintain alphabetical order. In 1994, in the definition of "vendor" "the business" was deleted from the beginning of (C) and "an establishment holding a" was deleted from the beginning of (C)(ii), to correct a manifest error in sec. 36, ch. 70, SLA 1993.

Amendment Notes -

The 1990 amendment added the provision for a Big Lake Ice Classic in the paragraph defining "ice classic."

The first 1991 amendment, effective June 11, 1991, repealed a definition of "municipality".

The second 1991 amendment, effective June 11, 1991, added the definition of "king salmon classic."

The third 1991 amendment, effective September 30, 1991, added "or persons who served in the Alaska Territorial Guard" at the paragraph defining "veterans organization."

The 1992 amendment, effective May 16, 1992, inserted "veterans," near the beginning of the paragraph defining "qualified organization."

The first 1993 amendment, effective June 26, 1993, added paragraphs (13), (17), (19), (22), (25), (30), and (40) (now (14)), (18), (20), (23), (26), (32), and (43), respectively.

The second 1993 amendment, effective July 1, 1993, repealed former paragraph (6) and substituted "Department of Revenue" for "Department of Commerce and Economic Development" in paragraph (8) (now paragraph (9)).

The 1994 amendment, effective April 30, 1994, added present paragraph (4).

The first 1995 amendment, effective July 31, 1995, added paragraph (42).

The second 1995 amendment, effective July 1, 1995, added the language beginning "or jointly" at the end of paragraph (26) and added paragraphs (42) and (43).

The first 1996 amendment, effective July 11, 1996, in paragraph (19), added the subparagraph designations and inserted "jointly or," "either," and "or the Friends of Creamer's

field."

The second 1996 amendment, effective September 23, 1996, added ", and a McGrath Ice Classic to be operated and administered by the Kuskokwim Public Broadcasting Company" at the end of paragraph (22).

AG Opinions -

Under AS 05.15.210 a permit may be issued which gives a qualified organization the privilege of conducting any of the designated activities. AS 05.15.040 limits the activities that may be conducted to those activities specified in the permit. Under AS 05.15.060 the commissioner [now department] has authority to further limit the number of activities which may be conducted pursuant to any permit. Therefore, absent any regulation to the contrary, a permit could be issued for more than one activity to a qualified organization. 1960 Op. Att'y Gen., No. 8.

That the term "lottery" as used in item (29) (now (37)) of this section does not include an ice pool is indicated by the express provisions of item (18) (now (20)). 1960 Op. Att'y Gen., No. 8.

While the conduct of an ice pool might come within the definition of a lottery, by the language in item (29) (now (37)) of this section, the legislature has limited a lottery to a game conducted by a drawing for prizes. 1960 Op. Att'y Gen., No. 8.

If the term lottery in item (29) (now (37)) of this section was meant to include an ice classic, then item (18) (now (22)) would be meaningless. 1960 Op. Att'y Gen., No. 8.

While there may have been other ice pools conducted prior to the date of this section, the language of item (18) (now (22)) showed that the legislature intended to authorize only two pools, the Nenana and Chena, and none other. 1960 Op. Att'y Gen., No. 8.

"Ice classics" are not exempt from the provisions of this title regulating games of chance generally. April 16, 1986, Op. Att'y Gen.

By designating specific organizations to operate the Big Lake Ice Classic, HB 323 [ch. 22, SLA 1990] might violate the constitutional prohibition against local and special legislation since Alaska Const., art. II, sec. 19, provides in part, "The legislature shall pass no local or special act if a general act can be made applicable. April 17, 1990, Op. Att'y Gen.

Promotional latex game tickets constituted pull-tab games under this chapter even though an "information product" containing information about an arctic animal was attached to the game piece and free game pieces could be obtained by mailing a request to the company, since the company's primary business was selling the game cards and the tickets had a prize structure much like traditional pull-tab games. September 2, 1992, Op. Att'y Gen.

Decisions -

Computerized bingo games. - Commissioner [now department] properly denied an application for permission to operate computerized bingo games after reasonably interpreting the statutes to authorize a game played with mechanical rather than electronic devices. *Malone v. Anchorage Amateur Radio Club, Inc.*, 781 P.2d 576 (Alaska 1989).

Taxation of pull-tabs. - Pull-tabs were intangible property not subject to Ketchikan Gateway Borough's sales tax ordinance. *Dilley v. Ketchikan Gateway Borough*, 855 P.2d 1335 (Alaska 1993).

Cited in *State v. A.L.I.V.E. Voluntary*, 606 P.2d 769 (Alaska 1980).

Alaska State House of Representatives
House District 39

Session
Alaska State Capital
Juneau, Alaska 99801-1182
Phone: (907) 465-4942

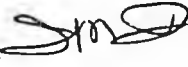


Interim
P.O. Box 137
Akiak, Alaska 99552
Phone: (907) 765-7526

Representative Ivan M. Ivan

MEMORANDUM

TO: Representative Jeannette James, Chair
House State Affairs Committee

FROM: Representative Ivan M. Ivan 

DATE: January 15, 1997

RE: Request for Scheduling of House Bill 20

I respectfully request the scheduling of House Bill 20: Dog Mushing Contests, before the House State Affairs Committee at your earliest possible convenience.

This bill would allow dog mushers associations to conduct statewide games of chance on sled dog races that are recognized by the Division of Charitable Gaming.

Thank you for your consideration of my request. Please contact my aide, Tom Wright, if you require further information or if you have any questions.

IMI/tw

Revision Date: _____ Dept. Affected: Revenue
 Title: Dog Musers' Contests BRU: Revenue Operations
 Component: Charitable Gaming Division
 Sponsor: Rep. Ivan
 Requestor: (H) STA COMPONENT SERIAL NO. 1883

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 (FY97) cost \$ 0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

House Bill 20 limits the conduct of a dog musers' contest to a dog musers' association. It also adds to the definition of a dog musers' contest to allow a raffle-like guessing game.

The Department of Revenue, Charitable Gaming Division does not anticipate any changes in program receipts in respect to this bill.

Prepared by: Dennis R. Poshard, Director *DRP* Phone: 465-2279
 Division: Charitable Gaming Division Date: January 14, 1998
 Approved by Commissioner: Wilson L. Condon *Wilson* Date: 1/14/98
 Agency: Revenue

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HB

21

Alaska State House of Representatives
House District 39

Session
Alaska State Capital
Juneau, Alaska 99801-1182
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Akiak, Alaska 99552
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Representative Ivan M. Ivan

SPONSOR STATEMENT - HOUSE BILL 21

With reduced funding for public broadcasting, I introduced House Bill 21 to provide an alternative funding source and lessen the general fund demand for this service.

This bill provides a tax credit for cash contributions made to a trust fund for public broadcasting which is established in this legislation. The credit to public broadcasting trust fund is limited to 50% of \$300,000. The tax credit would be applied against a taxpayer's liability under the following tax types: the insurance premium tax (AS 21.09.210), tax on title insurance premiums (AS 21.66.110), corporation income (AS 43.20), oil and gas production (AS 43.55), oil and gas property (AS 43.56) and mining license (AS 43.65). The credit claimed under one of the tax types may not be claimed under another tax type and may not be deducted against a tax imposed under the titles of the tax types previously listed.

A different maximum for the insurance premium tax and the title insurance tax is established. An attached memorandum from Legislative Counsel Jack Chenoweth explains the limitation.

The public broadcast provisions of this legislation sunsets after December 31, 2002.

**DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

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

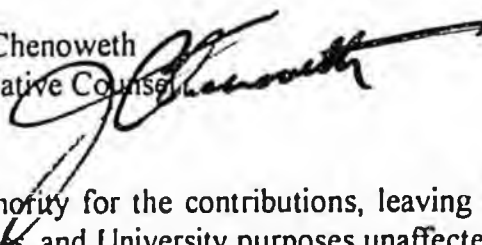
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

March 23, 1995

SUBJECT: Draft CSHB 269 () (Work Order No. 9-LS0937\F)

TO: Representative Ivan Ivan
ATTN: Tom Wright

FROM: Jack Chenoweth
Legislative Counsel 

This bill draft splits the authority for the contributions, leaving the existing contribution schedules for museums, libraries, and University purposes unaffected, but adding a credit for contributions to public educational radio and television networks and stations and endowments established to support them.

Unlike the original bill, this draft expands the credit to cover contributions that may be claimed as credits against insurance tax-related sources under AS 21.89.070--specifically, the insurance premium tax, AS 21.09.210, and the title insurance premium tax, AS 21.66.110. For the credits against that pair of taxes only, a different maximum is established. That ceiling may be lower than is provided in credits against other taxes. The credit ceiling for contributions claims as credits against the insurance taxes is further limited to "50 percent of the taxpayer's liability under [AS 21]." That limitation was in place for contributions made for libraries, museums, and university purposes and I simply extended it to cover contributions for public educational radio and television networks and stations and endowments established to support them.

My recollection is that the "50 percent of the taxpayer's liability under [AS 21]" language was included when the credit was first authorized under AS 21.89.070(a) to reflect the fact that (1) revenue derived from the insurance taxes were not significant--certainly in no way approximated amounts received from the corporate income tax or the severance tax, for example--and (2) that, without that kind of ceiling, it might be possible for the taxpayer to claim the entire amount of tax liability as a credit, thereby leaving no return of revenue to the state. Those considerations prompted me to bring the ceiling concept forward into this draft committee substitute.

JBC:glc
95-260.glc

Alaska State House of Representatives

House District 39

Session
Alaska State Capital
Juneau, Alaska 99801-1182
Phone: (907) 465-4942



Interim
P.O. Box 137
Akiak, Alaska 99552
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Representative Ivan M. Ivan

SECTIONAL ANALYSIS for HOUSE BILL 21

Section 1: Purpose statement. Describes which state taxes credits may be applied against for contributions to the Alaska public broadcasting trust fund established to benefit public broadcast stations.

Section 2: Extends tax credits for public broadcasting from the insurance premium tax and the tax on title insurance premiums. Increases the maximum credits under the insurance premium tax and the tax on title insurance premiums to \$300,000 or 50% of the taxpayer's tax liability. This is a new credit. This section also sunsets the public broadcast provisions on December 31, 2002, and reduces the contribution to \$200,000 after that date to universities, libraries and museums.

Section 3: Explains that contributions claimed as a credit under AS 21.89.070 may not exceed \$300,000 through December 31, 2002, may not exceed \$150,000 after that date and may not be claimed as a credit under more than one provision of this title. Also explains that a credit may not be allowed as a deduction against the tax imposed by this title or as a deduction against a tax imposed by AS 43.

Section 4: Establishes the Alaska Public Broadcasting Trust Fund under AS 37.14 to include the powers and duties of the commissioner, administration of the fund, powers and duties of the Public Broadcast Commission and uses of the fund.

Section 5: Extends tax credits for public broadcasting from the Alaska Net Income Tax program (AS 43.20). Increases the contributions to \$300,000 for all programs eligible to receive these contributions. This section also sunsets the public broadcast provisions on December 31, 2002, and reduces the contribution to \$200,000 after that date to universities, libraries and museums.

Section 6: Explains that contributions claimed as a credit under AS 43.20.014 may not exceed \$300,000, may not be claimed as a deduction against the tax imposed under this chapter and may not be claimed as a credit under more than one

provision of this title. The credits through December 31, 2002, may not exceed \$300,000 and after that date, may not exceed \$150,000.

Section 7: Extends tax credits for public broadcasting from the Oil and Gas Properties Production Tax program (AS 43.55). Allows for contributions up to \$300,000 to the public broadcast trust fund. This section also sunsets the public broadcast provisions on December 31, 2002, and reduces the contribution to \$200,000 after that date to universities, libraries and museums.

Section 8: Explains that contributions claimed as a credit under AS 43.55.019 may not exceed \$300,000, may not be allowed as a deduction against the tax imposed by this chapter or as a deduction against another tax imposed by this title and may not be claimed as a credit under more than one provision of this title. The credits through December 31, 2002, may not exceed \$300,000 and after that date, may not exceed \$150,000.

Section 9: Extends tax credits for contributions to the public broadcasting trust fund from the Oil and Gas Exploration, Production and Pipeline Transportation Property Tax program (AS 43.56). Allows for contributions up to \$300,000 to the public broadcast trust fund. This section also sunsets the public broadcast provisions on December 31, 2002, and reduces the contribution to \$200,000 after that date to universities, libraries and museums.

Section 10: Explains that contributions claimed as a credit under AS 43.56.018 may not exceed \$300,000, may not be allowed as a deduction against the tax imposed by this chapter or as a deduction against another tax imposed by this title and may not be claimed as a credit under more than one provision of this title. The credits through December 31, 2002, may not exceed \$300,000 and after that date, may not exceed \$150,000.

Section 11: Extends tax credits to the public broadcast trust fund from the Mining License Tax program (AS 43.65). Allows contributions up to \$300,000 to the public broadcast trust fund. This section also sunsets the public broadcast provisions on December 31, 2002, and reduces the contribution to \$200,000 after that date to universities, libraries and museums.

Section 12: Explains that contributions claimed as a credit under AS 43.65.018 may not exceed \$300,000, may not be allowed as a deduction against the tax imposed by this chapter or as a deduction against another tax imposed by this title and may not be claimed as a credit under more than one provision of this title. The credits

Page Three
Sectional Analysis
HB 21

through December 31, 2002, may not exceed \$300,000 and after that date, may not exceed \$150,000.

Section 13: Describes the duties of the Alaska Public Broadcast Commission in relation to the newly established public broadcast trust fund.

Section 14: Clarifies tax year application.

Section 15: Effective date of January 1, 1998.

KEY POINTS - House Bill 21

ESTABLISHES A TAX CREDIT FOR PUBLIC BROADCASTING

HB 21 would establish a tax credit for the Alaska public broadcasting trust fund and allow a contribution amount up to \$300,000 . The credit allowed for corporations paying state taxes is broken down as follows:

50% of the \$300,000= \$150,000

This bill also closes loopholes in current law which allow for both tax deductions and tax credits. Under HB 21, the credit cannot be used a deduction.

WHO CAN CONTRIBUTE

Any corporation or entity that pays a state tax for insurance premiums, title insurance premiums, the Alaska Net Income Tax (corporate income tax), oil and gas properties production, oil and gas exploration, production, and pipeline transportation property and mining license.

A corporation or entity paying state taxes can receive tax credits of up to \$150,000 for a contribution or contributions to the Alaska public broadcasting trust fund.

WHO CAN RECEIVE THE CONTRIBUTIONS UNDER HB 21?

The Alaska public broadcast trust fund is eligible to receive contributions. This trust is created in Section 4 of HB 21.

POLL

A statewide poll of 3900 Alaskans conducted by Willhight Research Corporation indicated that 65.4% of Alaskans support a corporate tax credit to public radio.

SUNSET

The public broadcasting portion of this bill sunsets on December 31, 2002. The contribution limit and those eligible to receive contributions reverts to current statute.

AFFECT ON THE TREASURY

There will be a slight loss in state revenues. Estimates range from \$650,000 to \$1.3 million. Hopefully, in the near future, state dollars will not be sought to fund operations of public broadcast stations.

TRUST FUND

The principal of the fund consists of any legislative appropriations and gifts, bequests and contributions. The commissioner of revenue is the treasurer of the fund and will provide oversight for its administration. The Public Broadcast Commission will award grants from the fund and also solicit contributions, gifts and bequests. The principal of the fund may not be used for awarding of grants. Net income from the fund may be appropriated by the legislature for grants, inflation proofing, and for reinvestment purposes.

WHY SHOULD PUBLIC BROADCASTING RECEIVE A CREDIT AND NOT OTHER GROUPS

The state has a special relationship with public broadcasting unlike any other non-profit organizations. In 1966, the state created the Alaska Educational Broadcast Commission to set up a state system of public broadcasting stations. The state applied for the licenses, hired the station managers and assisted in constructing the stations. A representative of the state, by regulation, sits on the board of directors of every station. Since the state created the system, there is a special obligation to assist local communities in maintaining the service. Most of these stations were on the air by 1981, before the huge influx of oil money into the state treasury.

200,000 Alaskans use public broadcasting every week, few, if any other, non-profits affect or serve this many Alaskans. This service is often the only communication service for the Bush and a major element in the state's emergency response system.

Sec. 21.89.070. Insurance tax credit for gifts to colleges.

(a) A taxpayer is allowed a credit against the tax due under AS 21.09.210 or AS 21.66.110 for cash contributions for direct instruction, research, and educational support purposes, including library and museum acquisitions, and contributions to endowment, that are accepted by a nonprofit, public or private, Alaska two-year or four-year college or university accredited by a regional accreditation association or that are accepted by an Alaska university foundation that supports a university or college that could receive a contribution for which a taxpayer may obtain a credit under this section. The amount of the credit is the lesser of

(1) an amount equal to

(A) 50 percent of contributions of not more than \$100,000; and

(B) 100 percent of the next \$100,000 of contributions; or

(2) 50 percent of the taxpayer's tax liability under this title.

(b) Each public college and university shall include in its annual operating budget request contributions received and how the contributions were used.

(c) A contribution claimed as a credit under this section may not

(1) be claimed as a credit under more than one provision of this title; and

(2) when combined with credits taken during the taxpayer's tax year under AS 43.20.014, AS 43.55.019, AS 43.56.018, AS 43.65.018, AS 43.75.018, or AS 43.77.045, exceed \$150,000.

History -

(sec. 3 ch 21 SLA 1994; am sec. 10 ch 126 SLA 1994; am sec. 15 ch 81 SLA 1996)

Cross References -

For legislative findings, intent, and purpose relating to the amendment of subsection (c) by ch. 81, SLA 1996, see sec. 1, ch. 81, SLA 1996 in the Temporary and Special Acts.

Amendment Notes -

The 1994 amendment, effective July 1, 1994, deleted the former first sentence in subsection (b), relating to the department's annual report for credits taken under this section.

The 1996 amendment, effective June 21, 1996, in subsection (c), inserted a section reference in paragraph (2) and made minor stylistic changes throughout.

Effective Date Notes -

Section 10, ch. 21, SLA 1994 makes this section effective May 6, 1994, in accordance with AS 01.10.070(c).

Editors Notes -

Under sec. 9, ch. 21, SLA 1994, ch. 21 is retroactive to January 1, 1994, and applies to contributions made under AS 21.89.070 after December 31, 1993. Section 29, ch. 81, SLA 1996 makes the 1996 amendment of subsection (c) retroactive to January 1, 1994.

Sec. 43.20.014. Income tax education credit.

(a) For cash contributions accepted for direct instruction, research, and educational support purposes, including library and museum acquisitions, and contributions to endowment, by an Alaska university foundation or by a nonprofit, public or private, Alaska two-year or four-year college accredited by a regional accreditation association, a taxpayer is allowed as a credit against the tax due under this chapter

(1) 50 percent of contributions of not more than \$100,000; and

(2) 100 percent of the next \$100,000 of contributions.

(b) [Repealed, sec. 12 ch 71 SLA 1991].

(c) Each public college and university shall include in its annual operating budget request contributions received and how the contributions were used.

(d) A contribution claimed as a credit under this section may not

(1) be claimed as a credit under another provision of this title;

(2) also be allowed as a deduction under 26 U.S.C. 170 against the tax imposed by this chapter; and

(3) when combined with credits taken during the taxpayer's tax year under AS 21.89.070, AS 43.55.019, AS 43.56.018, AS 43.65.018, AS 43.75.018, or AS 43.77.045, exceed \$150,000.

History -

(sec. 2 ch 58 SLA 1987; am sec. 45 ch 21 SLA 1991; am sec. 2, 3, 12 ch 71 SLA 1991; am sec. 4 ch 21 SLA 1994; am sec. 17 ch 126 SLA 1994; am sec. 16 ch 81 SLA 1996)

Revisors Notes -

In 1991, to harmonize the amendments made by chs. 21 and 71, SLA 1991, the words "by an Alaska" were inserted before "university foundation" in (a) of this section.

Cross References -

For statement of legislative purpose in connection with the enactment of this section, see sec. 1, ch. 58, SLA 1987, in the Temporary and Special Acts.

For legislative findings, intent, and purpose relating to the amendment of subsection (d) by ch. 81, SLA 1996, see sec. 1, ch. 81, SLA 1996 in the Temporary and Special Acts.

Amendment Notes -

The first 1991 amendment, effective June 11, 1991, in subsection (a), added "or university foundation" to the first sentence and made a stylistic change.

The second 1991 amendment, effective January 1, 1992, rewrote subsection (a), repealed subsection (b), and added subsection (d).

The first 1994 amendment, effective May 6, 1994, inserted a section reference in paragraph (d)(3).

The second 1994 amendment, effective July 1, 1994, deleted the former first sentence in subsection (c), relating to the annual departmental report on the credits taken under this section.

The 1996 amendment, effective June 21, 1996, in subsection (d), inserted a section reference in paragraph (3) and made minor stylistic changes throughout.

Editors Notes -

Section 13, ch. 71, SLA 1991 provides that the amendments made by the Act apply "to tax years beginning after December 31, 1991."

Section 9, ch. 21, SLA 1994 makes the 1994 amendment to (d)(3) of this section retroactive to January 1, 1994.

Section 29, ch. 81, SLA 1996 makes the 1996 amendment of subsection (d) retroactive to

January 1, 1994.

AG Opinions -

Contributions to a private nonprofit corporation that is raising money for a William A. Egan Instructional Program and Memorial at the University of Alaska are not eligible for the education tax credit, but contributions made directly to the University of Alaska for the memorial portion of the planned project would qualify for a credit if they were accepted for "library and museum acquisitions." February 10, 1989 Op. Att'y Gen.

Sec. 43.55.019. Oil or gas producer education credit.

(a) For cash contributions accepted for direct instruction, research, and educational support purposes, including library and museum acquisitions, and contributions to endowment, by an Alaska university foundation or by a nonprofit, public or private, Alaska two-year or four-year college accredited by a regional accreditation association, a producer of oil or gas is allowed as a credit against the tax due under this chapter

(1) 50 percent of contributions of not more than \$100,000; and

(2) 100 percent of the next \$100,000 of contributions.

(b) [Repealed, sec. 12 ch 71 SLA 1991].

(c) Each public college and university shall include in its annual operating budget request contributions received and how the contributions were used.

(d) A contribution claimed as a credit under this section may not

(1) be claimed as a credit under another provision of this title; and

(2) when combined with credits taken during the taxpayer's tax year under AS 21.89.070, AS 43.20.014, AS 43.56.018, AS 43.65.018, AS 43.75.018, or AS 43.77.045, exceed \$150,000.

(e) The department may, by regulation, establish procedures by which a taxpayer may allocate a pro rata share of a credit claimed under this section against monthly tax payments made during the tax year.

History -

(sec. 4 ch 58 SLA 1987; am sec. 49 ch 21 SLA 1991; am sec. 4, 5, 12 ch 71 SLA 1991; am sec. 5 ch 21 SLA 1994; am sec. 18 ch 126 SLA 1994; am sec. 17 ch 81 SLA 1996)

Revisors Notes -

References to "AS 43.55.011 - 43.55.150" were substituted for "this chapter" in (a) of this section in 1989 to reflect the enactment of AS 43.55.200 - 43.55.240.

In 1991, to harmonize the amendments made by chs. 21 and 71, SLA 1991, the words "by an Alaska" were inserted before "university foundation" in (a) of this section.

Cross References -

For statement of legislative purpose in connection with the enactment of this section, see sec. 1, ch. 58, SLA 1987 in the Temporary and Special Acts.

For legislative findings, intent, and purpose relating to the amendment of subsection (d) by ch. 81, SLA 1996, see sec. 1, ch. 81, SLA 1996 in the Temporary and Special Acts.

Amendment Notes -

The first 1991 amendment, effective June 11, 1991, in subsection (a), added "or university foundation" to the end of the first sentence.

The second 1991 amendment, effective January 1, 1992, rewrote subsection (a), repealed subsection (b), and added subsections (d) and (e).

The first 1994 amendment, effective May 6, 1994, inserted a section reference in paragraph (d)(2).

The second 1994 amendment, effective July 1, 1994, deleted the former first sentence in subsection (c), relating to the annual departmental report on the credits taken under this section.

The 1996 amendment, effective June 21, 1996, in paragraph (d)(2), inserted a section reference and made related stylistic changes.

Editors Notes -

Section 9, ch. 21, SLA 1994 makes the 1994 amendment to (d) of this section retroactive to January 1, 1994.

Section 29, ch. 81, SLA 1996 makes the 1996 amendment of subsection (d) retroactive to January 1, 1994.

Sec. 43.56.018. Oil or gas property education credit.

(a) For cash contributions accepted for direct instruction, research, and educational support purposes, including library and museum acquisitions, and contributions to endowment, by an Alaska university foundation or by a nonprofit, public or private, Alaska two-year or four-year college accredited by a regional accreditation association, the owner of property taxable under this chapter is allowed as a credit against the tax due under this chapter

- (1) 50 percent of contributions of not more than \$100,000; and
- (2) 100 percent of the next \$100,000 of contributions.

(b) [Repealed, sec. 12 ch 71 SLA 1991].

(c) Each public college and university shall include in its annual operating budget request contributions received and how the contributions were used.

(d) A contribution claimed as a credit under this section may not

- (1) be claimed as a credit under another provision of this title; and
- (2) when combined with credits taken during the taxpayer's tax year under AS 21.89.070, AS 43.20.014, AS 43.55.019, AS 43.65.018, AS 43.75.018, or AS 43.77.045, exceed \$150,000.

(e) The department may, by regulation, establish procedures by which a taxpayer may allocate a pro rata share of a credit claimed under this section against monthly tax payments made during the tax year.

History -

(sec. 5 ch 58 SLA 1987; am sec. 50 ch 21 SLA 1991; am sec. 6, 7, 12 ch 71 SLA 1991; am sec. 6 ch 21 SLA 1994; am sec. 19 ch 126 SLA 1994; am sec. 18 ch 81 SLA 1996)

Revisors Notes -

In 1991, to harmonize the amendments made by chs. 21 and 71, SLA 1991, the words "by an Alaska" were inserted before "university foundation" in (a) of this section.

Cross References -

For statement of legislative purpose in connection with the enactment of this section, see sec. 1, ch. 58, SLA 1987 in the Temporary and Special Acts.

For legislative findings, intent, and purpose relating to the amendment of subsection (d) by ch. 81, SLA 1996, see sec. 1, ch. 81, SLA 1996 in the Temporary and Special Acts.

Amendment Notes -

The first 1991 amendment, effective June 11, 1991, in subsection (a), added "or university foundation" to the end of the first sentence.

The second 1991 amendment, effective January 1, 1992, rewrote subsection (a), repealed subsection (b), and added subsections (d) and (e).

The first 1994 amendment, effective May 6, 1994, inserted a section reference in paragraph (d)(2).

The second 1994 amendment, effective July 1, 1994, deleted the former first sentence in subsection (c), relating to the annual departmental report on the credits taken under this section.

The 1996 amendment, effective June 21, 1996, in paragraph (d)(2), inserted a section reference and made related stylistic changes.

Editors Notes -

Section 9, ch. 21, SLA 1994 makes the 1994 amendment to (d) of this section retroactive to January 1, 1994.

Section 29, ch. 81, SLA 1996 makes the 1996 amendment of subsection (d) retroactive to January 1, 1994.

Sec. 43.65.013. Mining business education credit.

(a) For cash contributions accepted for direct instruction, research, and educational support purposes, including library and museum acquisitions, and contributions to endowment, by an Alaska university foundation or by a nonprofit public or private, Alaska two-year or four-year college accredited by a regional accreditation association, a person engaged in the business of mining in the state is allowed as a credit against the tax due under this chapter

(1) 50 percent of contributions of not more than \$100,000; and

(2) 100 percent of the next \$100,000 of contributions.

(b) [Repealed, sec. 12 ch 71 SLA 1991].

(c) Each public college and university shall include in its annual operating budget request contributions received and how the contributions were used.

(d) A contribution claimed as a credit under this section may not

(1) be claimed as a credit under another provision of this title; and

(2) when combined with credits taken during the taxpayer's tax year under AS 21.89.070, AS 43.20.014, AS 43.55.019, AS 43.56.018, AS 43.75.018, or AS 43.77.045, exceed \$150,000.

History -

(sec. 6 ch 58 SLA 1987; am sec. 51 ch 21 SLA 1991; am sec. 8, 9, 12 ch 71 SLA 1991; am sec. 7 ch 21 SLA 1994; am sec. 20 ch 126 SLA 1994; am sec. 19 ch 81 SLA 1996)

Revisors Notes -

In 1991, to harmonize the amendments made by chs. 21 and 71, SLA 1991, the words "by an Alaska" were inserted before "university foundation" in (a) of this section.

Cross References -

For statement of legislative purpose in connection with the enactment of this section, see sec. 1, ch. 58, SLA 1987 in the Temporary and Special Acts.

For legislative findings, intent, and purpose relating to the amendment of subsection (d) by ch. 81, SLA 1996, see sec. 1, ch. 81, SLA 1996 in the Temporary and Special Acts.

Amendment Notes -

The first 1991 amendment, effective June 11, 1991, in subsection (a), added "or university foundation" to the end of the first sentence.

The second 1991 amendment, effective January 1, 1992, rewrote subsection (a), repealed subsection (b), and added subsection (d).

The first 1994 amendment, effective May 6, 1994, inserted a section reference in paragraph (d)(2).

The second 1994 amendment, effective July 1, 1994, deleted the former first sentence in subsection (c), relating to the annual departmental report on the credits taken under this section.

The 1996 amendment, effective June 21, 1996, in paragraph (d)(2), inserted a section reference and made related stylistic changes.

Editors Notes -

Section 9, ch. 21, SLA 1994 makes the 1994 amendment to (d) of this section retroactive to January 1, 1994.

Section 29, ch. 81, SLA 1996 makes the 1996 amendment of subsection (d) retroactive to January 1, 1994.

Sec. 44.21.266. Duties of the commission.

The commission shall

(1) apply for federal and private funds for public broadcasting purposes and receive all federal, state, or private funds, property, or assistance that may be appropriated, granted, or otherwise made available to the commission for public broadcasting purposes, and use and disburse funds and property for purposes consistent with the terms of AS 44.21.256 - 44.21.290, subject to reasonable limitations imposed by the grantor;

(2) provide consultative services in all aspects of public broadcasting to all public or private agencies in the state that request them;

(3) serve as a library and clearinghouse for public broadcasting information;

(4) through grants to qualified entities, develop an integrated public broadcasting network for the state;

(5) through grants to qualified entities, develop and distribute public broadcasting programming in the state;

(6) prepare and submit to the governor and the legislature, in compliance with the state information systems plan adopted by the Telecommunications Information Council in the Office of the Governor, a long-term plan for the development of public broadcasting stations and systems in the state, and biennially update the plan; and

(7) perform all other functions necessary to ensure the orderly and coordinated development of public broadcasting in the state.

History -

(sec. 1 ch 153 SLA 1970; am sec. 4, 7 ch 87 SLA 1976; am E.O. No. 50, sec. 4 (1981); am sec. 8 ch 53 SLA 1987; am sec. 7 ch 134 SLA 1990)

Revisors Notes -

Formerly AS 14.58.060. Renumbered in 1981.

Amendment Notes -

The 1990 amendment substituted "biennially" for "annually" near the end of paragraph (6) and made grammatical and punctuation changes.

Alaska State House of Representatives
House District 39

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Representative Ivan M. Ivan

MEMORANDUM

TO: Representative Jeannette James, Chair
House State Affairs Committee

FROM: Representative Ivan M. Ivan *I.M.I.*

DATE: January 14, 1997

RE: Request for Scheduling of House Bill 21

I respectfully request the scheduling of House Bill 21: Tax Credit: Gifts to Public Broadcasting, before the House State Affairs Committee at your earliest possible convenience.

This bill would provide for a tax credit for contributions made to instate public educational radio and television networks and stations. The credit is limited to 50% of \$300,000.

With cuts to public broadcasting, I believe it is imperative we present options to entities such as public broadcasting to make up for any general fund reductions. The tax credit provides one of those options.

Thank you for your consideration of my request. Please contact my aide, Tom Wright, if you require further information or if you have any questions.

IMI/tw

Revision Date: _____ Dept. Affected: Revenue
 Title: Tax Credit: Gifts to Public Broadcasting BRU: Revenue Operations
 Component: Income and Excise Audit
 Sponsor: REP IVAN, Grussendorf
 Requestor: (H) STA COMPONENT SERIAL NO. 113

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 (GF)	0.0	(650.0) - (1,300.0)	(650.0) - (1,300.0)	(650.0) - (1,300.0)	(650.0) - (1,300.0)	(650.0) - (1,300.0)
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1005 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 (FY97) cost \$ 0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

(See Attached Analysis)

Prepared by: Paul E. Dick
 Division: Income and Excise Audit Division
 Approved by Commissioner: Wilson L. Condon
 Agency: Revenue

Phone: 465-3691
 Date: January 15, 1997
 Date: January 15, 1997

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Alaska Department of Revenue
Income and Excise Audit Division

HB 21

Tax Credit: Gifts to Public Broadcasting

January 15, 1997

Page 2 of 3

BILL ANALYSIS

Section 1 states that the purpose of this bill is to extend credits, against state taxes listed below, for contributions made to the Alaska public broadcasting trust fund established under AS 37.14.

Insurance Premiums (AS 21.89.070)

Corporation Net Income (AS 43.20.014)

Oil and Gas Severance (AS 43.55.019)

Oil and Gas Property (AS 43.56.018)

Mining License (AS 43.65.018)

Sections 2, 5, 7, 9 and 11 amend education tax credit statutes under the above tax programs to authorize a credit for contributions made to the public broadcasting trust fund. Credits would be limited to 50% of annual contributions of not more than \$300,000. The public broadcasting credit would sunset December 31, 2002.

Section 3, 6, 8, 10 and 12 amend education tax credit statutes to prohibit taxpayers from taking contributions as deductions against a tax under AS 43. Total credits, when combined with credits under other tax programs, may not exceed \$300,000 through December 31, 2002 and \$150,000 after December 31, 2002.

Section 4 establishes the Alaska Public Broadcasting Trust Fund under AS 37.14. The fund, a separate endowment trust fund, would be administered by the Alaska Public Broadcasting Commission. The commissioner of the Department of Revenue would act as treasurer of the fund and oversee fund investment.

Section 13 amends AS 44.21.266 (duties of the Alaska Public Broadcasting Commission) to include responsibility for administration of the public broadcasting fund.

Section 14 authorizes that the public broadcasting tax credit provisions apply to tax years beginning after the December 31 that precedes the effective date of this bill.

Section 16 provides for a January 1, 1998 effective date.

HB 21

Tax Credit: Gifts to Public Broadcasting

January 15, 1997

Page 3 of 3

Operating Costs

Department of Revenue does not anticipate any additional costs for administering the public broadcasting tax credit program. The department would update its tax forms to allow taxpayers to claim a credit for qualified contributions to the public broadcasting trust fund.

Revenue

According to most recent data compiled from reports submitted to the Department of Administration's Public Broadcasting Commission, corporation contributions to public broadcasting during FY 94 were approximately \$1.3 million. Contributions were individually less than \$100,000. Assuming that tax liabilities are greater than the 50% of qualified contributions and taxpayers claim the full 50% credit amount, the minimum range of total credits claimed under the public broadcasting tax credit program would be \$650,000 (50% of \$1.3 million).

In calculating the maximum range of credits claimed under this program, the department assumed that contributions, from both current and new donors, would double the contributions received (due to added incentive of credit). This would result in potential contributions of \$2.6 million to the trust fund. Accordingly, the maximum range of public broadcasting tax credits would be \$1.3 million (50% of \$2.6 million).

Revision Date: _____ Dept. Affected: Revenue
 Title: Tax Credit: Gifts to Public Broadcasting BRU: Revenue Operations
 Component: Treasury
 Sponsor: Rep. IVAN, Grussendorf
 Requestor: (H) STA COMPONENT SERIAL NO. 121

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	10.4	10.9	11.3	11.8	12.3	12.8
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	10.4	10.9	11.3	11.8	12.3	12.8

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	(22.7)	(23.0)	(23.3)	(23.7)	(24.0)	(24.3)
1005 GF/Program Receipts						
Public Broadcasting Trust Fund	33.1	33.9	34.6	35.5	36.3	37.1
1048 University of AK receipts						
TOTAL	10.4	10.9	11.3	11.8	12.3	12.8

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The reduction in general funds represents a charge of 1% of the Division's total personal services budget. The Division allocates a percentage of personal services to cover the cost of internal portfolio management, accounting and data processing support, the external audit, and a share of other departmental costs (i.e. supplies, equipment, etc.). This allocation to the Trust Fund will result in a corresponding reduction in general fund funding.

Contractual costs include external equity investment management fees and custody fees. Equity fees are 1 bp (.01%) of assets managed. Custody costs include an annual minimum charge of \$10.0 for 2 separate accounts to hold principal assets and income assets physically separate as required by the legislation. There is an additional 1 bp point fee charged on total assets held in custody. *Custody costs could be reduced by \$5.0 if the legislation wording was changed to require the separate accounting only of the principal and income, not the actual physical separation of the amounts.*

Assumptions:

\$2.6 million/year in contributions (this is double the contributions received in FY94).
 Asset allocation = 60% equity and 40% fixed income.

Prepared by: Betty Martin, Comptroller Phone: 465-2350
 Division: Treasury Date: January 16, 1997
 Approved by Commissioner: Deborah Vogt, Deputy Commissioner Date: January 16, 1997
 Agency: Department of Revenue

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DOR
Treasury Division
HB 21 Backup

		FY98	FY99	FY00	FY01	FY02	FY03
Beginning balance, principal assets		-	2,699,840	5,503,354	8,414,523	11,437,480	14,576,520
Contributions	1)	2,600,000	2,600,000	2,600,000	2,600,000	2,600,000	2,600,000
Appreciation and realized gains and losses	2)	99,840	203,514	311,169	422,958	539,039	659,578
Ending balance, principal assets		<u>2,699,840</u>	<u>5,503,354</u>	<u>8,414,523</u>	<u>11,437,480</u>	<u>14,576,520</u>	<u>17,836,098</u>
Annual income distributed to income assets for use by Public Broadcast Commission	2)	<u>119,080</u>	<u>242,733</u>	<u>371,134</u>	<u>504,465</u>	<u>642,917</u>	<u>786,685</u>
Cumulative income distributed to income assets for use by PBC		<u>119,080</u>	<u>361,813</u>	<u>732,946</u>	<u>1,237,411</u>	<u>1,880,328</u>	<u>2,667,013</u>
Treasury Costs:							
Investment management fees	3)	162	330	505	686	875	1,070
Custody fees	4)	10,270	10,550	10,841	11,144	11,458	11,784
Personal services, audit, administrative	5)	22,700	23,018	23,340	23,667	23,998	24,334
		<u>33,132</u>	<u>33,898</u>	<u>34,686</u>	<u>35,497</u>	<u>36,330</u>	<u>37,188</u>

- 1) FY94 contributions to public broadcasting were approximately \$1.3 million. Department of Revenue, Income and Excise Tax staff estimates the maximum effect of this legislation would be to double these contributions. For purposes of this fiscal note we have assumed \$2.6 million in contributions per year.
- 2) Based upon an asset allocation of 60% equity and 40% fixed income, the total estimated return is 8.42%. This total return includes 3.84% appreciation and realized gains and losses plus 4.58% dividend and interest income to be distributed to for the use of the PBC. These calculations assume all contributions are received at the beginning of each year.
- 3) Calculated as each year's projected ending principal assets balance * 60% invested in equities * a 1 bp (.01%) management fee.
- 4) The suggested legislation requires that the principal and income amounts be deposited into separate accounts. There is a \$5,000 minimum annual charge for establishing new accounts with the custodial bank, plus a 1 bp (.01%) fee. This amount could be reduced by \$5,000/year if the wording of the legislation was changed to require separate accounting only, not the physical separation of the funds.
- 5) Treasury allocates 1% of personal services to endowment funds managed to cover the cost of portfolio management, accounting staff, the external audit, dp support and a share of other departmental costs (i.e., supplies, equipment, etc.)

HB

37

0-LS0227AE
Lauterbach
1/21/97

CS FOR HOUSE BILL NO. 37()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES KELLY, KOHRNG, VEZEY, AND MULDER, Ogan, Dyson, Martin

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a requirement that a parent, guardian, or custodian consent
2 before certain minors receive an abortion; establishing a judicial bypass procedure
3 by which a minor may petition a court for authorization to consent to an
4 abortion without consent of a parent, guardian, or custodian; amending the
5 definition of 'abortion'; and amending Rules 40 and 79, Alaska Rules of Civil
6 Procedure; Rules 204, 210, 212, 213, 508, and 512.5, Alaska Rules of Appellate
7 Procedure; and Rule 9, Alaska Administrative Rules."

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

9 * Section 1. PURPOSE; FINDINGS. (a) It is the intent of the legislature in enacting this
10 Act to further the important and compelling state interests of

- 11 (1) protecting minors against their own immaturity;
- 12 (2) fostering the family structure and preserving it as a viable social unit;

1 (3) protecting the rights of parents to rear children who are members of their
2 household; and

3 (4) protecting the health of minor women.

4 (b) The legislature finds that

5 (1) immature minors often lack the ability to make fully informed choices that
6 take account of both immediate and long-range consequences;

7 (2) the physical, emotional, and psychological consequences of abortion are
8 serious and can be lasting particularly when the patient is immature;

9 (3) the capacity to become pregnant and the capacity for mature judgment
10 concerning the wisdom of an abortion are not necessarily related;

11 (4) parents ordinarily possess information essential to a physician's or surgeon's
12 best medical judgment concerning the child;

13 (5) parents who are aware that their minor daughter has had an abortion may
14 better ensure that the daughter receives adequate medical attention after the abortion;

15 (6) parental consultation is usually desirable and in the best interest of the
16 minor; and

17 (7) parental involvement legislation enacted in other states has shown to have
18 a significant effect in reducing abortion, birth, and pregnancy rates among minors.

19 * Sec. 2. AS 18.16.010(a) is amended to read:

20 (a) An abortion may not be performed in this state unless

21 (1) the abortion is performed by a physician or surgeon licensed by the
22 State Medical Board under AS 08.64.200;

23 (2) the abortion is performed in a hospital or other facility approved for
24 the purpose by the Department of Health and Social Services or a hospital operated by
25 the federal government or an agency of the federal government;

26 (3) before an abortion is knowingly performed on an unmarried,
27 unemancipated woman under 18 years of age, consent has been given as required
28 under AS 18.16.020 or a court has authorized the minor to consent to the abortion
29 under AS 18.16.030 and the minor consents; for purposes of enforcing this
30 paragraph, there is a rebuttable presumption that a woman who is unmarried and
31 under 18 years of age is unemancipated [CONSENT HAS BEEN RECEIVED

1 FROM THE PARENT OR GUARDIAN OF AN UNMARRIED WOMAN LESS
2 THAN 18 YEARS OF AGE]; and

3 (4) the woman is domiciled or physically present in the state for 30
4 days before the abortion.

5 * Sec. 3. AS 18.16.010 is amended by adding new subsections to read:

6 (e) A person who performs or induces an abortion in violation of (a)(3) of this
7 section is civilly liable to the pregnant woman and the woman's parents, guardian, or
8 custodian for compensatory and punitive damages.

9 (f) It is an affirmative defense to a prosecution or claim for a violation of
10 (a)(3) of this section that the pregnant woman provided the person who performed or
11 induced the abortion with false, misleading, or incorrect information about the
12 woman's age, marital status, or emancipation, and the person who performed or
13 induced the abortion did not otherwise have reasonable cause to believe that the
14 pregnant woman was under 18 years of age, unmarried, or unemancipated.

15 (g) It is an affirmative defense to a prosecution or claim for violation of (a)(3)
16 of this section that compliance with the requirements of (a)(3) of this section was not
17 possible because an immediate threat of serious risk to the life or physical health of
18 the pregnant woman from the continuation of the pregnancy created a medical
19 emergency necessitating the immediate performance or inducement of an abortion. In
20 this subsection, "medical emergency" means a condition that, on the basis of the
21 physician's or surgeon's good faith clinical judgment, so complicates the medical
22 condition of a pregnant woman that

23 (1) an immediate abortion of the woman's pregnancy is necessary to
24 avert the woman's death; or

25 (2) a delay in providing an abortion will create serious risk of
26 substantial and irreversible impairment of a major bodily function of the pregnant
27 woman.

28 * Sec. 4. AS 18.16 is amended by adding new sections to read:

29 **Sec. 18.16.020. Consent required before minor's abortion.** A person may
30 not knowingly perform or induce an abortion upon a woman who is known to the
31 person to be pregnant, unmarried, under 18 years of age, and unemancipated unless,

1 before the abortion, at least one of the following applies:

2 (1) one of the woman's parents or the woman's guardian or custodian
3 has consented in writing to the performance or inducement of the abortion;

4 (2) a court issues an order under AS 18.16.030 authorizing the woman
5 to consent to the abortion without consent of a parent, guardian, or custodian and the
6 woman consents to the abortion; or

7 (3) a court, by its inaction under AS 18.16.030, constructively has
8 authorized the woman to consent to the abortion without consent of a parent, guardian,
9 or custodian and the woman consents to the abortion.

10 **Sec. 18.16.030. Judicial bypass for minor seeking an abortion.** (a) A
11 woman who is pregnant, unmarried, under 18 years of age, and unemancipated who
12 wishes to have an abortion without the consent of a parent, guardian, or custodian may
13 file a complaint in the superior court requesting the issuance of an order authorizing
14 the woman to consent to the performance or inducement of an abortion without the
15 consent of a parent, guardian, or custodian.

16 (b) The complaint shall be made under oath and must include all of the
17 following:

18 (1) a statement that the complainant is pregnant;

19 (2) a statement that the complainant is unmarried, under 18 years of
20 age, and unemancipated;

21 (3) a statement that the complainant wishes to have an abortion without
22 the consent of a parent, guardian, or custodian;

23 (4) an allegation of either or both of the following:

24 (A) that the complainant is sufficiently mature and well enough
25 informed to decide intelligently whether to have an abortion without the
26 consent of a parent, guardian, or custodian; or

27 (B) that one or both of the woman's parents or the woman's
28 guardian or custodian was engaged in a pattern of physical, sexual, or
29 emotional abuse against the woman, or that the consent of a parent, guardian,
30 or custodian otherwise is not in the woman's best interest;

31 (5) a statement as to whether the complainant has retained an attorney

1 and, if an attorney has been retained, the name, address, and telephone number of the
2 attorney.

3 (c) The court shall fix a time for a hearing on any complaint filed under (a)
4 of this section and shall keep a record of all testimony and other oral proceedings in
5 the action. The hearing shall be held at the earliest possible time, but not later than
6 the fifth business day after the day that the complaint is filed. The court shall enter
7 judgment on the complaint immediately after the hearing is concluded. If the hearing
8 required by this subsection is not held by the fifth business day after the complaint
9 is filed, the failure to hold the hearing shall be considered to be a constructive order
10 of the court authorizing the complainant to consent to the performance or inducement
11 of an abortion without the consent of a parent, guardian, or custodian, and the
12 complainant and any other person may rely on the constructive order to the same
13 extent as if the court actually had issued an order under this section authorizing the
14 complainant to consent to the performance or inducement of an abortion without such
15 consent.

16 (d) If the complainant has not retained an attorney, the court shall appoint an
17 attorney to represent the complainant.

18 (e) If the complainant makes only the allegation set out in (b)(4)(A) of this
19 section and if the court finds by clear and convincing evidence that the complainant
20 is sufficiently mature and well enough informed to decide intelligently whether to have
21 an abortion, the court shall issue an order authorizing the complainant to consent to
22 the performance or inducement of an abortion without the consent of a parent,
23 guardian, or custodian. If the court does not make the finding specified in this
24 subsection, it shall dismiss the complaint.

25 (f) If the complainant makes only the allegation set out in (b)(4)(B) of this
26 section and the court finds by clear and convincing evidence that there is evidence of
27 a pattern of physical, sexual, or emotional abuse of the complainant by one or both of
28 the woman's parents or the woman's guardian or custodian, or that the consent of the
29 parents, guardian, or custodian of the complainant otherwise is not in the best interest
30 of the complainant, the court shall issue an order authorizing the complainant to
31 consent to the performance or inducement of an abortion without the consent of a

1 parent, guardian, or custodian. If the court does not make the finding specified in this
2 subsection, it shall dismiss the complaint.

3 (g) If the complainant makes both of the allegations set out in (b)(4) of this
4 section, the court shall proceed as follows:

5 (1) the court first shall determine whether it can make the finding
6 specified in (e) of this section and, if so, shall issue an order under that subsection; if
7 the court issues an order under this paragraph, it may not proceed under (f) of this
8 section; if the court does not make the finding specified in (e) of this section, it shall
9 proceed under (2) of this subsection;

10 (2) if the court under (1) of this subsection does not make the finding
11 specified in (e) of this section, it shall proceed to determine whether it can make the
12 finding specified in (f) of this section and, if so, shall issue an order under that
13 subsection; if the court does not make the finding specified in (f) of this section, it
14 shall dismiss the complaint.

15 (h) The court may not notify the parents, guardian, or custodian of the
16 complainant that the complainant is pregnant or wants to have an abortion.

17 (i) If the court dismisses the complaint, the complainant has the right to appeal
18 the decision to the supreme court, and the superior court immediately shall notify the
19 complainant that there is a right to appeal.

20 (j) If the complainant files a notice of appeal authorized under this section, the
21 superior court shall deliver a copy of the notice of appeal and the record on appeal to
22 the supreme court within four days after the notice of appeal is filed. Upon receipt of
23 the notice and record, the clerk of the supreme court shall place the appeal on the
24 docket. The appellant shall file a brief within four days after the appeal is docketed.
25 Unless the appellant waives the right to oral argument, the supreme court shall hear
26 oral argument within five days after the appeal is docketed. The supreme court shall
27 enter judgment in the appeal immediately after the oral argument or, if oral argument
28 has been waived, within five days after the appeal is docketed. Upon motion of the
29 appellant and for good cause shown, the supreme court may shorten or extend the
30 maximum times set out in this subsection. However, in any case, if judgment is not
31 entered within five days after the appeal is docketed, the failure to enter the judgment

1 shall be considered to be a constructive order of the court authorizing the appellant to
2 consent to the performance or inducement of an abortion without the consent of a
3 parent, guardian, or custodian, and the appellant and any other person may rely on the
4 constructive order to the same extent as if the court actually had entered a judgment
5 under this subsection authorizing the appellant to consent to the performance or
6 inducement of an abortion without consent of another person. In the interest of justice,
7 the supreme court, in an appeal under this subsection, shall liberally modify or
8 dispense with the formal requirements that normally apply as to the contents and form
9 of an appellant's brief.

10 (k) Each hearing under this section, and all proceedings under (j) of this
11 section, shall be conducted in a manner that will preserve the anonymity of the
12 complainant. The complaint and all other papers and records that pertain to an action
13 commenced under this section, including papers and records that pertain to an appeal
14 under this section, shall be kept confidential and are not public records under
15 AS 09.25.110 - 09.25.120.

16 (l) The supreme court shall prescribe complaint and notice of appeal forms that
17 shall be used by a complainant filing a complaint or appeal under this section. The
18 clerk of each superior court shall furnish blank copies of the forms, without charge,
19 to any person who requests them.

20 (m) A filing fee may not be required of, and court costs may not be assessed
21 against, a complainant filing a complaint under this section or an appellant filing an
22 appeal under this section

23 **Sec. 18.16.090. Definitions.** In this chapter,

24 (1) "abortion" means the use or prescription of an instrument, medicine,
25 drug, or other substance or device to terminate the pregnancy of a woman known to
26 be pregnant, except that "abortion" does not include the termination of a pregnancy if
27 done with the intent to

28 (A) save the life or preserve the health of the unborn child;

29 (B) deliver the unborn child prematurely to preserve the health
30 of both the pregnant woman and the woman's child; or

31 (C) remove a dead unborn child;

1 (2) "unemancipated" means that a woman who is unmarried and under
2 18 years of age has not done any of the following:

3 (A) entered the armed services of the United States;

4 (B) become employed and self-subsisting;

5 (C) been emancipated under AS 09.55.590; or

6 (D) otherwise become independent from the care and control of
7 the woman's parent, guardian, or custodian.

8 * Sec. 5. AS 44.21.410(a) is amended to read:

9 (a) The office of public advocacy shall

10 (1) perform the duties of the public guardian under AS 13.26.360 -
11 13.26.410;

12 (2) provide visitors and experts in guardianship proceedings under
13 AS 13.26.131;

14 (3) provide guardian ad litem services to children in child protection
15 actions under AS 47.17.030(e) and to wards and respondents in guardianship
16 proceedings who will suffer financial hardship or become dependent upon a
17 government agency or a private person or agency if the services are not provided at
18 state expense under AS 13.26.112;

19 (4) provide legal representation in cases involving judicial bypass
20 procedures for minors seeking abortions under AS 18.16.030, in guardianship
21 proceedings to respondents who are financially unable to employ attorneys under
22 AS 13.26.106(b), to indigent parties in cases involving child custody in which the
23 opposing party is represented by counsel provided by a public agency, to indigent
24 parents or guardians of a minor respondent in a commitment proceeding concerning
25 the minor under AS 47.30.775;

26 (5) provide legal representation and guardian ad litem services under
27 AS 25.24.310; in cases arising under AS 47.15 (Uniform Interstate Compact on
28 Juveniles); in cases involving petitions to adopt a minor under AS 25.23.125(b) or
29 petitions for the termination of parental rights on grounds set out in
30 AS 25.23.180(c)(3); in cases involving petitions to remove the disabilities of a minor
31 under AS 09.55.590; in children's proceedings under AS 47.10.050(a) or under

1 AS 47.12.090; in cases involving appointments under AS 18.66.100(a) in petitions for
2 protective orders on behalf of a minor; and in cases involving indigent persons who
3 are entitled to representation under AS 18.85.100 and who cannot be represented by
4 the public defender agency because of a conflict of interests;

5 (6) develop and coordinate a program to recruit, select, train, assign,
6 and supervise volunteer guardians ad litem from local communities to aid in delivering
7 services in cases in which the office of public advocacy is appointed as guardian ad
8 litem;

9 (7) provide guardian ad litem services in proceedings under
10 AS 12.45.046;

11 (8) establish a fee schedule and collect fees for services provided by
12 the office, except as provided in AS 18.85.120 or when imposition or collection of a
13 fee is not in the public interest as defined under regulations adopted by the
14 commissioner of administration;

15 (9) provide visitors and guardians ad litem in proceedings under
16 AS 47.30.839;

17 (10) provide legal representation to indigent parents under
18 AS 14.30.195(e).

19 * Sec. 6. AS 18.16.010(d) is repealed.

20 * Sec. 7. AS 18.16.030(c), added by sec. 4 of this Act, has the effect of amending Rule
21 40, Alaska Rules of Civil Procedure, by setting a specific timetable for hearing certain cases.

22 * Sec. 8. AS 18.16.030(j), added by sec. 4 of this Act, has the effect of amending Rules
23 204, 210, 212, and 213, Alaska Rules of Appellate Procedure, by establishing specific time
24 limits applicable to certain appeals and by instructing the supreme court to modify or dispense
25 with formal requirements applicable to certain briefs.

26 * Sec. 9. AS 18.16.030(k), added by sec. 4 of this Act, has the effect of amending Rule
27 512.5, Alaska Rules of Appellate Procedure, by making certain appellate records and papers
28 confidential.

29 * Sec. 10. AS 18.16.030(m), added by sec. 4 of this Act, has the effect of amending Rule
30 9, Alaska Administrative Rules, Rule 79, Alaska Rules of Civil Procedure, and Rule 508,
31 Alaska Rules of Appellate Procedure, by prohibiting filing fees and assessment of court costs

1 in certain actions.

Date of Committee Action: 2/15/97

The STATE AFFAIRS Committee considered:

HB 37

HOUSE BILL NO. 37

PARENTAL CONSENT BEFORE MINOR'S ABORTION

"An Act relating to a requirement that a parent, guardian, or custodian consent before certain minors receive an abortion; establishing a judicial bypass procedure by which a minor may petition a court for authorization to consent to an abortion without consent of a parent, guardian, or custodian; amending the definition of 'abortion'; and amending Rules 40 and 79, Alaska Rules of Civil Procedure; Rules 204, 210, 212, 213, 508, and 512.5, Alaska Rules of Appellate Procedure; and Rule 9, Alaska Administrative Rules."

recommends it be replaced with the following committee substitute CSHB 37 (STA) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

TACHFS NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) Admin, HSS, COURT fiscal note(s) _____

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

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>		<input checked="" type="checkbox"/>		
<i>[Signature]</i>		<input checked="" type="checkbox"/>		
<i>Jennette James</i>	<input checked="" type="checkbox"/>			

CHAIR'S SIGNATURE Jennette James

STATE OF ALASKA
HOUSE OF REPRESENTATIVES

Representative Jeannette James



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POSITION PAPER

PARENTAL CONSENT BEFORE A MINOR'S ABORTION

by Representative Jeannette James

**In my opinion this is NOT an abortion issue.
It is a PARENTS' RIGHTS issue.**

**Is the government in charge of children, or
are parents in charge of their children?**

Over the last thirty years, I have watched government erode our family structure. Recently the government has taken on the role of child advocacy to the extent that parents are almost excluded. It seems as if the government agencies feel they can play the parental role better than parents can.

Why are parents not given the right to be included in decisions regarding abortion when they are REQUIRED to be included in

other decisions affecting their minor children? Every minor child has a parent or guardian who is responsible for his or her welfare. The government has no right to infringe on this responsibility without proving that the parent or guardian is deficient.

Granted there are a small number of dysfunctional families where the minor girl needs to be allowed judicial by-pass in seeking an abortion, and this is provided. We all want to protect children from abuse. But the vast majority of healthy, loving parents cannot continue to be penalized and robbed of involvement and respect.

In our country today, parents are being given more and more legal RESPONSIBILITY for their children's actions, and at the same time less and less legal AUTHORITY to control them. Instead of the government encouraging children to tell their parents what to do, parents must be put back into a position of authority and respect within their own families. Our family structure needs to be strengthened, not continually weakened by more and more governmental intrusion. Requiring parental consent before a minor girl can have an abortion is NOT increasing governmental interference into family life. It is REMOVING one aspect of governmental interference.

We must give parents back the right to be involved in the lives and decisions of their children.

Alaska State Legislature

REPRESENTATIVE

PETER KELLY

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House District 31

House Of Representatives

Sponsor Statement

CSHB 37

Parental Consent for Minor's Abortion

House Bill 37 allows enforcement of existing law requiring parental consent before an abortion can be performed on a minor. Parental consent is required under AS 18.16.010, approved by the legislature in 1970. However, a 1976 Attorney General's Opinion declared the statute unenforceable as it lacks a judicial bypass provision which would enable a minor to receive permission from a judge as an alternative to a parent. Various Supreme Court decisions have held that judicial bypass is necessary if parental consent laws are to meet constitutional muster. HB 37 adds the necessary bypass.

In other states, parental involvement laws have had a positive impact, reducing both the number of abortions *and* the number of teen pregnancies. During the first six years Minnesota's parental involvement law was in effect, the teen pregnancy rate fell 20.5 percent, teen abortions declined 27.4 percent, and the teen birth rate went down 12.5 percent.

HB 37 also upholds the rights of parents, which are uniquely disregarded in the area of abortion. Parental consent is required for virtually every medical procedure. An exception should not exist for abortion. In Alaska, young people under 18 are not considered mature enough to be served alcohol, buy cigarettes, or vote in elections. Even marriage is not permitted unless a parent consents. But a teenager can obtain an abortion, even one paid for by the State, and the parents are not required to be notified of the fact.

A clear majority of Alaskans (78%) expressed support for parental consent legislation considered in the 19th Legislature. Parental involvement laws are on the books in 38 states. These statutes are enforced in 27 of these states.

Alaska State Legislature

REPRESENTATIVE
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House District 31

House Of Representatives

TO: Representative Jeannette James, Chair
House State Affairs Committee

FROM: Representative Pete Kelly 

DATE: January 23, 1997

RE: CS for HB 37



HB 37 lowers the age for which consent is required from 18 to 16. I would like the State Affairs Committee to offer the attached CS amending HB 37 to require consent for minors under the age of 18. This will change our bill to match SB 24 sponsored by Senator Leman.

Alaska State Legislature

REPRESENTATIVE

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House District 31

House Of Representatives

Sectional Analysis

CSHB 37

Parental Consent for Minor's Abortion

Section 1: Purpose and Legislative findings

- Intent of legislation is to protect the health and welfare of minors, foster and preserve the family structure as a viable social unit, and protect the rights of parents to rear their children.
- The legislature finds that parents often possess information on the medical history of the minor that is essential to a physician's or surgeon's medical judgement.
- The legislature also finds that minors stand to benefit from parental counsel; the capacity to become pregnant and the capacity for mature judgment concerning the wisdom of an abortion are not necessarily related.

Section 2: Amends Title 18 of Alaska Statutes (Health & Safety)

- Repeals existing language on parental consent [AS 18.16.010(a)(3)] and replaces it with language requiring either parental consent or court authorization before an abortion can be performed on an unemancipated minor. The bill establishes a rebuttable presumption that an unmarried woman under 18 is unemancipated.

Section 3: Establishes new subsections under AS 18.16.010 (Regulation of Abortions)

- Person who performs an abortion without obtaining the required consent is civilly liable to the minor's parent(s) or guardian for compensatory and punitive damages.
- It is an affirmative defense to prosecution if the person performing the abortion was provided by the pregnant minor with false, misleading, or incorrect information about age, marital status, or emancipation.
- It is an affirmative defense to prosecution if the person performing the abortion could not comply with the consent requirement because the continuation of the

pregnancy posed an immediate threat of serious risk to the life or physical health of the pregnant woman, necessitating an immediate abortion.

Section 4: Establishes new sections under AS 18.16 (Regulation of Abortions)

- Sec. 18.16.020 provides that an abortion may not be performed on an unemancipated minor unless...
 1. one of the minor's parents or the minor's guardian has consented to the procedure in writing; or
 2. a court has issued an order permitting the minor to consent to the abortion without obtaining consent of a parent or guardian; or
 3. a court by its inaction has constructively authorized a minor to consent to the abortion (see Sec. 18.16.030).

- Sec. 18.16.030 outlines the procedure for seeking a court order (judicial bypass) allowing a minor to consent to an abortion without first securing parental consent. Complaints must be filed in superior court. Complaint must be under oath and include a statement that the complainant is pregnant, unmarried, under age 18, unemancipated, and wishes to have an abortion without obtaining parental consent. In addition, the complainant must allege that she is sufficiently mature and well-informed to make an abortion decision without parental consent and/or that one or both of her parents or her guardian is abusing the complainant physically, sexually, or emotionally; or that securing consent is otherwise not in the woman's best interest. Sec. 18.16.030 also sets time limits for hearing complaints; establishes an appeals process; requires appointment of an attorney for complainants who have not retained counsel; provides for the anonymity of the complainant. If a court does not act on a complaint within the time limits established in the legislation, it shall be considered a "constructive order" allowing the minor to consent to the abortion without the consent of a parent or guardian.

- Sec. 18.16.090 defines the terms "abortion" and "unemancipated".

Section 5: Amends Title 44 of Alaska Statutes (State Government)

- Sec. 44.21.410(a) is amended to require the Office of Public Advocacy to provide legal representation for minors seeking a court order for an abortion without parental consent.

Section 6: Repeals Alaska Statute 18.16.010(d)

- The existing definition of abortion under AS 18.16 (Regulation of Abortions) is repealed (replaced with new definition @ Sec. 18.16.090).

Section 7: Amending Rule 40, Alaska Rules of Civil Procedure

- Sec. 18.16.030(c) of the bill has the effect of amending Rule 40 by setting time limits for hearing judicial bypass cases.

**Section 8: Amending Rules 204, 210, 212, and 213,
Alaska Rules of Appellate Procedure**

- Sec. 18.16.030(j) of the bill has the effect of amending Rules 204, 210, 212, and 213, by setting time limits for judicial bypass appeals, and also by liberally modifying or dispensing with formal requirements for the form and content of appellants' briefs.

Section 9: Amending Rule 512.5, Alaska Rules of Appellate Procedure

- Sec. 18.16.030(k) of the bill has the effect of amending Rule 512.5 by making certain appellate records and papers confidential.

**Section 10: Amending Rule 9, Alaska Administrative Rules; Rule 79,
Alaska Rules of Civil Procedure; and Rule 508, Alaska Rules of
Appellate Procedure.**

- Sec. 18.16.030(m) of the bill has the effect of amending Rule 9, Rule 79, and Rule 508 by prohibiting filing fees and court cost assessments in judicial bypass cases.

Alaska State Legislature

REPRESENTATIVE
PETER KELLY

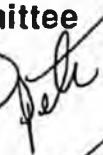
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House District 31

House Of Representatives

TO: Representative Jeannette James, Chair
House State Affairs Committee

FROM: Representative Pete Kelly 

DATE: January 23, 1997

RE: Hearing Request for HB 37

Please schedule a hearing for House Bill 37: Parental Consent for Minor's Abortion at your earliest convenience.

HB 37 will enable Alaska's existing parental consent law to be enforced. Current Alaska law requires the consent of one parent before a teenage girl under the age of 18 can obtain an abortion. This law has not been enforced since it does not provide a judicial bypass whereby a minor can obtain permission from a judge to get an abortion. HB 37 adds a judicial bypass to the existing law, thereby making it enforceable.

HB 37 lowers the age for which consent is required from age 18 to age 16. I would like the State Affairs Committee to offer a CS amending HB 37 to require consent for minors under the age of 18. This will change our bill to match SB 24 sponsored by Senator Leman.

Alaska State Legislature

REPRESENTATIVE
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House District 31

House Of Representatives

MEMORANDUM

Date: February 11, 1997
To: House State Affairs Committee
From: Representative Pete Kelly
RE: Constitutionality of CSHB 37

During the testimony on CSHB 37 this morning the issue of constitutionality arose. It was said that although CSHB 37 conforms to the US Constitution, it violates Alaska's Constitution. I have attached two separate legal opinions addressing this issue. The opinions refer to SB 105, Sen. Leman's bill during the Nineteenth Alaska Legislature. The text of the bill is the same as CSHB 37 and the legal opinions still apply.

JEFFERY D. TROUTT
2007
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2167
JUNEAU, ALASKA 99801

VOICE: (907)790-

FAX: (907)790-

TESTIMONY OF JEFFERY D. TROUTT CONCERNING SB 105

My name is Jeffery D. Troutt. I am a Juneau attorney in solo practice. I am here to speak to the constitutionality of SB 105 under the privacy clause of the Constitution of Alaska. SB 105 would prohibit physicians from performing abortions prior to obtaining the consent of parents, guardians, or the courts. I believe that this bill, if it becomes law, would pass muster under Alaska constitutional law, and the right to privacy enumerated in art. 1, § 22 of the Alaska Constitution, as currently interpreted by the Supreme Court of Alaska.

The right to privacy may best be described as "the right to be left alone". Both the federal and state constitutions give a measure of protection to the privacy of individuals. However, federal and state courts have been careful not to apply the right to privacy in a manner that restricts government from performing its essential functions or enforcing important public policies that may impinge on an individual's privacy.

FEDERAL PRIVACY LAW

The Constitution of the United States does not enumerate a right to privacy. The word "privacy" does not appear in the Constitution. However, the Supreme Court of the United States has found that a right to privacy exists in the Constitution, and derives from a broad reading of the due process clause of the 14th Amendment. *Carey v. Population*

Services International, 431 U.S. 478, 684, 97 S.Ct. 2010, 2015, 52 L.Ed.2d 675 (1977). The right has also been held to exist as a result of "emanations" from other constitutional provisions, e.g. *Griswold v. Connecticut*, 381 U.S. 479, 85 S.Ct. 1678, 14 L.Ed.2d 510 (1965). Governmental intrusions of privacy are allowed where there is a compelling state interest and that regulation does not sweep too broadly. *Id.*, at 381 U.S. 485, 85 S.Ct. 1682; *Roe v. Wade*, 410 U.S. 113, 115, 93 S.Ct. 705, 727, 35 L.Ed.2d 147 (1973); *Carey*, at 431 U.S. 685, 97 S.Ct. 2016.

ALASKA PRIVACY LAW

Unlike the federal constitution, the Alaska Constitution explicitly grants the right to privacy in Art. I, § 22. Alaska is one of a few states that have such a provision. The Supreme Court of Alaska has held that the state's right to privacy is broader than the right to privacy that the Supreme Court of the United States recognized in the cases cited above. *State v. Glass*, 583 P.2d 872, rehearing 596 P.2d 10 (Alaska 1978).

The court's analysis of privacy rights hinges upon an examination of the importance of the right claimed, and the government's interest in the action infringing upon privacy.

The court has said:

Under the Alaska Constitution, the required level of justification turns on the precise nature of the privacy interest involved. In the absence of suspect classification or impairment of fundamental rights, we have required that there be a 'fair and

substantial relation' between the means chosen and a legitimate governmental purpose. *Isakson v. Richey*, 550 P.2d 359, 363 (Alaska 1976). Where fundamental rights are at stake, the state's interest in invading privacy must be compelling.

Matter of A.B., 791 P.2d 615, 621 (Alaska 1990).

The court has set limits to governmental invasion of privacy. "No governmental intrusion on the privacy of citizens should be broader or more intrusive than necessary to accomplish the government purpose that justifies it." *Municipality of Anchorage v. Ray*, 854 P.2d 740, 750 (Alaska 1993). Thus, the court will allow government to invade personal privacy, but it must do so only to the extent required to accomplish the legitimate governmental purpose.

The Supreme Court of Alaska reviewed the right to privacy as applied to a minor child in *Matter of A.B.*, 791 P.2d 615 (Alaska 1990). There, the court upheld the right of a parent to information held by HESS. The court recognized the preeminent importance of preserving the family structure, despite the father's admitted neglect and addition to drugs, and the agency's expressed interest in preserving the privacy of certain information. The court stated that, to facilitate an expeditious and comprehensively monitored reunion of A.B. [a minor female] and her father, and to preserve the potential for a normal relationship between them, are legitimate State interests substantially effectuated by the release order [requiring the State to release information regarding the child to parties interested in the outcome of the case]." *Id.*, at 791 P.2d 622.

I have found one case where the court discusses the privacy interest of minors in preventing the disclosure of information about their obtaining an abortion. In *Falcon v. Alaska Public Offices Commission*, 570 P.2d 469 (Alaska 1977), the court prevented application state election law requiring a physician to disclose the names of patients from whom he had received over \$100 in payment. The court stated that a physician specializing in contraceptive or abortion services, or a general practitioner providing abortion or contraceptive services to a minor, should not be required to disclose the names of patients. This because the patients' privacy interests outweighed the public interest in promoting fair and honest government by requiring disclosure of a candidate's sources of income. *Falcon*, at 791 P.2d 622-623.

The *Falcon* case turned upon the potential public disclosure of information concerning intimate details of patients' lives. SB 105, on the other hand, deals only with private disclosure of information to parents concerning the health of minor children. As noted above, the court has recognized the importance of the parent/child relationship, and has been willing to sacrifice privacy interests in favor of supporting and maintaining that relationship. (Indeed, the court, while not deciding the constitutionality of similar provisions in the law, the court has displayed deference towards legislative policy in this area. See, e.g., *Cleveland v. Municipality of Anchorage*, 631 P.2d 1073 (Alaska 1981) and *Bird v. Municipality of Anchorage*, 787 P.2d 119 (Alaska 1990).)

Based upon the principles enumerated in the case law, I believe that the Supreme

Court of Alaska would hold that SB 105 does not violate the constitutional rights of minor children. Although the court may find that a fundamental right to abortion is implicated by the bill, see *Roe*, above, it would probably also find that there is a competing fundamental right of parents to be involved in decisions concerning minor children. See, *Matter of A.B.*, above.

In addition, as a matter of policy, the court would surely agree with the legislature that parents are more able than government to help minor children make a choice regarding abortion, and that it is in the best interests of minor children to have their parents involved in this decision.

Those rare instances where parental involvement would not be in a child's best interests are covered by the judicial by-pass allowing minors to obtain abortions against their parents' consent under certain circumstances. This will not only help the bill pass constitutional muster under federal law, it will likely persuade the Alaska court that the bill protects the privacy interests of minor children in the least obtrusive manner possible.

CONCLUSION

Abortion is a highly personal decision with profound moral, emotional, and spiritual ramification. I believe that the court would recognize that it is a decision that most minors should not make without involving the people best equipped to help them make that

decision, and most concerned for their welfare — the minor's parents. For this reason, and the reasons expressed above, I believe that it is likely that the Supreme Court of Alaska would hold that SB 105 is constitutional under the Constitution of Alaska.

MEMORANDUM

TO: Senator Loren Lehman
FROM: Kevin G. Clarkson *KGC*
DATE: February 13, 1995
RE: Constitutional Limitations of Parental Consultation Requirements as a Precondition to Minor Abortions

INTRODUCTION

Pursuant to your request, I have reviewed the draft bill which you transmitted to me regarding parental notification, with an optional/alternative judicial bypass as a precondition to minor abortions in Alaska. I have also conducted legal research to determine, according to existing case law, what the constitutional limitations are for parental consultation requirements as a precondition for minor abortions. My legal research has included analysis of both the United States Constitution and the Alaska Constitution.

QUESTIONS PRESENTED

1. What are the permissible limits of a parental consultation requirement as a precondition to a minor's abortion under the United States Constitution?
2. What affect, if any, does Alaska's constitutional protection of the right to privacy have upon the enforceability of a parental consultation requirement as a precondition to a minor's abortion?

SHORT ANSWER

A one-parent consent requirement as a precondition to a minor's abortion is constitutionally permissible provided the statute contains an alternative judicial bypass procedure. To be constitutionally adequate, a judicial bypass procedure must allow the minor to obtain court

approval of her abortion decision without parental involvement if she can (1) show that she possess the maturity and information necessary to make her abortion decision, or (2) even if she cannot make the abortion decision by herself, that the desired abortion would be in her best interests. In addition, the judicial bypass procedure must ensure the minor's anonymity and must be conducted with expediency to allow the minor an effective opportunity to obtain the abortion. The Alaska Constitution's provision guarantying a right to privacy should not require a different conclusion.

DISCUSSION

I. Permissible Parental Consultation Provisions Under the United States Constitution

Pursuant to current law, an abortion regulation is unconstitutional only if it places an undue burden on the exercise of the woman's right to choose to have an abortion. Planned Parenthood v. Casey, ___ U.S. ___, 112 S. Ct. 2791, 2821 (1992). As the Court stated in Casey:

Regulations which do no more than create a structural mechanism by which the State, or the parent or guardian of a minor, may express profound respect for the life of the unborn are permitted, if they are not a substantial obstacle to the woman's exercise of the right to choose.... Unless it has that effect on the right of choice, a state measure designed to persuade her to choose childbirth over abortion will be upheld if reasonably related to that goal. Regulations designed to foster the health of a woman seeking an abortion are valid if they do not constitute an undue burden.

___ U.S. at ___, 112 S. Ct. at 2821. Therefore, a regulation that places a burden on the exercise of a woman's right to an abortion is constitutional unless the burden is "undue." The State may permissibly enact laws that are "calculated to inform the woman's free choice, not hinder it." Id. As stated plainly in Casey, regulations which do no more than create a structural mechanism by which the state, or the parent or the guardian of a minor, may express profound respect for the life of the unborn are permitted, if they are not a substantial obstacle to the woman's exercise of the right to choose. U.S. at ___, 112 S. Ct. at 2821. "As long as Casey remains authoritative, the constitutionality of an abortion regulation thus turns on an examination of the importance of the State's interest in the regulation and the severity of the burden that regulation imposes on the woman's right to seek an abortion." Barns v. State of Mississippi, 992 F.2d 1335, 1339 (5th Cir. 1993).

In the area of abortion rights, even prior to the Supreme Court's recent retreat in Casey, ___ U.S. at ___, 112 S. Ct. at 2821, from the landmark decision of Roe v. Wade, 410 U.S. 113, 93 S. Ct. 705 (1973), the Court ruled that it is constitutionally permissible for a state to require minor abortions to be conducted only after parental notification or parental consent has occurred, provided there exists acceptable judicial bypass alternatives. In Planned Parenthood of Central Missouri v. Danforth, the Court held that it is constitutionally impermissible for the state to place an absolute veto on a minor's abortion decision. See 428 U.S. 52, 74, 96 S. Ct.

2831, 2843 (1976) ("[T]he State may not impose a blanket provision . . . requiring the consent of a parent or person in local parentis as a condition for abortion of an unmarried minor during the first 12 weeks of her pregnancy [T]he State does not have the constitutional authority to give a third party an absolute, and possibly arbitrary, veto over the decision of the physician and his patient to terminate the pregnancy, regardless of the reason for withholding the consent."); Accord, City of Akron v. Akron Center for Reproductive Health, Inc., 462 U.S. 416, 439, 103 S. Ct. 2481, 2497 (1983) (Akron I). However, even prior to Casey, the Court upheld parental consultation statutes (both parental consent and parental notification statutes) which contain judicial bypass procedures satisfying the standards of Bellotti v. Baird. See Bellotti v. Baird, 443 U.S. 622, 640-42, 99 S. Ct. 3035, 3046-47 (1979) (the majority of the Court indicating that a two-parent consent requirement would be constitutionally permissible if coupled with an appropriate judicial bypass procedure); see also Akron I, 462 U.S. at 439, 103 S. Ct. at 2497 ("the State's interest in protecting immature minors will sustain a requirement of a consent substitute, either parental or judicial"); Planned Parenthood Association v. Ashcroft, 462 U.S. 476, 491, 103 S. Ct. 2517, 2525 (1983) (same). Most recently in Casey, after substantially retreating from Roe v. Wade, the Court specifically ruled that a one-parent consent requirement with an alternative judicial bypass procedure is constitutional:

Our cases establish, and we reaffirm today, that a State may require a minor seeking an abortion to obtain the consent of a parent or guardian, provided that there is an adequate judicial bypass procedure. See, e.g., Akron II, 497 U.S. at ___, 110 S. Ct. at ___; Hodgson, 497 U.S. at ___, 110 S. Ct. at ___, Akron I, supra, 462 U.S. at 440, 103 S. Ct. at 2497; Bellotti, supra, 443 U.S. at 643-644, 99 S. Ct. at 3048 (plurality opinion). Under these precedents, in our view, the one-parent consent requirement and judicial bypass procedure are constitutional.

___ U.S. at ___, 112 S. Ct. at 2832.

The judicial reasoning for upholding parental consent and parental notification requirements (with adequate judicial bypass procedures) finds its genesis in the Supreme Court's analysis of a child's limited rights and protections under the Constitution vis-a-vis an adult's rights and protections. For example, the Court has long recognized that "[a] child merely on account of his minority is not beyond the protection of the constitution." Bellotti v. Baird, 443 U.S. 622, 633, 99 S. Ct. 3035, 3043 (1979). As the Court ruled in In Re: Gault, 387 U.S. 1, 13, 87 S. Ct. 1428, 1436 (1967), "whatever may be their precise impact, neither the Fourteenth Amendment nor the Bill of Rights is for adults alone." Quoted in Bellotti, 443 U.S. at 633, 99 S. Ct. at 3043. Similarly, in Danforth, 428 U.S. at 74, 96 S. Ct. at 2843, the Court stated:

Constitutional rights do not mature and come into being magically only when one attains the state defined age of majority. Minors, as well as adults, are protected by the constitution and possess constitutional rights.

Simply observing that minors are protected by the Constitution, of course, is but the beginning of the analysis in determining what parental consent and/or parental notification