

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 86/2

9602 SENATE LABOR & COMMERCE

CONFIRM:

BOARD

BARBERS

HAIR
DRESS-
ERS:

BOLIVAR



Official Business

Alaska State Legislature

State Capitol
Juneau, AK 99801-1182

SENATE LABOR AND COMMERCE COMMITTEE

Chairman: Senator Loren Leman
Vice Chairman: Senator Mackie
Senator Kelly
Senator Miller
Senator Hoffman

April 23, 1998

The Honorable Mike Miller
President of the Senate
State Capitol
Juneau, AK 99801-1182

Dear Mr. President:

Pursuant to AS 39.05.080, the Senate Labor and Commerce Committee reviewed the following with regard to confirmation of the Governor's appointment:

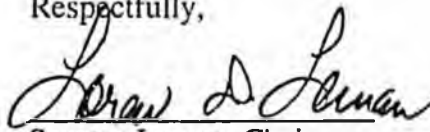
Board of Barbers and Hairdressers

Inge Bolivar - Anchorage

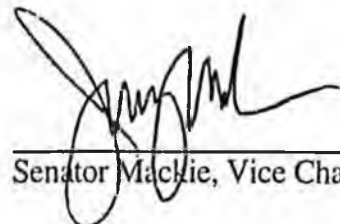
Appointed: 04/06/98 Expires: 07/01/00

The committee, with no comment, forwards this appointee's name to the full Senate for consideration in a joint session.

Respectfully,

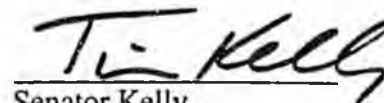


Senator Leman, Chairman



Senator Mackie, Vice Chairman

Senator Miller



Senator Kelly

Senator Hoffman



OFFICIAL BUSINESS

Alaska State Legislature
Senate
Office of the Secretary

STATE CAPITOL
JUNEAU, ALASKA 99801-1182
(907) 465-3701
FAX: 465-2832

April 14, 1998

MEMORANDUM

TO: Senator Leman, Chair
Labor & Commerce Committee

FROM: Nancy Quinto *nl*
Secretary of the Senate

SUBJECT: Governor's Confirmations

Pursuant to AS 39.05.080, President Miller has referred the following names for legislative confirmation to your committee for a hearing, recommendation and report:

State Board of Registration for Architects, Engineers, and Land Surveyors

Kathy L. Gardner, P.E. - Anchorage

Appointed: 04/03/98 Expires: 07/01/99

Board of Barbers and Hairdressers

Inge Bolivar - Anchorage

Appointed: 04/06/98 Expires: 07/01/00

NQ:kw
Resumes attached

RESUME

Inge Bolivar

3500 Hazen Circle ■ Anchorage, AK 99515 ■ 907 / 344-9707 – 562-2171 (wk)

PROFILE

- Over twenty years experience in hairdressing/cosmetology providing professional services and instructing students in the full spectrum of cosmetologist skills.
 - Own and operate highly successful salon (Style Masters, since 1976) staffed by hand-picked, top notch professionals dedicated to outstanding customer service and satisfaction.
 - Represent exclusive beauty product lines and train others in the hair care industry in their use and their particular advantages over similar items.
 - Maintain thorough and up-to-date training in styles, techniques, products, and business management. Trained with international industry leaders, as well as renowned product manufacturers.
 - Committed to upholding and promoting excellence in the hair care and cosmetology field, technically, ethically, and from a customer service standpoint.
 - Committed to public service.
-

CERTIFICATIONS

Alaska Cosmetology License
Alaska Hairdressing Instructor License
Logics Certified Colorist

EDUCATION/TRAINING

Alaska Beauty School, Graduate
Business Courses, Matrix Institute
Michael Cole Marketing and Merchandising Training
"The Quest," Michael Cole Business Management Training
Salon Product Training through industry leaders such as:
Isa ■ Hickox ■ Aveda ■ Goldwell ■ Lanza ■ Redken ■ Matrix
Martin Parson Hairstyling, Dwight Miller Haircutting, and Doug Cox Business Training
Instruction under *Antoine Greige, Mark Foley, Peter Hantz and Derek Roe*
English, Mathematics, Foreign Languages, University of Alaska Anchorage

AFFILIATIONS/ACTIVITIES

National Cosmetology Association Member
International Color Exchange Member
Supporter and Volunteer of the Alaska Women's Resource Center
Supporter of Akeela House and various other non-profit organizations
Reiki Master
Committed to philosophy of "Random Acts of Kindness"
United States Citizen

CONFIRM:
BOARD
CERT.
REAL
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APPRAIS.



Alaska State Legislature

SENATE

Official Business

State Capitol
Juneau, AK 99801-1182

SENATE LABOR AND COMMERCE COMMITTEE

Chairman: Senator Loren Leman
Vice Chairman: Senator Mackie
Senator Kelly
Senator Miller
Senator Hoffman

April 28, 1998

The Honorable Mike Miller
President of the Senate
State Capitol
Juneau, AK 99801-1182

Dear Mr. President:

Pursuant to AS 39.05.080, the Senate Labor and Commerce Committee reviewed the following with regard to confirmation of the Governor's appointment:

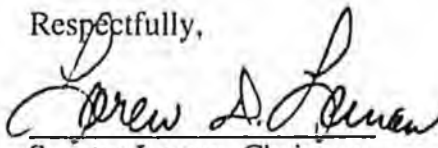
Board of Certified Real Estate Appraisers

Judy Kemplen - Anchorage

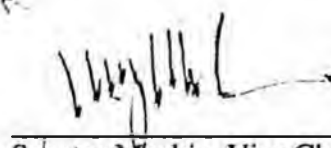
Appointed: 01/21/98 Expires: 06/30/01

The committee, with no comment, forwards this appointee's name to the full Senate for consideration in a joint session.

Respectfully,

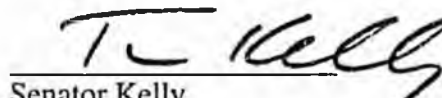


Senator Leman, Chairman

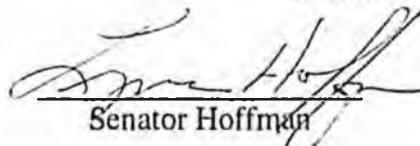


Senator Mackie, Vice Chairman

Senator Miller



Senator Kelly



Senator Hoffman

ALASKA MORTGAGE BANKERS ASSOCIATION
P. O. BOX 9-2691 / ANCHORAGE, ALASKA 99509-2691

March 16, 1998

2 10 1998

The Honorable Loren Leman
Alaska State Legislature
State Capitol, Mail Stop 3101
Room 113
Juneau, AK 99801-1182

Dear Senator Leman:

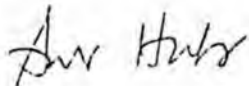
I am writing to request your support for Judy Kemplen's appointment to the Alaska Board of Certified Real Estate Appraisers. She is superbly qualified to fill the Mortgage Banker position on the Board.

Judy is currently in charge of the largest mortgage loan operation in the State of Alaska. She is manager of Mortgage Loan Production for National Bank of Alaska. Her expertise and professionalism are well regarded within the industry.

I feel Judy would make a valuable contribution to the Board. She will ensure that the interests of Mortgage Bankers are competently represented and present a balanced and even-handed approach to the issues faced by the Board of Certified Real Estate Appraisers.

I give her my highest recommendation.

Sincerely,



Amber Hutchens
President

cc: Governor Tony Knowles

1

Judy Kemplen
Vice President - Residential Mortgage Lending

**PROFESSIONAL
EXPERIENCE**

- August 1996 to present **Manager, Residential Mortgage Lending, National Bank of Alaska.** Responsible for managing the mortgage loan portfolio, the largest in Alaska, and maintaining a long-range strategy for portfolio growth. Oversee statewide mortgage production and servicing.
- May 1993 to July 1998 **Anchorage Regional Manager, Mortgage Loan Underwriter, National Bank of Alaska.** Managed staff activities in originating and processing of residential loans in Anchorage. Handled underwriting of conventional and FHA/VA loans in accordance with bank and investor guidelines.
- 1994-1997 **Smart Start Instructor, National Bank of Alaska.** Co-developed curriculum for the first Alaskan home buyer education class titled "NBA's Smart Start". Course approved by Alaska Housing Finance Corporation, Fannie Mae, Freddie Mac and FHA.
- July 1992 to May 1993 **Loan Review Officer - Quality Control, National Bank of Alaska.** Responsible for reviewing secondary mortgage lending activities for compliance with investor-mandated requirements, federal law and regulations, and bank policies.
- Jan. 1985 to July 1992 **Pre-Trial Services Interviewer II, Alaska Court System.** Interviewed clients both in and out of custody to determine eligibility for court-appointed counsel.
- Nov. 1982 to Jan. 1985 **Mortgage Loan Officer, Assistant Cashier, National Bank of Alaska.** Interviewed applicants for mortgage loans and analyzed ability to repay debt. Assisted in training new loan officers and conducted finance education seminars for members of the real estate community.

EDUCATION

Graduate, School of Mortgage Banking, Mortgage Bankers Association of America. 1994-1996

University of Delaware, Newark, Delaware, BA 1982. New York University, New York City, New York (40 credits)

**COMMUNITY
INVOLVEMENT/
ORGANIZATIONS**

Anchorage Neighborhood Housing Services. Member of Loan Committee

Alaska Mortgage Bankers Association Legislative Affairs Committee Member

PROFESSIONAL AWARD

American Institute of Banking -- Instructor of the Year 1995-1996

CONFIRM.:
DEPT. OF
COMMERCE
AND ECON.
DEVELOP.

Alaska State Legislature

Senate



Official Business

State Capitol
Juneau, AK. 99801-1182

SENATE LABOR AND COMMERCE COMMITTEE

Chairman: Senator Loren Leman
Vice Chairman: Senator Mackie
Senator Kelly
Senator Miller
Senator Hoffman

March 3, 1998

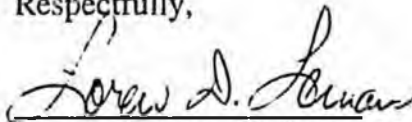
The Honorable Mike Miller
President of the Senate
State Capitol
Juneau, AK 99801-1182

Dear Mr. President:

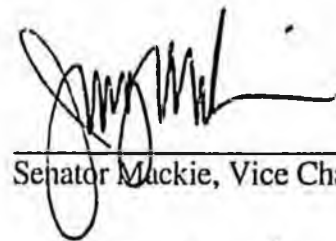
The Senate Labor and Commerce Committee reviewed the following with regard to confirmation of the Governor's appointment:

Department of Commerce and Economic Development
Debby Sedwick, Commissioner

Respectfully,



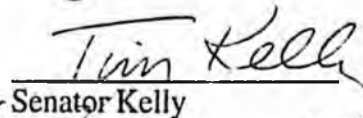
Senator Leman, Chairman



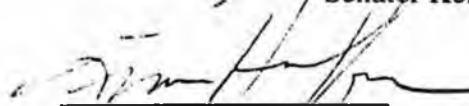
Senator Mackie, Vice Chairman



Senator Miller



Senator Kelly



Senator Hoffman

Deborah B Sedwick
Assistant Commissioner
Department of Commerce & Economic Development
State of Alaska

#1

Responsibilities include:

-Reorganization of three separate divisions into two, integrating the staff, consolidating programs and the physical location and charting a course for the new divisions within the Commerce Department, including mission and vision for the future.

-The Division of Trade and Development with a mission of strengthening Alaska's economy through the development of a diverse and self-sufficient private sector.

A major goal of the Department of Commerce and Economic Development is "Marketing Alaska" a multi-year program to create quality jobs for Alaskans, while protecting the state's environment and its cultural resources. The "Marketing Alaska" recommendations are aimed at three broad goals:

1. Investing in Alaska's Future
2. Creating Opportunities for Alaskans and their Communities
3. Selling Alaska Goods and Services to the Nation and the World

One of the eight sector work groups is entitled Cultural Resources (including Alaska history, Native heritage, and Native arts and crafts) Each work group was co-chaired by two people, one each from the private and public sectors, and comprised government, industry, public interest, legislative and university representatives. The primary purpose of the sector work group was to develop sector strategies under the general direction of the Marketing Alaska Executive Committee. The key purpose of the sector strategies was to identify realistic and specific actions that state government can perform to enhance the sectors and fulfill the Marketing Alaska mission.

Out of this process came five major themes one of which is to "maximize the value of Alaska's natural and cultural resources." Appropriate access to and marketing of Alaska's natural resources and cultural heritage offers economic opportunities for all sectors as well as personal opportunities for employment, education and an improved quality of life for Alaskans and their families.

I have included a draft of the Marketing Alaska Cultural Resources Sector which explains what consensus was reached and which recommendations were moved forward. It is the responsibility of my division to implement these recommendations over the next few years.

-Responsible for the Division of Tourism with a mission of stimulating economic growth, diversification and increased job opportunities for Alaska's visitors industry.

A business woman and community activist:

1992-1995

Vice President, Residential Services
Jack White Real Estate Company
Anchorage, Alaska

Managed 40+ people in two offices

Member of a team responsible for establishing strategic objectives and implementing those objectives.

Planned and executed weekly sales meetings.

Responsible for all residential services and business development, interfacing with the business community, home builders and other real estate affiliated businesses.

Worked with a public relations firm to plan promotions for the company

Prepared and was responsible for budgets

Recruited new individuals to the company and trained existing agents for greater productivity

1980-1992

Associate Broker
Jack White Company
Anchorage, Alaska

Built a successful real estate career selling residential homes in the Anchorage area

Consistently a multimillion dollar top producer for the company

Added a major Alaskan home builder to the client list in 1986

Responsible for marketing, business development and all aspects of marketing from print to media campaigns to promotions

1978-1980

Art Consultant
Artique Art Gallery
Anchorage, Alaska

1972-1976

Elementary School Teacher:

Boston, Massachusetts
Anchorage, Alaska

Education:

Bachelor of Science Degree-Boston University
Master's Degree-University of Alaska

A community activist, having served on numerous boards and commissions including:

Anchorage Equal Rights Commission
Board Member
Chair

Anchorage Parking Authority
Board Member
Vice Chair

Enstar Natural Gas Company
Citizens Board of Directors

Mayor's Blue Ribbon Task Force on Alcohol

Anchorage Beautification Task Force under Mayor
Knowles and current Mayor Mystrom

Alaska Center for the Performing Arts
Board Member 1991
Vice Chair 1994
Chair 1994-96

Retired as Chair in May 96; will serve as board member and on executive committee through May 1997, at which time I will have completed 6 years, the maximum allowed

ACPA, a cultural landmark in Anchorage, comprising 176,000 square feet including three theatres-the Arwood Concert Hall(2100 seats), the Discovery Theater(700 seats), and the Sydney Laurence Theater(340)seats, used by 7 resident companies and other private presenters, as well as the community at large for various events throughout the year.

CONFIRM.:

OCCUPA-

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SAFETY &

HEALTH



Official Business

Alaska State Legislature

SENATE

State Capitol
Juneau, Alaska 99801

SENATE LABOR AND COMMERCE COMMITTEE

Chairman: Senator Leman
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Senator Kelly
Senator Miller
Senator Hoffman

April 28, 1998

The Honorable Mike Miller
President of the Senate
State Capitol
Juneau, AK 99801-1182

Dear Mr. President:

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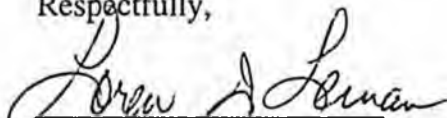
Occupational Safety and Health Review Board

Dennis Davidson - Anchorage

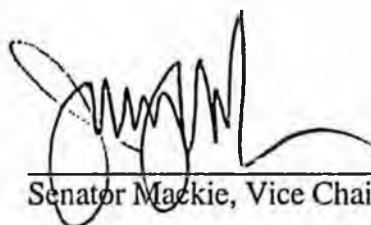
Appointed: 08/12/97 Expires: 08/01/01

The committee, with no comment, forwards this appointee's name to the full Senate for consideration in a joint session.

Respectfully,

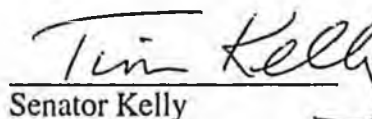


Senator Leman, Chairman

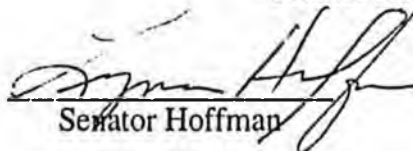


Senator Mackie, Vice Chairman

Senator Miller



Senator Kelly



Senator Hoffman



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Senator Hoffman

April 28, 1998

The Honorable Mike Miller
President of the Senate
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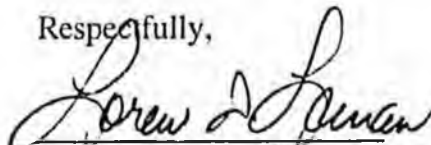
Occupational Safety and Health Review Board

Carla Meek - Juneau

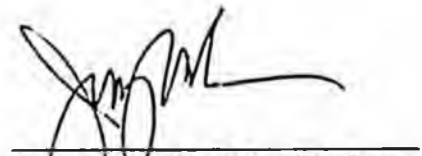
Appointed: 07/16/97 Expires: 08/01/00

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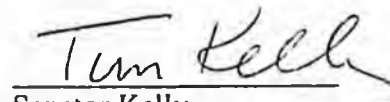


Senator Leman, Chairman



Senator Mackie, Vice Chairman

Senator Miller



Senator Kelly



Senator Hoffman

Dennis Davidson
P.O. Box 9-1158
Anchorage, Alaska 99509
Tel-(907) 276-2336, Fax-(907) 276-2339

EMPLOYMENT HISTORY

1/97- present: *Human Resource Development Consultant*, self-employed as : DAVIDSON RESOURCE SERVICES.

Offer professional services under contract to private business, organized labor, state and local governments, Alaska Native corporations and associations. DAVIDSON RESOURCE SERVICES specializes in employment and training program design, development and implementation as well as training resource identification and acquisitions, monitoring/evaluation, fiscal and program reporting. Develops and coordinates Alaska Native employment and training, recruitment and screening services vital to conducting successful Indian Preference and Shareholder hire initiatives. Develop and initiate human resource/economic development interface, partnering efforts, conduct Alaska Native labor relations, develop and maintain liaison services with organized labor and other labor force suppliers in a manner that will maximize participation of Alaska Native workforce.

10/92-12/31/96 *Manager, Tribal Employment-Business Development Services (TE-BDS)*
Cook Inlet Tribal Council, Anchorage, AK.

Direct all development and operational activities associated with TERO, Alaska Native shareholder hire and Federal Indian Preference provision compliance for CITC and related CIRI affiliates. Under contract to the USPHS/IHS project contracting officer for the new ANMC Hospital Construction Project, was responsible for the Indian Preference provision compliance monitoring; including coordination and development of procedures that produced a cooperative network of labor unions, project contractors and a statewide group of Alaska Native human resource providers profit and non-profit. Applied a proactive approach of constructive engagement to *produce a project with over a fifty percent (50%) Alaska Native and American Indian employment rate; a project that produced over 25 million dollars worth of subcontracting opportunities for Alaska Native owned companies or joint ventures.* (This is more than double the amount that was projected at the time of bid.)

1/92-10/92 *Tribal Employment Rights Representative:* Cook Inlet Tribal Council, Anchorage, AK.

Under consultant contract as *Davidson Resource Services*, initiate and direct activities designed to re-focus CITC's Tribal Employment Rights efforts toward the upcoming Alaska Native Medical Center Replacement Hospital Project. Research Indian Preference history, laws, regulations and application procedures within differing federal agencies. Initiate planning activities incorporating the views of a diverse range of affected parties including Alaska Native Employment and Training Service providers and Alaska Native Regional TERO's, Bureau of Indian Affairs, Employment Assistance Officers, Alaska Area Native Health Service personnel, and U.S. PHS/OES Region X Contracting Office personnel.

Develop supplemental Indian Preference language to strengthen and clarify the application of the Indian Preference provisions on contracting, subcontracting, employment and training for the project. Initiate, develop and distribute a compilation of Indian businesses and contractors and supply it to all prime contractors bidding the project. (*The product of this effort is the Alaska Native/American Indian Business Directory; a statewide directory of more than 260 native businesses in it's sixth edition and soon available on the Internet*)

Dennis Davidson

Page 2

Develop and distribute a *Skilled Construction Trades Assessment Guide* along with referral procedures to other Alaska Native Regional Tribal Employment and Training entities; purpose: to increase uniformity in assessment of skills and improve quality of referrals. Travel to Unalakleet, Fairbanks, and Kenai; meet with and brief Alaska Native leaders and groups on the ANMC Hospital project. Solicit and coordinate support from the Alaska Congressional delegation and staff to insure adequate focus is paid to the Indian Preference Provisions on the project.

Assist General Contractor and various major subcontractors in establishing linkages with potential Indian subcontractors, provide referrals of qualified office personnel and professional staff. Actively participate in partnering workshops with contractors, IHS officials, Architects and Engineers to develop a proactive strategy and mechanisms for maintaining consensus, cooperation and dispute resolution procedures.

8/86 - 12/91 *PFD Investigator*: Permanent Fund Dividend (PFD) Division, Dept. of Revenue, State of Alaska, Anchorage, AK.

A dual function position involving both *appeal* of previously denied PFD's plus investigation and *eligibility determination* of currently filed applications. Conduct informal conferences on appeals of denials which included investigating, researching, evaluating, and applying case law, interpret regulations and statutes to produce written decisions on eligibility. These decisions constitute the state's position in event of further appeal.

Investigate and evaluate eligibility for questionable current PFD filings and residency claims for accuracy using knowledge of statutes, regulations and department policy. Gather evidence using wide range of information sources, i.e., federal, state, and local agencies located throughout the USA. Apply regulation to case facts, issue eligibility determination or denial. When denied, issue written denial citing applicable statute, regulation. Apply investigative techniques to uncover potential fraudulent filings, re-focus investigative review toward identification of evidence to support potential criminal prosecution or transfer casework to criminal unit for disposition.

1/82 - 8/86 *Human Resource Consultant*: , self-employed as *DAVIDSON RESOURCE SERVICES* (also from 1/76 - 1/81 and 1/77 - 7/77)

Offer professional services under contract to private business, organized labor, state and local governments, Alaska Native corporations and associations. : *DAVIDSON RESOURCE SERVICES* specializes in employment and training programs design, development and implementation as well as training resource identification and acquisitions, monitoring/evaluation, fiscal and program reporting. Develop and coordinate Alaska Native employment and training, recruitment and screening services vital to conducting successful Indian Preference and Shareholder hire initiatives, develop and initiate human resource/economic development interface, partnering efforts, conduct Alaska Native labor relations, develop and maintain liaison services with organized labor and other labor force suppliers in a manner that will maximize participation of Alaska Native workforce.

1/81 - 12/81 *Director, Comprehensive Employment and Training Act (CETA)*: Kenaitze Indian Tribe, Kenai, AK.

Design, implement, and direct all CETA program activities for Kenaitze Indian Tribe, a non-profit tribal entity serving Alaskan Natives residing within the boundaries of the Kenai Peninsula Borough. Using knowledge of federal regulations and congressional intent, design program activities, hire and supervise staff, design and solicit OFT agreements with private employers, acquire equipment, conduct job development activities, develop necessary monitoring and evaluation system to assure program effectiveness and necessary adaptability. Responsible for fiscal and programmatic reports

7/77 - 1/78 *Project Field Representative:* CETA Division, Dept. of Community & Regional Affairs, State of Alaska, Juneau, AK.

With contracting authority from Commissioner of Community & Regional Affairs worked with four regional offices throughout the state to solicit, draft, and implement CETA Public Services Employment contracts in excess of two million dollars. These contracts in over 30 communities were consummated with cities, villages, rural school districts, and various Alaska Native non-profit associations. During a five month period, 250 positions were initiated which included public services such as water/sewer installation, village electrification, public building restoration, day care staffing, agricultural experimentation, fire and police protection, and various other community services.

10/74 - 1/77 *Director, Employment and Training Department:* Cook Inlet Native Association (CINA), Anchorage, AK.

Establish and direct all employment and training activities for CINA, an Alaskan Native non-profit association providing services to Natives residing within the boundaries of Cook Inlet Region, Inc. (CIRI). Gather data, research federal regulations, interpret congressional hire and supervise staff of six. Develop quality employment referral activities, and assist private industry with affirmative action efforts. Act as major referral source for oil pipeline employment and training requiring close coordination with contractors, labor unions, and other native organizations throughout Alaska. Monitor, evaluate, and modify program operations to reflect changing conditions. Responsible for timely submission of required programmatic and fiscal reports.

REFERENCES ARE AVAILABLE ON REQUEST

FORMAL EDUCATION AND CAREER TRAINING

- 1966 *Chartered Life Underwriter (CLU)*, Life Insurance Economics, Mortality Tables applied actual sciences, History of Industry, Part 1 (of 5).
- 1964 *Life Underwriter's Training Council Diploma*, Life Insurance Principals, Economics and Marketing.
- 1963 *Hotel Management Training Correspondence Diploma*, American Hotel/Motel Institutes, Anchorage Westward Hilton, Anchorage, AK.
- 1958/59 33 semester credit hours, Hartnell Jr. College, Salinas, CA.

COMMUNITY SERVICE

- 1988-89 Alaska Statewide Bargaining/Steering Committee, Alaska State Employees Assoc. (A.S.E.A.)
- 1980 Committee for Alaska Employment and Training (Joint Committee of PIC and SMSC)
- 1979-80 Alaska Private Industry Council (Alaska PIC)
- 1974-76 Alaska State Manpower Utilization System (ASMUS)
- 1975-76 Alaska Plan Policy Board, Carpenters Apprenticeship Equivalency Panel
- 1976 Alaska Statewide Task Force on Career Education, Dept. of Education
- 1974-76 Chairman, Alaska Native Prime Sponsor Assoc., Title III Coordinating Committee
- 1974-81 Anchorage Manpower Planning Council (AMPC), Chairman 1979-80, committees include Allocation and Assessment, Planning and Evaluation
- 1975-81 Alaska State Manpower Services Council (SMSC), committees include Executive, Pipeline Advisory, Planning and Program Review

EMPLOYMENT RELATED WORKSHOPS AND TRAINING SEMINARS

- 2/96 Art and Techniques of Negotiation Tribal Contracts, Falmouth Institute, Phoenix, AZ.
2/96 Purchasing Procedures/Tribal Contract Management, Falmouth Institute, Phoenix, AZ.
3/95 Indian Preference & Buy Indian Act Management, Falmouth Institute, Las Vegas, NV.
7/93 Windows 3.1 & Word for Windows 2.0 (8hrs) CITC, Anchorage, AK.
7/91 Introduction to Word Processing, Wang Laboratories, Inc., Anchorage, AK.
7/84 North Slope Borough Mayor's Economic Development Seminar and Workshop. Invited Participant, Barrow, AK.
5/84 Guest Speaker, Statewide Employment Assistance Workshop, Bureau of Indian Affairs, Fairbanks, AK.
6/81 OINAP Technical Assistance and Training Workshop, Sitka, AK.
5/79 Targeted Jobs Tax Credit Workshop, Employment Security Division, Alaska State Dept. of Labor, Anchorage, AK.
4/79 CETA Conference, National Governors' Association, Phoenix, AR.
9/80 Bureau of Apprenticeship and Training, Northwest States Conference, U.S. Dept. of Labor, Seattle, WA.
3/79
11/77 Jobs Symposium, Senate Employment and Resources and Opportunities Committee, Alaska State Legislature, Anchorage, AK.
7/76 Intake, Assessment, and Job Development Workshop, Northwest Manpower Training Institute, U.S. Dept. of Labor, Region, X, Anchorage, AK.
1/76 Fiscal and Management Information System Workshop, U.S. Dept. of Labor, DINAP, Anchorage, AK.
1976 Area Employment Assistance Workshop - Panelist, Bureau of Indian Affairs, Anchorage, AK.
1975/76 Manpower Employment Assistance Workshop, Alaska Federation of Natives Annual Convention, Anchorage, AK.
1974/75 CETA Grant Planning Workshop, U.S. Dept. of Labor, DINAP, Anchorage, AK.
2/74 Federal Grant Management Seminar, Ernest DeRocker and Associates, Anchorage, AK.
12/73 Grant Administration Seminar, Health, Education and Welfare Office of Native American Program, Region X, Seattle, WA.

#1

Carla L. Meek

P.O.Box 33881
Juneau, Alaska 99803
(907) 789-0811 (W) (907) 789-3697 (H)

2770 Sherwood Lane
Suite J
Juneau, Alaska 99801

Objective

My objective is to own and operate an electrical contracting company that is "successful" in several different ways. Like most people, I hope to be financially successful so that I can contribute to my family's financial security. I also hope to be able to provide a secure and stable employment opportunity for the electricians and staff that I have working for me. I hope to successfully provide a service to our community by developing a trust between the public and our company that we can be depended upon. I hope to help the construction industry continue to attract qualified craftsmen by providing a safe, healthy, and financially rewarding environment.

Summary of qualifications

Juneau Electric

2770 Sherwood Lane Suite J, Juneau, Alaska 99801

On November 7, 1994, I became the owner of a company that I had been employed by for the past five and a half years. I am now responsible for every part of the continued operation of an existing electrical contracting company that had been doing approximately four million dollars annually. Since acquisition, I have continued to operate the company profitably and professionally and we currently have increased our market share by a small percentage. The transition was made in a very smooth and orderly fashion both internally and for our customer's convenience. My work load and my work force has remained stable indicating satisfaction with my company.

My duties include, but are not limited to purchasing, customer relations, supervision of accounts payable and receivable, dispatching, estimating, negotiation with customers, employees, and suppliers, and the coordination of materials and manpower to complete work in a timely manner.

Work experience

Grasle Electric

P.O. Box 3472, Juneau, Alaska 99803

I was employed by Grasle Electric from April of 1989 until November of 1994. I started with Grasle shortly after becoming a licensed Journeyman Electrician and went to work for them in their service department. I worked with the tools and did all phases of repair and construction of both new and remodeled commercial, industrial and residential buildings. After a year and a half, I was promoted to foreman and supervised some of their larger projects. One of the projects that I was responsible for was the J.C. Penney store here in Juneau. That project had a \$500,000 electrical budget and I worked a crew of up to fourteen electricians.

I spent the last three and half years at Grasle working as the service department manager and small project manager. In that position I was responsible for estimating work, electrical design,

ordering materials, dispatching electricians, verification and approval of job costing and invoicing. I was also responsible for customer relations, to increase business, to keep current customer satisfaction high and to deal with any customer problems. In addition, it was my responsibility to keep track of and order any and all material and tools that Grasle kept in stock for their normal day to day business.

International Brotherhood of Electrical Workers

124 Front Street, Juneau, Alaska 99801

Since 1982 I have worked for the I.B.E.W. as an apprentice or journeyman inside wireman. Like most union electricians, I have worked for most of the electrical contractors here in Southeast Alaska at one time or another. Each contractor and each journeyman has a different way of doing the same job. By changing employers, the apprentice is exposed to a variety of different types of work and methods. I have worked on airports, hospitals, office buildings, schools, hydro-electric generators, individual residences, apartment buildings, traffic control and street lighting, churches, movie theaters, shopping malls, retail shops, parking garages, harbor facilities, and gold mines. I have installed everything from the main service to the intercom system. I have worked on only parts of some buildings and have been involved in the entire process on others. I have been in the electrical business for over 14 years.

Education

Alaska Electrical Apprenticeship Training and Trust

Anchorage, Alaska

An electrical training program is offered jointly by the National Electrical Contractors Association and the International Brotherhood of Electrical Workers. This program consists of the completion of 8000 "on the job" hours, supervised by a licensed Journeyman Electrician and 500 hours of classroom instruction. The classroom instruction includes many thousands of pages of reading, closed book testing and the necessity of maintaining at least a 70% score to successfully exit the program. The union also administers their own journeyman test, in addition to the state test, that takes 8 hours to complete and tests for knowledge of all aspects of electrical construction and theory. I successfully completed the apprenticeship program with a score of 96%. I passed my union journeyman test with a score of 88% and my state journeyman test with a score in the mid 90 percentile. I became licensed as a journeyman in 1985.

Western Washington State University

Bellingham, Washington

I attended Western Washington State University for three and one half years beginning in 1972. Although I did not obtain a degree while there, I did complete all of the course work for a BA in Political Science/Public Administration. I also completed the bulk of the necessary general education requirements. I did not complete the degree program at that time because of personal financial problems but intended to return to finish and never was able to. I have completed two associate degrees in fields of interest and employment since leaving Western in 1975.

Accreditations

State of Alaska, Journeyman Wireman Fitness Card # 112859

State of Alaska, Electrical Administrators License # 1063

State of Alaska, Fire Alarm Certificate #T-94-504

Additional Professional Activities

I have attended a number of seminars offering advanced training in specialized areas of electrical construction and theory. Included in these are seminars and home study courses on electrical estimating, a seminar on reduced and variable frequency drive motor starters, a course on practical foremaning, another on management techniques and people skills. I also subscribe to four monthly trade journals designed to keep electricians and management up to date on the latest equipment, techniques and trends.

References

Dave Elsensohn P.O. Box 1268, Sitka, Alaska 99835

Mr. Elsensohn was my supervisor at Grasle Electric.

Cheryl Fluck 2760 Sherwood Lane Suite 2E, Juneau, Alaska 99801

Ms. Fluck was a general contractor for many years.

Tom Cashen Commissioner, Department of Labor, Juneau, Alaska.

Tom Cashen was my business agent for many years.

Roger Sams, Electrical Inspector, Department of Labor, Juneau, Alaska

Mr. Sams has known me since I first became an apprentice.

Al Dwyer, Electrical Inspector, Dept. of Labor, Anchorage, Alaska

Mr. Dwyer inspected many of the projects I have worked on in Southeast.

CONFIRM.:
PERSONNEL
BOARD

C. PARR



Official Business

Alaska State Legislature

SENATE

State Capitol
Juneau, Alaska 99801

SENATE LABOR AND COMMERCE COMMITTEE

Chairman: Senator Loren Leman
Vice Chairman: Senator Mackie
Senator Kelly
Senator Miller
Senator Hoffman

April 28, 1998

The Honorable Mike Miller
President of the Senate
State Capitol
Juneau, AK 99801-1182

Dear Mr. President:

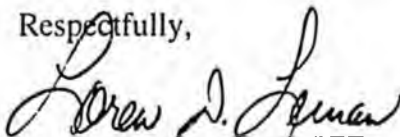
Pursuant to AS 39.05.080, the Senate Labor and Commerce Committee reviewed the following with regard to confirmation of the Governor's appointment:

Personnel Board

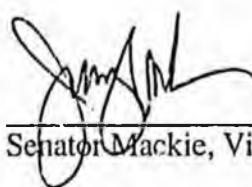
Charlie Parr - Fairbanks
Appointed: 09/02/97 Expires: 03/20/02

The committee, with no comment, forwards this appointee's name to the full Senate for consideration in a joint session.

Respectfully,



Senator Leman, Chairman

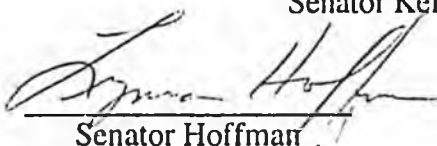
 Do Confirm

Senator Mackie, Vice Chairman

Senator Miller

 Do Confirm

Senator Kelly



Senator Hoffman

RESUME, Charles H. Parr

Updated 1/15/95

Residence address: 909 John Kalinas Road, Fairbanks AK 99712

Mail address: same

Born: Jan 19, 1918; Mobile AL

Spouse: Karen H. Parr

Children: Charles L., Chipper L., Perri Carlson

Occupation: Gift shop owner and operator

Time in Alaska: 33 years, all in Fairbanks

Education: University of Alaska, Fairbanks 1961-65,
BA and MA

Florida State University 1966-67, all Ph. D.
work except dissertation

Military service: Army 20 years, retired as major, combat service
in Italy. Bronze Star with Oak Leaf Cluster,
Combat Infantryman Badge.

Business and Professional Experience: Faculty, University of Alaska Fairbanks 1962-74;
Owner with wife Karen of Alaska House and Xanadu,
Fairbanks 1976-95.

Governmental Positions: Fairbanks Human Rights Commission 1969-72,
Chairman 1970-72.
Fairbanks North Star Borough Assembly 1972-74,
Presiding Officer 1973-74
Chairman Alaska American Revolution Bicentennial
Commission, 1973-74.
Alaska Legislature 1975-82:
Chair, House Select Education Committee 1976
Chair, House Health, Education and Social
Services Committee, 1977-78.
Chair, House Judiciary Committee, 1979-80
Chair, Senate Health, Education and Social
Services Committee, 1979-80
Education Commission of the States 1976-78
Post-secondary Education Commission 1977-78
Board of Parole 1983-88
Trustee, Permanent Fund 1989-91

Organization Offices: President Fairbanks Chapter American Association
of University Professors
President, Alaska Civil Liberties Union
President, North Star Dance Foundation

CONFIRM.:

REAL

ESTATE

COMMISSION

A. FOLDOE



Official Business

Alaska State Legislature

P.O. Box V
State Capitol
Juneau, Alaska 99811

SENATE LABOR AND COMMERCE COMMITTEE

Chairman: Senator Loren Leman
Vice Chairman: Senator Mackie
Senator Kelly
Senator Miller
Senator Hoffman

April 23, 1998

The Honorable Mike Miller
President of the Senate
State Capitol
Juneau, AK 99801-1182

Dear Mr. President:

Pursuant to AS 39.05.080, the Senate Labor and Commerce Committee reviewed the following with regard to confirmation of the Governor's appointment:

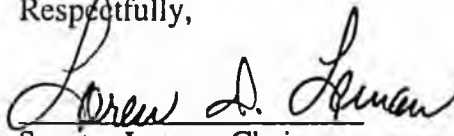
Real Estate Commission

Audrey J. Foldoe - Fairbanks

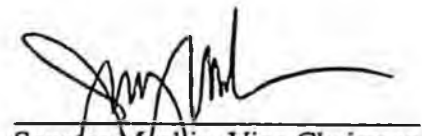
Appointed: 10/05/93 Reappointed: 01/21/98 Expires: 01/31/01

The committee, with no comment, forwards this appointee's name to the full Senate for consideration in a joint session.

Respectfully,

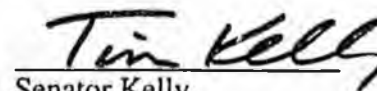


Senator Leman, Chairman



Senator Mackie, Vice Chairman

Senator Miller



Senator Kelly

Senator Hoffman

AUDREY J. FOLDOE
1825 CROSSON AVENUE
FAIRBANKS, AK 99701
 (907) 456-6000 WORK
 (907) 452-5453 HOME
 (907) 456-6522 FAX
audrey@pobox.alaska.net e-mail

OBJECTIVE:

To be involved in residential and commercial real estate sales, new construction and property management. To assist others to be a success in the real estate field while filling a need in the community. To operate an active high caliber real estate office and be a well rounded interesting person while accomplishing these goals.

SUMMARY OF EXPERIENCE:

Was in the residential construction industry from 1963 to 1977. My duties consisted of purchasing new sites, developing and drafting floor plans and blue prints to submit to the City of Fairbanks to obtain building permits, coordinating construction and obtaining and accepting bids, working directly on the job in framing, sheet-rocking, painting, roofing and all other aspects of construction.

Land development – subdivided 80 acres in the Fairbanks area and assisted with various replats and other subdivisions over the years.

Real estate sales since 1976, consistently marketing and selling several million dollars in properties per year. Dozens of market analysis and broker's opinions over the years, property management for myself and others, real estate consultation and all aspects of the real estate industry.

Real estate brokerage and management since 1980. Managing and training 40-50 people in sales and clerical. Broker of own office since 1990. Served on local real estate Board of Directors for eight years. Alaska Association of Realtors Board for four years. Fairbanks North Star Borough Planning Commission for thirteen years. Presently serving as the Greater Fairbanks Board of Realtors, President; Trustee for State of Alaska Political Action Committee(4 years); member of Fairbanks North Star Borough Board of Equalization (4 years).

EMPLOYMENT HISTORY:

1990 to present	ERA MEYERES REAL ESTATE POSITION: Broker & Sales Manager – real estate sales and marketing.
1980 to 1990	ERA MEYERES REAL ESTATE, INC. POSITION: General Manager – real estate sales and management.
1976 to 1980	Real estate sales
1963 to 1976	Residential construction

EDUCATION & TRAINING:

- Certified Residential Specialist (CRS)
Residential sales 201 and 206
- GRI – I, II, III & III+ Audit
- National Association of Independent Fee Appraisers
Principles of Real Estate Appraising (21 Certification hours)
- ERA 40 hour Sales Training Course
- ERA Management Training 101-103-105
- Dale Carnegie Management Seminar & Dale Carnegie Sales Course
- ERA National Business Conference
Includes numerous seminars & workshops attended each year since 1980

AFFILIATIONS & POSITIONS HELD:

- 1972 1ST Female Journeyman Carpenter, State of Alaska, Local 1243
- 1976 Greater Fairbanks Board of Realtors, *Treasurer*
- 1977 Greater Fairbanks Board of Realtors, *Director*
Greater Fairbanks Board of Realtors, *Vice-President*
- 1982 Fairbanks North Star Borough Planning Commission
- 1983 Rewrite of Title 18 & review of new Fairbanks North Star Borough Comprehensive Plan
by Planning Commission
- 1985 Riverview Villas Homeowners Association Board of Directors
Greater Fairbanks Board of Directors, *MLS Committee Member*
- 1986 Greater Fairbanks Board of Directors, *MLS Committee Member*
Denali Estates Homeowners Association Board of Directors
- 1987 Denali Estates Homeowners Association Board of Directors
MLS Liaison to Greater Fairbanks Board of Realtors Directors
- 1988 Committee to Review the Rewrite of the Real Estate Exam for Alaska
MLS Liaison to Fairbanks Board of Realtors Directors
Greater Fairbanks Board of Realtors, *President Elect*
Alaska State Association of Realtors Legislative Committee
To present – Notary Public, State of Alaska
Alaska State Association of Realtors Nominating Committee
Alaska Housing Market Council Task Force
Greater Fairbanks Board of Realtors, *Realtor of the Year*
- 1989 Riverview Villas Homeowners Association, *Board of Directors*
Greater Fairbanks Board of Realtors, *President Elect*
Alaska Association of Realtors, *State Director*
To present – Instructor "How to Buy or Sell a House In Fairbanks" Community Schools
Program – 4, two evening classes per year.

AFFILIATIONS & POSITIONS HELD: (continued)

- 1990 Greater Fairbanks Board of Realtors, *President Elect*
Great Fairbanks Board of Realtors, *Affiliates Realtor of the Year*. 1st recipient
- 1990 to 1996 Energy Rated Homes of Alaska, *Public Board Member*
- 1991 Greater Fairbanks Board of Realtors, *President*
Riverview Villas Homeowners Association, *Board of Directors*
- 1991 to 1992 Fairbanks Neighborhood Housings Services, Inc., original Committee Member.
- 1992 Denali Estates Condominiums, *Association Director*
Alaska Association of Realtors, *State Director*
Greater Fairbanks Board of Realtors, *Past President*
- 1993 Denali Estates Homeowners Association
Alaska Association of Realtors, *ARPAC Trustee*
Certified Instructor – GRI Landlord/Tenant Act
Alaska Association of Realtors, *Director*
- 1994 Alaska Association of Realtors, *ARPAC Trustee*
Denali Estates Homeowners Association
Alaska Association of Realtors, *Director*
- 1994 to present - Alaska Real Estate Commission
ASI Alaska Review of Licensing Exam
Certified Instructor, Alaska Real Estate Regulation
- 1995 Trustee Alaska Political Action Committee/Alaska Association of Realtors
Fairbanks North Star Borough Equalization Board
Greater Fairbanks Board of Realtors, *Professional Standards Chairperson*
Greater Fairbanks Board of Realtors, *MLS Committee Member*
Greater Fairbanks Board of Realtors, *Awards Committee*
Alaska Real Estate Commission
Fairbanks North Star Borough Board of Equalization
- 1996 Trustee Alaska Political Action Committee/Alaska Association of Realtors
Greater Fairbanks Board of Realtors, *Multiple Listing Committee Chairperson*
Alaska Real Estate Commission
Professional Standards Committee Chairperson
Fairbanks North Star Borough Board of Equalization
- 1997 Trustee Alaska Political Action Committee/Alaska Association of Realtors
Greater Fairbanks Board of Realtors Professional Standards Committee Chairperson
Alaska Real Estate Commission
Fairbanks North Star Borough Board of Equalization
- 1998 Greater Fairbanks Board of Realtors, *President*
Fairbanks North Star Borough Board of Equalization
Trustee Alaska Political Action Committee
Alaska Real Estate Commission

ADDITIONAL EDUCATION & TRAINING:

- 1991 -1998 Required continuing education, State of Alaska
- 1991 -1998 Alaska Association of Realtors, State Leadership Conference
- 1993 Instructors Training, Anchorage/ 12 hours Continuing Education Real Estate
- 1994 Instructors Training, Fairbanks/6 hours Continuing Education Real Estate

ADDITIONAL EDUCATION & TRAINING: (continued)

1995 Instructors Training, Anchorage/12 hours Continuing Education Real Estate
1996 Residential specialist Course 206 16 hours
 Understanding & Using The Internet - 6 hours
 Continuing Education Real Estate - 11 hours
 Understanding Computers - 30 hours
1997 - Continuing Education Real Estate - 28 hours
 Computer Training - 50 hours

PERSONAL:

Excellent health, optimistic attitude regarding our state and city. Happy, energetic, outgoing, and family oriented.

REFERENCES:

John Roberts
K-Supply Company
965 Aurora Drive
Fairbanks, AK 99709
(907) 452-3923

Mark Tomlinson
Fairbanks Title Agency
714 Third Avenue
Fairbanks, AK 99701
(907) 456-6626

Steve Frank
P O Box V
Juneau, AK 99811

Bud Meyeres
P O Box 809
Fairbanks, AK 99707

SB

14

1997 LEGISLATIVE SESSION

Revision Date: _____
 Title: INS: Domestic Violence Victims & Disclosure
 Sponsor: Senator Donley
 Requestor: S. L & C

Dept. Affected: Public Safety
DPS Statewide Support
 Component: Council on Domestic Violence and Sexual Assault
 COMPONENT SERIAL NO. 0521

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

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

FUNDING: (Thousands of Dollars)

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

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)
 No fiscal impact is anticipated to the Department of Public Safety

Prepared By: Jayne Andreen, Executive Director Phone: 465-4356
 Division: Council on Domestic Violence and Sexual Assault Date: 1/27/97
 Approved by Commissioner: *Ronald L. Otte* Date: 1/27/97
 Agency: Ronald L. Otte, Dept. of Public Safety

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

For further distribution information call the Governor's Legislative Office

SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 1/13/97

FURTHER: HESS
Judiciary

Date of 5-Day Notice: 2397
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 1-28-97

Labor and Commerce Committee considered SENATE BILL NO. 14

"An Act relating to insurance covering an insured who is a victim of domestic violence and requiring certain disclosures by an insurer."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Tim Kelly</i>	✓				
<i>[Signature]</i>	✓				
<i>Duke Miller</i>	✓				
<i>[Signature]</i>					
<i>[Signature]</i>					
CHAIR: <i>Loren J. Simon</i>	✓	CHAIR:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
DPS - CDV+SA	1/27/97	✓	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

STATE OF ALASKA
ROUTE SLIP

TO: Mail Station 3100	Department LEGISLATURE	Division
---------------------------------	----------------------------------	----------

Attention

Senate L&C

- | | |
|--|---|
| <input type="checkbox"/> Approval | <input type="checkbox"/> Note & Return |
| <input type="checkbox"/> Signature | <input type="checkbox"/> Initial & Return |
| <input type="checkbox"/> Comment | <input type="checkbox"/> Return as Requested |
| <input type="checkbox"/> Contact Me | <input type="checkbox"/> Return for Approval |
| <input type="checkbox"/> Prepare Reply | <input type="checkbox"/> Necessary Action |
| <input type="checkbox"/> For Your File | <input type="checkbox"/> For Your Information |

Remarks:

Rm 113

FROM: Mail Station 1200	Department DPS	Division Comm. Office
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By Korrine Bohlman	Date <i>1/28/97</i>
------------------------------	------------------------

FISCAL NOTE

STATE OF ALASKA

BILL
NO:

SB 14

1997 LEGISLATIVE SESSION

Revision Date: _____
 Title: INS: Domestic Violence Victims & Disclosure
 Sponsor: Senator Donley
 Requestor: S. L & C

Dept. Affected: Public Safety
 Component: DPS Statewide Support
Council on Domestic Violence and Sexual Assault
 COMPONENT SERIAL NO. 0521

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

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

FUNDING: (Thousands of Dollars)

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

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)
 No fiscal impact is anticipated to the Department of Public Safety

Prepared By: Jayne Andreen, Executive Director Phone: 465-4356
 Division: Council on Domestic Violence and Sexual Assault Date: 1/27/97
 Approved by Commissioner: *Ronald L. Otte* Date: 1/27/97
 Agency: Ronald L. Otte, Dept. of Public Safety

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

For further distribution information call the Governor's Legislative Office

Alaska State Legislature

Senate



Official Business

State Capitol
Juneau, AK. 99801-1182

SENATE LABOR AND COMMERCE COMMITTEE

*expected to be present

*Chairman: Senator Loren Leman
*Vice Chairman: Senator Mackie
*Senator Kelly
*Senator Miller
Senator Hoffman

Committee Agenda
1:30 p.m.
Fahrenkamp Room
Tuesday, January 28, 1997

Teleconference Sites: Anc

SB 14: Ins:Domestic Viol. Victims & Disclosures
✓ **Senator Dave Donley, Sponsor**

Expected Witnesses:

✓ **Senator Donley** to present the bill
Lauree Hugonin representing Network on Domestic Violence & Sexual Assault
Jayne Andreen, Executive Director, Council on Domestic Violence & Sexual Assault
Jan MacClarence, Abused Women's Aid In Crisis (AWAIC) (by teleconference in ANC)

NEXT MEETING:

Thursday, January 30:
SB 41: Environmental & Health/Safety Audits

ADJOURN



SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

SPONSOR STATEMENT SB 14

Protecting Domestic Violence Victims From Insurance Discrimination

SB 14 protects victims of domestic violence from insurance discrimination. SB 14 also requires, upon written request from an applicant, that an insurer must disclose the reason insurance coverage was denied.

SB 14 was modeled after the 19th Alaska Legislature's SB 197 which passed the Senate 18-0 and passed the House 36-3 in 1996, but died in the Senate unfinished business file. SB 197 was drafted with the advice and support of the Division of Insurance.

The statutory provisions contained in SB 14 are necessary to protect victims of domestic violence. A survey by the United States House Judiciary Committee indicated that eight out of sixteen of the largest insurance companies use domestic violence as a factor for rating insurance.

Sixteen states have passed legislation similar to SB 14 including Arizona, California, Connecticut, Delaware, Florida, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Minnesota, New Hampshire, New York, Pennsylvania and Tennessee. Legislation similar to SB 14 passed Congress in 1996 and related legislation is pending in another nine states. Alaska's pro-active measures follow the nation-wide trend by adopting legislation that protects innocent victims of domestic violence from insurance discrimination.

Currently, there is no protection in Alaska for victims of domestic violence against insurance premium increases, cancellation, or denial. SB 14 protects innocent victims of domestic violence from such action by insurance companies only because they have been victims of domestic violence. Insurers discriminating against domestic violence victims has been a serious problem in the lower 48 and SB 14 will prevent similar occurrences in Alaska.

If you have any question regarding SB 14, please contact myself or Laura Hosey of my staff at 465-3892.

DD/kb 1/17/97

January-May: STATE CAPITOL • JUNEAU, AK • 99801-1182 • (907) 465-3892 • FAX: (907) 465-6595
June-December: 716 W. 4TH AVE. • STE. 430 • ANCHORAGE, AK • 99501 • (907) 258-8181 • FAX: (907) 258-1648

MEMBER: Senate Finance Committee • Legislative Budget & Audit Committee
• Senate Community & Regional Affairs Committee

Produced in House

John L. George & Associates
3528 Fritz Cove Road
Juneau, Alaska 99801
Tel. 907 789-4112 Fax 907 789-0961

January 25, 1997

Senate Labor and Commerce Committee
State Capitol
Juneau, Alaska

RE: Senate Bill 14

Gentlemen,

I represent National Association of Independent Insurers, American Council of Life Insurance and AFLAC. I regret that I will be in Washington DC when SB 14 first comes before your committee and I will be unable to testify at the hearing. Therefore I am setting forth our position on the bill for you in this letter. I will return to Juneau on January 30 and will be available after that date to testify in person.

The life insurance industry and the property & casualty insurance industry wholeheartedly support the concepts put forth by SB 14. As the bill is currently drafted many of the concerns we had with legislation proposed during the previous legislature have been adequately addressed.

One of the concerns that I have with the current bill is that it is unclear to me that a property insurer may deny claim for property damage when the damage was caused by a spouse intending to inflict domestic violence upon his or her partner. For example a violent husband burns down the house where his wife lives and that he and his wife own and insure jointly. Could the insurer deny the claim because it does not cover intentional acts by the insured or would they be prohibited from denying the claim because the wife was a victim of domestic violence. It could be argued that the intentional acts by insured exclusion would hold and the claim could be denied. It could just as easily be argued that the claim resulted only from the fact that the wife was a victim of domestic violence and denial would be prohibited under AS 21.36.430 (a) (4).

Last session we argued that property and casualty insurance should be excluded from similar legislation. I am unaware of any case where property insurers have refused coverage solely because a person was a victim of domestic violence. Proponents of previous legislation have given numerous examples that they believe do show these refusals. In every case that they listed, there were other reasons for denial or provisions of this bill would simply not apply. One example was a woman's shelter denied insurance coverage. A woman's shelter is not a person who has been a victim of domestic violence. Another example was cancellation of coverage for a person who had reported numerous claims that had resulted from domestic violence situations. Claims frequency regardless of cause has always been a legitimate reason for cancellation or non renewal of a policy. The property insurance industry is concerned that proponents give as examples of insurer

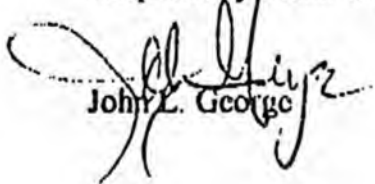
END

SB 14

2

abuse situations that are not intended to be covered by this legislation and that are not related to domestic violence. An allegation of a violation by an insured will result in an investigation which costs both the insurer and the investigating agency valuable time and money. We therefore respectfully request that you consider removing property and casualty insurance from this bill until someone can demonstrate that property and casualty insurers have practiced the acts that this bill would prohibit

Respectfully submitted,



John L. George

END

SB

41

Fiscal
Notes
Yet to
Come

SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 1/13/97

FURTHER: Judiciary
Finance

Date of 5-Day Notice: 1-16-97
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 1-31-97

Labor and Commerce Committee considered SENATE BILL NO. 41

"An Act relating to environmental audits and health and safety audits to determine compliance with certain laws, permits, and regulations."

and recommends:

- be replaced with CS SB 41 ^{etc} (YES)
- adopt previous CS ()
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
 same title
 new title
House Bill:
 same title
 technical title
 new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Mike Miller</i>	<input checked="" type="checkbox"/>				
		<i>James Mack</i>	<input checked="" type="checkbox"/>		
CHAIR: <i>Loren D. Benav</i>	<input checked="" type="checkbox"/>	CHAIR:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

**DEPARTMENT OF HEALTH AND SOCIAL SERVICES
OFFICE OF THE COMMISSIONER - M/S 0601
LEGISLATIVE ROUTE SLIP - SENATE**

SENATE	LOCATION	TITLE	OFC/COM
___ ADAMS, AL	RM 417		3707
___ DONLEY, DAVE	RM 11		3892
___ DUNCAN, JIM	RM 119	MINORITY LDR	4766/4767
___ ELLIS, JOHNNY	RM 9		3704
___ FRANK, STEVE	RM 518	CO-FIN	3709/3753
___ GREEN, LYDA	RM 423	HESS	6600/3762
___ HALFORD, RICK	RM 508	CO-FIN/MAJ LDR	4958/3753
___ HOFFMAN, LYMAN	R M 7		4453
___ KELLY, TIM	RM 101	L&C	3822/3844
___ LEMAN, LOREN	RM 113	RES	2095/4907
___ LINCOLN, GEORGIANNA	RM 510		3732
___ MILLER, MIKE	RM 125	RULES	4976/3770
___ PEARCE, DRUE	RM 111	PRESIDENT	4993/3755
___ PHILLIPS, RANDY	RM 103		4949
___ REIGER, STEVE	RM 516	TRANS	3879/4921
___ SALO, JUDITH	RM 504		4940
___ SHARP, BERT	RM 514	ST.AFFAIRS	3004/4522
___ TAYLOR, ROBIN	RM 30	JUD	3873/3717
___ TORGERSON, JOHN C.	RM 427	C&RA	2828/4989
___ ZHAROFF, FRED	RM 121		3473

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___ REQUESTOR COPY

___ LEGISLATIVE FINANCE	6TH FL. SOB
___ LEGISLATIVE OFFICE	3RD FL. CAP
___ OMB/BUDGET REVIEW	8TH FL. CT PLAZA
___ DHSS BUDGET SECTION	
___ DHSS DIVISION COPY	
___ DHSS LEGIS FILE	

FROM: Lindstrom

DATE: 1/21

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. SB 41

Revision Date: _____
 Title: Relating to environmental audits and health and safety audits
 Sponsor: Leman
 Requestor: Senate Labor and Commerce

Dept. Affected: Health and Social Services
 BRU: Medical Assistance
 Component: Medicaid Facilities
 COMPONENT SERIAL NO. 230
 Sec also (SN#): 229

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						

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

CHANGES IN REVENUES ()						
-------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY97) cost: _____

ANALYSIS: (Attach a separate page if necessary)

It is not possible to quantify the lost revenues and increased program costs to the Medicaid and General Relief Medical Assistance Programs due to the passage of SB 41. SB 41 has the potential to disrupt the functions of the Medicaid Rate Advisory Commission, Health Facility Certification and Licensing, Audit, Surveillance and Utilization Review functions because the provisions of this bill would allow health care providers to conceal information necessary to complete functions mandated under Federal and State laws designed to assure accurate payments, detection and prevention of fraud and program abuse, and protection of the health and safety of Alaskan residents in receiving health care. The Department of Health and Social Services believes that to protect the significant investment of public funds in medical assistance programs, and to guarantee the health and safety of Alaskans who receive care in health care facilities, that all references to "health and safety" should be deleted from the bill.

Prepared by: Nancy Weller
 Division: Medical Assistance
 Approved by Commissioner: Karen Perdue, Commissioner
 Agency: Department of Health & Social Services

Phone: 465-3355
 Date: 01/15/97
 Date: 1/21/97

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The language in SB 41 is very broad in granting immunity from administrative or civil penalties for self disclosed violations of laws. The language would appear to limit the ability of the DMA in imposing and enforcing provider sanctions; at the very least, it would raise the level of the state's requirements in proving intent to commit fraud on the part of the provider. Additionally, this bill could require extensive intervention by the state's attorneys in the event that the DMA notifies a provider of intent to sanction a provider under the provisions of Article 11 of 7 AAC. The state is required by federal law to have a system of provider sanctions in place for Medicaid, as well as exclude any provider from Medicaid participation who has been so excluded by other federal programs, and notify our federal counterparts of actions against providers.

The Health Facility Licensing and Certification (HFL&C) section of the division, operates under both state and federal laws and regulations to certify health facilities as meeting quality standards required for participation in the Medicare and Medicaid Programs, and state licensing standards. These functions are accomplished by unannounced on-site visits to facilities for the purposes of observation of care, review of medical records, all facility records, policy and procedures, interviews with staff and family members, inspections of the physical plant and patient care equipment, etc. The procedures for monitoring compliance, notification of deficiencies, corrective action plans, are very specific and are quite accelerated if patients are in jeopardy. The OBRA 87 nursing home quality standards are quite stringent and have only been recently implemented nationwide under federal rules. HFL&C is also required to investigate complaints and reports of harm, maintaining a 24-hour complaint hot line. The section is gravely concerned that provisions of this bill could hamper their ability to carry out their mandated functions, including negative actions against facilities (decertification process) which, in extreme cases, can shut down facilities. The role of HFL&C is critical in maintaining patient quality care standards that guarantee safe health care to Alaskans in hospitals, nursing homes, home health agencies, rural health clinics, therapy centers, end stage renal disease centers, ambulatory surgery centers, and federally qualified health centers.

The language of the bill is written in such a way as to allow health care providers to identify almost anything that could be construed as a "self-audit" for the purposes of ensuring compliance, as being non-disclosable. In effect, HFL&C would be unable to completely fulfill their obligations under Alaska Statute, and under our agreement with HCFA; in addition, there would be conflicts in what facilities are obligated to make available to HFL&C, and what they could withhold.

For example, there is a State Licensure requirement found at 7 AAC 12.860, entitled **RISK MANAGEMENT** which applies to most health facilities licensed, which requires each facility to have provisions for monitoring, evaluating, and correcting care practices which may negatively affect patients or residents. The only way to adequately assess compliance with that requirement, is to review what problems the facility has identified, and determine if they took corrective action, or simply ignored the problem. Examples of how HFL&C would be unable to fulfill their obligations under Federal Regulations, and hence would jeopardize Federal funding, include:

CLIA - 42 CFR 493.1701 - 1701 Quality Assurance

Home Health Agencies - 42 CFR 484.52 Evaluation of the Agency's Program

Acute Care Hospitals - 42 CFR 482.21 Quality Assurance

Outpatient Physical Therapist/Speech Therapist - 42 CFR 405.176 Program Evaluation

Rural Health Clinics - 42 CFR 481.11 Program Evaluation

There are numerous similar requirements, which we believe, under the current language of the bill, facilities could say was non-disclosable. Many of these requirements state that the facility must maintain records. We review the records to ensure compliance. Under the current language of the bill, if the facility says it maintains these records as their way of ensuring they meet health and safety requirements, they could be non-disclosable.

As a matter of course, we do not use quality assurance records and other documentation as the sole basis for determining compliance. As stated, an exception would be if the facility knew about a problem, and either didn't fix it, or didn't check to see that it stayed fixed and the problem remained. In addition to compliance determinations, HFC&L evaluates a facility's culpability when determining sanctions. If a facility knows about a problem, and doesn't correct it, their culpability is greater than if they didn't know about the problem, or were in the process of taking corrective actions.

In addition to concerns about access to information, and how broad the bill's language is, we have concerns about the ramifications to staff who may disclose problems in a facility. For example, on virtually any given survey, staff at some point notify the surveyors of concerns. This information is helpful in identifying problems or potential problems which may ultimately result in patient harm. The goal is to protect patients, more than it is to find deficiencies.

The Medicaid Rate Advisory Committee, charged with setting rates for health care facilities paid By Medicaid and General Relief Medical, have the following concerns about SB 41:

Environmental audits and Health and Safety audits are not well defined in this bill. The bill states that Environmental and Health and Safety law shall be construed broadly. The lack of a solid definition combined with the language which construes Environmental and Health and Safety law broadly gives rise to a number of serious concerns. Areas where these audits may be misconstrued or interpreted as other audits and which would adversely impact the department include, but is not limited to, economy and efficiency audits, certifications and financial audits. Language included in the bill does not appear to be in the best interest of the state's Medical Assistance rate setting process. Our specific concerns regarding the language of SB 41 are as follows:

- The department is required by Federal law (the Boren Amendment) to prepare findings which identify costs which must be incurred by economically and efficiently operated health facilities providing services in accordance with state and federal care standards. We have been advised by the Attorney General's office that we should promulgate regulations which would ensure our access to economy and efficiency audits and studies performed by facilities, in order to fully comply with federal law. The passage of this bill could eliminate the department's access to such audits and seriously impact our findings process.
- Could these "Self Audits" be construed to include certification performed by private certification organizations such as JCAHO? If so, the department would need access to this information to ensure

payment for services rendered is appropriate. For example, the department would not want to pay a provider for neonatal intensive care if the facility was not certified to offer these services, or for costs that are not necessary in accordance with state and federal guidelines.

- Could these "Self Audits" be construed to include financial statement audits? In order to provide for a more efficient audit process, the department currently requires copies of financial statement audits to be submitted as a part of our facility cost reporting package.
- Since language in the bill prevents an employee of a state agency from requesting, reviewing or otherwise using one of the audit reports, We would strongly suggest language included which specifically exempts economy and efficiency audits, financial audits and certifications performed by private certification organizations such as JCAHO.

The department's safety officer commented under state administrative OSHA law, our department is expected to comply with OSHA regulations and is treated as if we were a private employer when it appears there has been non-compliance. Therefore, the positive features of this legislation which apply to private employers would also apply to DH&SS. It is not within the spirit of our preventive-oriented safety program to conceal safety or environmental information which had been discovered during internal audits. For instance, director safety designees will perform annual audits of each DH&SS facility and operation. Information from the audits will be recorded on safety inspection checklists. Director designees are encouraged to identify problem areas. Completed reports will be sent to the Safety and Risk Officer along with a report of corrective actions and a timetable for completion of each identified item. These are the type of reports an OSHA enforcement officer could ask to see if he/she were to perform an on-site safety inspection. If he/she were to cite us for an item identified on our internal inspection checklist which we had not corrected, this could hurt us in the future should the citation be argued before the Safety and Health Review Board. OSHA could use the report to show that the employer was aware of the problem and did not correct it. This is one of the elements they must prove to satisfy their "prima facie" case before the board.

Under this legislation, it appears as though we would have the opportunity to regard our internal audits as "privileged" and refuse to show them to an OSHA representative. Therefore, it could be more difficult for OSHA to successfully argue their position before the OSH Board in the case of a disputed citation. This is a pretty minor feature and its normally better to be completely up front with regulatory agencies regarding desired information.

**STATE OF ALASKA
ROUTE SLIP**

TO: Mail Station 3102	Department	Division
Attention Sen. Linau	Date 2/11	
<input type="checkbox"/> Approval <input type="checkbox"/> Note and Return <input type="checkbox"/> Signature <input type="checkbox"/> Initial and Return <input type="checkbox"/> Comment <input type="checkbox"/> Return as Requested <input type="checkbox"/> Contact Me <input type="checkbox"/> Return for Approval <input type="checkbox"/> Prepare Reply <input type="checkbox"/> Necessary Action <input type="checkbox"/> For Your File <input type="checkbox"/> For Your Information		
Remarks:		
FROM: Mail Station 6300	Dept./Div. Law	E-Mail
By Fred Fisher	Telephone 3672	

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. CSSB 41 (L&C)

Revision Date: _____ Dept. Affected: Department of Law
 Title: ...relating to environmental audits and health and BRU: Civil Division
safety audits to determine compliance with certain laws, permits... Component: Environmental Law
 Sponsor: Senator Leman
 Requester: Senate Labor and Commerce Committee COMPONENT SERIAL NO. 2092

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	107.5	107.5	107.5	53.8	53.8	53.8
TRAVEL	6.4	6.4	6.4	3.2	3.2	3.2
CONTRACTUAL	66.0	66.0	66.0	38.0	38.0	38.0
SUPPLIES	2.1	2.1	2.1	1.1	1.1	1.1
EQUIPMENT	6.5					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	188.5	182.0	182.0	96.0	96.0	96.0

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

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

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	188.5	182.0	182.0	96.0	96.0	96.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	188.5	182.0	182.0	96.0	96.0	96.0

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

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

This bill creates a new evidentiary privilege that allows environmental and occupational health and safety audits to be kept confidential in civil and administrative (not criminal) cases. It also grants immunity from civil and administrative penalties for people who voluntarily disclose a violation of an environmental or health and safety law or who disclose information that leads to the disclosure of a violation of an environmental health and safety law. "Environmental and health and safety law" is defined to include federal, state, and municipal laws and is to be broadly construed.

Audit Privilege. To be privileged, the audits must be voluntary, confidential, internal, and retrospective. Objective facts, information required to be reported under a law, permit, contract or lease, or information gathered independently of the audit are not covered. In addition, if the state can prove that one of the bill's exceptions apply, then a court may require disclosure.

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

Phone: 465-5370
 Date: 2/11/97
 Date: 2/11/97

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ANALYSIS CONTINUATION:

Immunity. A person who voluntarily discloses a violation of an environmental or health and safety law, or who discloses information that leads to the discovery of a violation, would be immune from administrative or civil penalties. The violation must be corrected within 90 days, or pursuant to a compliance agreement that allows for correction within a reasonable time, for immunity to apply. Immunity is not available for violations that result in substantial personal injury on site, or substantial personal, property, or environmental injury offsite. The term "substantial" is not defined. This bill allows for the mitigation of penalties for people who do not qualify for immunity.

It is not possible to accurately quantify the increased costs to litigate the audit privilege and immunity provisions in this bill, in part because of the uncertainty about the types of proceedings to which the provisions would apply. Nevertheless, we have identified what we believe to be the minimum responsible level of resources necessary to contend with the anticipated assertions of privilege and immunity. These are the equivalent of one full-time attorney and contractual for expert witnesses during the first three years of implementation. Once precedents are established, we expect these costs to be reduced.

General Legal Issues Resulting in Fiscal Impact

This is a new area of law, and there will be litigation and appeals related to the new privilege. An agency may have to defend the exercise of legitimate regulatory functions against a claim that the agency is improperly using privileged (confidential) information. Because the bill provides for some exceptions, there will also be litigation over what exceptions apply.

We also anticipate that additional legal assistance will be required for the affected agencies to negotiate, draft and review permits, contracts, leases, regulations and other documents to ensure that adequate compliance information is being gathered and maintained to meet the state's regulatory and proprietary responsibilities. The agencies will also require advice about what information is privileged and about public records requirements.

Agency-Specific Issues Resulting in Fiscal Impact

We have identified below some of the anticipated impacts on specific departments that lead us to conclude that our estimate of attorney resources is conservative. We note that many of these impacts can be mitigated by limiting the number of departmental programs that are either explicitly or implicitly covered by the bill. We would be pleased to furnish appropriate amendatory language.

Department of Environmental Conservation

The bill could impact state-run programs in DEC that require federal approval, for instance Drinking Water and Air Quality. Protecting the state's primacy in these programs will require increased attorney time. We will propose amendments to mitigate the impact (which stems from both the privilege and immunity sections of the bill).

Department of Labor

In addition to the general concerns discussed above, the threat of the federal government to withdraw the state's exclusive safety and health inspection and enforcement jurisdiction (18(e)) will require

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. CSSB 41 (L&C)

ANALYSIS CONTINUATION:

attorney time to protect the interests of the state and of Alaskan workers and businesses.

Department of Health and Social Services

Attorney time will be required to deal with the potential evidentiary disputes in cases involving health care licensing and certification, provider fraud, and Medicaid rate setting.

Other Agencies (DNR, DOTPF, Alaska Oil and Gas Conservation Commission)

The bill could jeopardize federal approval of programs like the AOGCC's Underground Injection Control program (the UIC program in Texas has been threatened because of that state's audit law). Protecting the state's interest by retaining primacy in this program will require increased attorney time. Any agency involved in protecting the state's interest in contaminated sites cases require additional attorney and outside expert time.

Many audits are performed on the Trans-Alaska Pipeline. This bill will require additional time for DNR and the Joint Pipeline Office to determine if information in these audits is privileged or covered by an exception.

SUMMARY OF COSTS

The full-time equivalent cost estimate is based on the department's standard attorney cost schedule (\$127,000) and includes clerical support, communications, space, supplies, data processing, and other normal overhead expenses. Case specific travel, one-time equipment purchases, and expert witness costs are included separately.

FY98 - FY00

1 FTE attorney	\$127.0
Direct case travel	\$5.0
One-time equipment (FY98 only)	\$6.5
Expert witnesses	\$50.0
Total Costs	<u>\$188.5</u>

FY01 - FY03

1/2 FTE attorney	\$63.5
Direct case travel	\$2.5
Expert witnesses	\$30.0
Total Costs	<u>\$96.0</u>

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. CSSB 41

Revision Date: _____
 Title: Environmental & health/safety audits
 Sponsor: Senator Leman
 Requestor: Senate L&C

Department Affected: Labor
 BRU: Labor Standards & Safety
 Component: Occupational Safety & Health
 COMPONENT SERIAL NO. 970

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						
----------------	--	--	--	--	--	--

CHANGE IN REVENUE	(55.8)	(55.8)	(55.8)	(55.8)	(55.8)	(55.8)
FUND SOURCE #	1004	1004	1004	1004	1004	1004

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)

We believe CSSB 41 will cause federal OSHA to revoke our 18(e) certification. Since the process of de-certification will take some time, there will be a transition period where AKOSH will be required to comply with this legislation. Our strategy will be to turn all cases in which an employer claims privilege or immunity over to federal OSHA as we do not have adequate resources to handle the extensive investigations and attorney fees required to fully comply with this bill. This would result in a loss of unrestricted revenues as indicated on page two.

Prepared by: Alan W. Dwyer, Director *Alan W. Dwyer* Phone: 465-4855
 Division: Labor, Standards & Safety Date: 2/11/97
 Approved by Commissioner: Tom Cashen, Commissioner *Tom Cashen*
 Agency: Department of Labor Date: 2/11/97

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If AKOSH were forced to pursue each case, significant expenses would be incurred. We could anticipate general fund expenditures as follows (no federal funds can be spent on these activities):

- 1) One new PFT Admin Clerk II will be required to document safety audits reported by employers and monitor the time frames allowed under CSSB 41.
- 2) Approximately 1,875 hours of work from existing Occupational Safety Compliance Officers will be required to provide facts and findings for the attorney. Each case will require approximately 75 hours to conduct the investigation, above and beyond the time required to perform the inspection, reducing the effectiveness of our OSH program by removing almost one FTE from our regular enforcement activities.
- 3) The Assistant Attorney General assigned to LS&S will work approximately 75 hours per case, reviewing files, preparing affidavits from employees, taking depositions, preparing briefs, conducting hearings, and representing the division in court. This also includes travel to areas outside of Anchorage.

Although it is impossible to determine the exact percentage, we have based these estimates on the assumption that 10 percent of employers will claim privilege and immunity when confronted with a request for their safety audit or a citation is issued. This percentage could go as high as 90%. Should CSSB 41 pass, the Department of Labor will lose their 18(e) certification which gives the State of Alaska exclusive inspection authority.

In FY96 AKOSH collected \$558.0 in unrestricted revenue generated by fines imposed on employers for violations of safety and health issues. If this bill is passed, it is estimated these revenues would be reduced by at least 10% due to the reduction of fines that AKOSH would be able to collect.

Line 71000 - Personal Services	103.3
1 PFT Admin Clerk II	
Salary	23.0
Benefits	11.2
Occupational Safety Compliance Officers	
(75 hrs/case, 25 cases per year, \$36.80/hr)	
Salary	50.2
Benefits	18.9
Line 72000 - Travel	6.0
Occupational Safety Compliance Officers	6.0
Line 73000 - Contractual Services	194.3
Professional Services	187.5
- Attorney fees	
(75 hrs/case, 25 cases per year, \$100.00/hr)	
- Attorney travel	6.0
Base phone & long distance charges	0.6
DP Chargeback	0.2
Line 74000 - Commodities	1.0
Office Supplies	1.0
Line 75000 - Equipment	5.0
Computer equipment & office furniture (FY98 One-time)	5.0
TOTAL	309.6

DEPARTMENT OF LABOR
 OFFICE OF THE COMMISSIONER -- MAIL STOP 0700
 LEGISLATIVE ROUTE SLIP
 BILL NO. CSSB47

SENATE	LOCATION	TITLE	OFC/COM
<input type="checkbox"/> ADAMS, AL	Room 417		3707
<input type="checkbox"/> DONLEY, DAVE	Room 508		3892
<input type="checkbox"/> DUNCAN, JIM	Room 119	Minority Leader	4766/4767
<input type="checkbox"/> ELLIS, JOHNNY	Room 9		3704
<input type="checkbox"/> GREEN LYDA	Room 125	St. Aff. (4522)	6600
<input type="checkbox"/> HALFORD, RICK	Room 121	Res. (4907/3711)	4958
<input type="checkbox"/> HOFFMAN, LYMAN	Room 7		4453
<input type="checkbox"/> KELLY, TIM	Room 101	Rules (3770)	3822
<input type="checkbox"/> LEMAN, LOREN	Room 113	L&C (3844)	2075
<input type="checkbox"/> LINCOLN, GEORGIANNA	Room 11		3732
<input type="checkbox"/> MACKIE, JERRY	Room 427	C&RA (4989)	4925
<input type="checkbox"/> MILLER, MIKE	Room 107	President (3755)	4976
<input type="checkbox"/> PARNELL, SEAN	Room 504		2995
<input type="checkbox"/> PEARCE, DRUE	Room 518	Co-Finance	4993
<input type="checkbox"/> PHILLIPS, RANDY	Room 103	LB&A (6590)	4949
<input type="checkbox"/> SHARP, BERT	Room 516	Co-Finance	3004
<input type="checkbox"/> TAYLOR, ROBIN	Room 30	Jud(3717)/Maj Leader	3873
<input type="checkbox"/> TORGERSON, JOHN	Room 514		2828
<input type="checkbox"/> WARD, JERRY	Room 423	Trans. (4921)	4940
<input type="checkbox"/> WILKEN, GARY	Room 510	HESS (3762)	4709

SPONSOR

REQUESTOR

- LEGISLATIVE FINANCE 6th Fl, SOB
- LEGISLATIVE OFFICE 3rd Fl, Capitol
- OMB/BUDGET REVIEW 5th Fl, Ct Attn: Royce Weller
- DOL BUDGET ANALYST
- DOL DIVISION COPY Attn: _____
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FROM: Duigt

DATE: 1-21-97

Alaska State Legislature

Senate



SENATE LABOR AND COMMERCE COMMITTEE

Official Business

State Capitol
Juneau, AK 99801-1182
Chairman: Senator Loren Leman
Vice Chairman: Senator Mackie
Senator Kelly
Senator Miller
Senator Hoffman

MEMO

TO: Terri Lauterbach
Legislative Legal Services
via fax: 2029

FROM: Annette Kreitzer, Aide to
Senate Labor & Commerce Committee

DATE: January 30, 1997

RE: CSSB 41: Environmental and Health and Safety Audits

Please draft a FINAL CS for SB 41 incorporating the following amendment to Work Draft LS0299E (dated 1/30/97):

1) Page 11, Line 2; following Department of Environmental Conservation insert:
Department of Labor and Department of Health and Social Services, as appropriate.

This language may need to be revised in the next committee. The sponsor's staff, the departments and industry representatives will be combing over the Final Committee Substitute before it is heard in Senate Judiciary to ensure consistency.

The final should be delivered to Capitol Room 115, Senator Loren Leman - Chairman of Senate Labor & Commerce. No further changes were made.

EXPLANATION OF CHANGES TO SB 41:

GENERAL COMMENTS:

Mike Pauley and I were directed by the Sponsor to work with representatives of the departments affected by the bill to try to come to consensus on various points. We have very productive discussions with the Departments of Law and Environmental Conservation. However, the draft provided by those departments left out health and safety laws, while the Committee Substitute retains the original purview of SB 41, and includes health and safety laws.

There are two other areas where the sponsor indicated he would prefer work continue in the Judiciary committee:

a) Trigger to make the immunity unavailable if a federally delegated program requires imposition of a penalty for a violation. The sponsor has directed that the language proposed by the departments be left out of the CS, but he intends to continue to work with the departments and the Senate Judiciary Committee on the problem of federally delegated programs and the effect of SB 41.

b) The definition of the term "commence" when used in conjunction with "commencing an audit". This phrase needs to be clearly defined and understood and is also within the purview of the Senate Judiciary Committee.

Of the four amendments provided by the International Association of Drilling Contractors, one was incorporated. One was deemed within the purview of the Senate Judiciary Committee and two were deemed unnecessary after inclusion of language from the departments' proposal.

Section 1: Findings: Intent:

Proposal:	Environmental Law
CSSB41:	Environmental, Health & Safety
Proposal:	"confidential self-evaluation and analysis"
CSSB41:	accepted
Proposal:	"persons" for "entities"
CSSB 41:	accepted
Proposal:	"compliance plan" for "corrective action plan"
CSSB 41:	accepted

Section 2:

Sec. 09.25.450 Audit Report Privilege:

(a)

Proposal:	Change title to reflect only environmental privilege
CSSB 41:	Not accepted
Proposal:	Makes clear that its the owner/operator who prepares an audit report who has the privilege. Begin to change focus from the "audit report" to the information which is privileged
CSSB 41:	Accepted

Sec. 09.25.450 Audit Report Privilege: cont'd

- (b) Proposal: New subsection. Parallel Structure for Privilege as appears in Immunity section. eg, notice requirement, new requirement that audit be completed within 30 days (does not include the audit report).
CSSB 41: Accepted
- (c) Proposal: Reworded former (b)(3); no substantive change.
CSSB 41: Accepted
- (d) Proposal: Reworded former AS 09.25.450(d); Substitutes "conditions" for "instances"
CSSB 41: Accepted, but did not accept deletion of "or an activity of a regulated facility, operation, or property" Page 3, Lines 23-24 SB 41.
- (e) Proposal: Prove the absence of any nonprivileged material
CSSB 41: Not Accepted
- (f) Proposal: Delete "or labeled with words of similar import"
CSSB 41: Accepted and changed wording to Audit Report, rather than Compliance Audit Report
- (g) Proposal: New Subsection: A regulatory agency may not as a condition of a permit, etc., require owner/operator to waive privilege.
CSSB 41: Accepted
- (h) Proposal: Old (d) from page 3 lines 21-24; except that Law recognizes that "request" is covered by Rules of Evidence, therefore it is deleted.
CSSB 41: Accepted
- (i) Proposal: Rewrite of old (g) from Page 3, Lines 30-31; and Page 4, Lines 1-6.
CSSB 41: Changes were minor, may end up being made in future revisions. Not Accepted at this time.

Sec. 09.25.455. Exception: Waiver.

- (a) Proposal: Change title to Waiver & Disclosure
CSSB 41: Accepted

Sec. 09.25.455. Exception: Waiver. cont'd

- (b)
- | | |
|-----------|--|
| Proposal: | Minor rewording changes; - deleted 09.25.455 (a)(2)(D) no confidentiality agreements between government officials and owner/operator |
| CSSB 41: | Accepted most and added amendment requested by Drilling Contractors - New (F) to allow contractor's to share information with their clients. |
- (c)
- | | |
|-----------|--|
| Proposal: | Drops 09.25.455(c) - party to a confidentiality agreement who violates agreement liable for damages. |
| CSSB 41: | Deleted, but needs to be reviewed by Senate Judiciary Committee |
- (d)
- | | |
|-----------|---------------------------------|
| Proposal: | Becomes new (c) - minor changes |
| CSSB 41: | Accepted |
- (e)
- | | |
|-----------|---|
| Proposal: | Former (e) Page 5, Lines 10-13. Disclosure of a portion of audit does not waive privilege for another part of the audit. Deleted. |
| CSSB 41: | Accepted. Covered under Rules of Evidence. |

Sec. 09.25.460. Nonprivileged Materials.

This section has been re-ordered. It was Section 09.25.465 in SB 41.

- (a)
- | | | |
|-----------|--|----------|
| Proposal: | New (1): Objective facts. Included due to industry testimony; removed "datum, report"; | CSSB 41: |
| | Accepted. Put back in "datum, report". | |
- (b)
- | | |
|-----------|-----------|
| Proposal: | No change |
| CSSB 41: | No change |
- (c) (d)
- | | |
|-----------|--|
| Proposal: | deleted (c) and (d) from page 6, Lines 21-25. Deemed not necessary, questions re: commence and its definition. |
| CSSB 41: | Accepted. |

Sec. 09.25.465. Exception: Disclosure required by court.

This section has been re-ordered. It was Section 09.25.460 in SB 41.

- (a)1-4
Proposal: Delete: Administrative Hearing Officer, add "criminal" to be consistent with Court Rule 503 (Lawyer-Client Privilege); suggested "imminent or present threat of such injury".
CSSB 41: Accepted deletion; Accepted "criminal"; suggest Senate Judiciary Committee take up "imminent or present threat of such injury"
- (a)(5)
Proposal: Insert language consistent with other privilege statutes: (AS 09.25.310(b)(1)).
CSSB 41: Accepted.

Sec. 09.25.465. Exception: Disclosure required by court. (cont'd)

- (b) (c)
Proposal: Person seeking disclosure must make a successful prima facie showing; then, the burden of proving the exception does not apply falls to the person claiming the privilege. Also, a person seeking disclosure under the provision of (a)(6) has burden of proving the exception applies.
CSSB 41: Not accepted at this time. Want to solicit additional input.

Sec. 09.25.475. Voluntary disclosure: immunity.

- (a)
Proposal: Changed term "person" to "owner or operator"
CSSB 41: Accepted.
- (b)
Proposal: Suggested "or the imminent or present threat of such injury" be added to language disallowing immunity if there is substantial injury onsite etc..
CSSB 41: Not accepted at this time. Senate Judiciary Committee should review.
- (c)
Proposal: Suggest that the disclosure be made within 15 days .
CSSB 41: Kept previous language of "prompt" disclosure until further input can be solicited on proposal.
- (d)
Proposal: Suggest the violation be corrected within 60 days.
CSSB 41: Accepted 90 days, needs further input.
- (e)
Proposal: New Language: stating that a disclosure is not voluntary if it is a disclosure required by environmental law, permit license, approval issued under an environmental law.
CSSB 41: Accepted except portion pertaining to "approval issued under an environmental law", needs clarification.

Sec. 09.25.475. Voluntary disclosure: immunity. cont'd

- (f) Proposal: Immunity only extended for documents produced during the time frame of the audit. (30 days or longer w/consent of dept.)
CSSB 41: Accepted
- (g) Proposal: No change
CSSB 41: No change
- (h) Proposal: Violation that has been voluntarily disclosed, identified in compliance history as being voluntary disclosure.
CSSB 41: Accepted

Sec. 09.25.480. Exceptions to immunity: mitigation

New section that compiles portions of SB 41 that dealt with exceptions.

- (a) Proposal: Include: no immunity if court finds that owner/operator "gained substantial economic benefit from the violation".
CSSB 41: Not accepted at this time. Needs further input, comparison with AS 46.03.760 (a)(3).
- (b) ~~Proposal: No change
CSSB 41: No change~~
- (c) Proposal: Immunity not available if federal program requires imposition of a penalty for violation.
CSSB 41: Not included at this time. Purview of Senate Judiciary Committee
- (d) Proposal: Some rewording suggested, no substantive change
CSSB 41: Not accepted at this time.

Sec. 09.25.485. Relationship to other recognized privileges.

- Proposal: Delete phrase "and any other privilege recognized by a court with appropriate authority in this state".
CSSB 41: Did not accept at this time.

Sec. 09.25.490. Definitions.

(1) Audit Report:

- Proposal: Deletes "monitor or similar person"; deletes (i) - (:)
CSSB 41: Kept "monitor or similar person"; deleted (i)-(x)

(2) Confidential self-evaluation and analysis

- Proposal: New definition recognizing information subject to privilege
CSSB 41: Accepted

Sec. 09.25.490. Definitions. (cont'd)

(3) Environmental or Health and Safety Law:

Proposal: Tie to AS 46.03-46.35
CSSB 41: Retain definition in SB 41

(4) Environmental or health and safety audit:

Proposal: Only environmental
CSSB 41: Retain SB 41 definition, deleted "that is conducted randomly" in favor of department's "whether or not conducted on a regular basis".

(9) Penalty:

Proposal: Include regulation, or permit term or condition
CSSB 41: Did not include

Sec. 3:

Sec. 12.45.052. Privilege relating to certain self-audits

Proposal: Delete
CSSB 41: Deleted.

Sec. 4: Applicability

Proposal: No change
CSSB 41: No change

Prepared By:
Annette Kreitzer, Aide to
Senate Labor & Commerce Committee
January 30, 1997

LEGAL SERVICES

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

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Mail Stop 3101

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

MEMORANDUM

January 30, 1997

SUBJECT: CSSB 41(L&C) (Work Order No. 0-LS0299\E)

TO: Senator Loren Leman
Attn: Annette Kreitzer

FROM: Terri Lauterbach
Legislative Counsel 

Enclosed is a draft CS based on the material we received yesterday afternoon. In order to have a CS ready for your meeting today our review was necessarily less searching than usual.

There may be additional issues ascertainable with more time for review, but, for the time being, we have the following comments and questions:

(1) the requested instruction (5) in your memo and the new definition of "confidential self-evaluation and analysis" contained in instruction (51) would have resulted in a tautology since the definition would have referred to material subject to the privilege under AS 09.25.450 while AS 09.25.450 would have referred to material as defined in the definition in AS 09.25.490; to avoid this tautology, this draft eliminates the reference to AS 09.25.450 that would have been contained in the definition of "confidential self-evaluation and analysis" under instruction (51); this draft also eliminates the reference to AS 09.25.490 contained in instruction (5) because it would have been unnecessarily redundant (the definition will apply without a reference to the definition);

(2) your instruction (8) omitted reference to health and safety audits and included only environmental audits under the notice requirements of AS 09.25.450(b); this draft assumes that omission was intentional and I have made corresponding changes in AS 09.25.475(i) and (g);

(3) AS 09.25.460(a)(7), requested in your instruction (27), was ambiguous: does the "document" have to include an agreement between the agency and the owner or does the "document" merely have to regard a compliance plan and an example of that could be an agreement between the agency and the owner; the draft currently assumes the latter by the addition of commas after "information" and "operator";

Senator Loren Lemman
January 30, 1997
Page 2

(4) in AS 09.25.475(d)(2), added by your instruction (36), the term "department" was used, but in (d)(4), the term "agency" was used: this draft assumes that "agency" is the proper term in both places: please let us know if that is incorrect:

(5) because of the passive voice used in the language added by your instruction (38), it was unclear who was supposed to have the duty to identify in a compliance history report that a violation was voluntarily disclosed: this draft assumes that the "compliance history report" referred to in AS 09.25.475(h) is something prepared by the regulatory agency so the draft places this duty with the regulatory agency; let us know if this is incorrect: it may be a good idea to define or explain somewhere in the bill what a compliance history report is:

(6) in AS 09.25.480(a)(1)(B), your instruction (39) used the phrase "within the past three years" without a referent for when that period ended: this draft assumes that you meant "within the 36 months preceding the violation": if you meant something different, such as "within the 36 months preceding the court's decision," please let us know:

(7) I am unsure whether the syntax that results after implementation of your instruction (46) gives a clear meaning in AS 09.25.490(1)(A): please review this definition carefully for clarity:

(8) there is a lot of jargon in the definition of "confidential self-evaluation and analysis" added by your instruction (51) and included as AS 09.25.490(2) of the draft: I am not sure a member of the public will know what "implementation issues" are or what an "audit implementation plan" is (implementing what?): I have added a reference to environmental or health and safety laws in an attempt to clarify what is meant by "compliance" and "noncompliance," but I'm not sure that is sufficient: I also wonder if there isn't some internal contradiction caused by requiring the analysis to be "retrospective" in subparagraph (A) while also saying that it might include issues or plans to improve "current" compliance or prevent "future" noncompliance: please carefully review this matter to ensure that your intent is achieved:

(9) the definitions of "confidential self-evaluation and analysis" and "audit report" are very similar, and to the extent that there are differences, there is some tautology (e.g. "confidential" means..."confidential"); I believe these definitions deserve more critical review aimed at refining the language and distinguishing between the two terms:

(10) you may wish to consider defining "substantial injury" because it is such a crucial term in AS 09.25.465 and 09.25.475.

I hope you find these comments helpful as you review the CS. Please let us know if we can be of further assistance.

TML:jdr
97-061.jdr

Enclosure

0-LS0299E
Lauterbach
1/30/97

CS FOR SENATE BILL NO. 41(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered:

Referred:

Sponsor(s): SENATORS LEMAN, Pearce, Taylor

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to environmental audits and health and safety audits to
2 determine compliance with certain laws, permits, and regulations."

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

4 * Section 1. FINDINGS; INTENT. The legislature finds and intends as follows:

5 (1) as environmental and health and safety regulations evolve, performance-
6 based standards will increasingly replace the traditional command-and-control approach of
7 state regulatory practices; this shift is expected to save money for both the state and regulated
8 entities and to lead to the integration of environmental and health and safety protections and
9 normal operating procedures for regulated facilities and operations; in order to foster a
10 partnership between the public and private sectors and promote this integration, it is the intent
11 of the legislature to establish under this Act a responsible incentive program to encourage
12 voluntary, critical self-evaluation and analysis by regulated entities of their compliance with
13 environmental and health and safety requirements by authorizing certain qualified privileges
14 and immunities related to those self-evaluations;

1 (2) the public has a strong interest in encouraging routine self-review of
2 environmental and health and safety business practices and procedures; this encouragement
3 can best be achieved by preserving the free flow of information; the free flow of the kind of
4 information that is generated by self-audits would be curtailed if a privilege for the audits
5 were not available; therefore, it is the intent of the legislature to recognize an audit privilege
6 under this Act to protect the confidentiality of communications related to voluntary internal
7 environmental and health and safety audits; however, the legislature does not intend that the
8 parts of an audit report consisting of confidential self-evaluation and analysis that are
9 privileged under this Act may be used to shield a person from liability under applicable laws
10 and regulations by blocking access to relevant facts;

11 (3) the public also has a strong interest in obtaining cost-effective correction
12 of inadvertent environmental and health and safety violations; this goal can best be achieved
13 by offering qualified immunity from administrative and civil penalties to regulated persons
14 who promptly report known violations of environmental and health and safety regulations that
15 are uncovered as part of an audit so that the violations can promptly be corrected and a
16 compliance plan can be negotiated with the appropriate governmental regulatory agency;

17 (4) an effective enforcement program is also necessary to protect the public
18 health and welfare and the environment; the legislature intends that the audit privilege and the
19 immunities established in this Act should be applied in a manner that promotes compliance
20 with environmental and health and safety laws, whether through voluntary compliance or
21 through enforcement efforts.

22 * Sec. 2. AS 09.25 is amended by adding new sections to read:

23 **Article 5. Privileges and Immunities**

24 **Related to Disclosure of Certain Self-Audits and Violations.**

25 **Sec. 09.25.450. Audit report privilege.** (a) Except as provided in
26 AS 09.25.460, an owner or operator who prepares an audit report or causes an audit
27 report to be prepared has a privilege to refuse to disclose, and to prevent another
28 person from disclosing, the parts of the report that consist of confidential self-
29 evaluation and analysis of the owner's or operator's compliance with environmental
30 or health and safety laws. Except as provided in AS 09.25.455 - 09.25.480, the
31 privileged information is not admissible as evidence or subject to discovery in

- 1 (1) a civil action, whether legal or equitable; or
2 (2) an administrative proceeding, except for workers' compensation
3 proceedings.

4 (b) With respect to confidential self-evaluation and analysis in an
5 environmental audit, in order to qualify for the privilege under this section and the
6 immunity under AS 09.25.475, at least 15 days before conducting the audit, the owner
7 or operator conducting the audit must give notice by certified mail to the department
8 of the fact that it is planning to commence the audit. The notice must specify the
9 facility, operation, or property or portion of the facility, operation, or property to be
10 audited, the date the audit will begin and end, and the general scope of the audit. The
11 notice may provide notification of more than one scheduled environmental audit at a
12 time. Once initiated, an audit shall be completed within 30 days unless a longer period
13 of time is agreed upon between the owner or operator and the department. The audit
14 report must be completed in a timely manner.

15 (c) The following persons may claim the privilege available under (a) of this
16 section:

17 (1) the owner or operator who prepared the audit report or caused the
18 audit report to be prepared;

19 (2) a person who conducted all or a portion of the audit but did not
20 personally observe or participate in the relevant instances or events being
21 reviewed for compliance;

22 (3) a person to whom confidential self-evaluation or analysis is
23 disclosed under AS 09.25.455(b); or

24 (4) a custodian of the audit results.

25 (d) A person who conducts or participates in the preparation of an audit report
26 and who actually observed or participated in conditions or events being reviewed for
27 compliance may testify about those conditions or events but may not, in a proceeding
28 covered by (a) of this section, be compelled to testify about or produce documents
29 consisting of confidential self-evaluation and analysis.

30 (e) A person claiming the privilege described in this section has the burden of
31 proving the applicability of the privilege.

1 (f) To facilitate identification, each document in an audit report that contains
2 confidential self-evaluation or analysis shall be labeled "AUDIT REPORT:
3 PRIVILEGED DOCUMENT."

4 (g) A government agency or its employees or agents may not, as a condition
5 of a permit, license, or approval issued under an environmental law, require an owner
6 or operator to waive the privilege available under this section.

7 (h) Except when the privilege is waived under AS 09.25.455(a) or disclosure
8 is made under AS 09.25.455(b), neither an agency nor its employees or agents may
9 review or otherwise use the part of an audit report consisting of confidential self-
10 evaluation or analysis during an inspection of a regulated facility, operation, or
11 property or an activity of a regulated facility, operation, or property.

12 (i) This section may not be construed to

13 (1) prevent a regulatory agency from issuing an emergency order,
14 seeking injunctive relief, independently obtaining relevant facts, conducting necessary
15 inspections, or taking other appropriate action regarding implementation and
16 enforcement of an applicable environmental or health and safety law, except as
17 otherwise provided in AS 09.25.475; or

18 (2) authorize a privilege for uninterrupted or continuous environmental
19 or health and safety audits.

20 **Sec. 09.25.455. Waiver and disclosure.** (a) The privilege in AS 09.25.450
21 does not apply to the extent the privilege is expressly waived in writing by the owner
22 or operator who prepared the audit report or caused the report to be prepared.

23 (b) Disclosure of the part of an audit report or information consisting of
24 confidential self-evaluation or analysis does not waive the privilege established by
25 AS 09.25.450 if the disclosure is made only

26 (1) to address or correct a matter raised by the environmental or health
27 and safety audit and is made only to

28 (A) a person employed by the owner or operator, including
29 temporary and contract employees;

30 (B) a legal representative of the owner or operator;

31 (C) an officer or director of the regulated facility, operation, or

1 property;

2 (D) a partner of the owner or operator;

3 (E) an independent contractor retained by the owner or operator;

4 or

5 (F) the principal of the independent contractor who conducted
6 an audit on the principal's behalf;

7 (2) under the terms of a confidentiality agreement between the owner
8 or operator who prepared the audit report or caused the audit report to be prepared and

9 (A) a partner or potential partner of the owner or operator of the
10 facility, operation, or property;

11 (B) a transferee or potential transferee of an interest in the
12 facility, operation, or property;

13 (C) a lender or potential lender for the facility, operation, or
14 property; or

15 (D) a person engaged in the business of insuring, underwriting,
16 or indemnifying the facility, operation, or property; or

17 (3) under a written claim of confidentiality to a government official or
18 agency by the owner or operator who prepared the audit report or who caused the audit
19 report to be prepared.

20 (c) Documents consisting of confidential self-evaluation and analysis that are
21 disclosed under (b)(3) of this section are required to be kept confidential and are not
22 subject to disclosure under AS 09.25.110 - 09.25.220.

23 **Sec. 09.25.460. Nonprivileged materials.** (a) There is no privilege under
24 AS 09.25.450 for that part of an audit report that contains the following:

25 (1) objective facts;

26 (2) a document, communication, datum, report, or other information
27 required by a regulatory agency to be collected, developed, maintained, or reported
28 under an environmental or health and safety law, under a permit issued under an
29 environmental or health and safety law, as a requirement for obtaining, maintaining,
30 or renewing a license, as a requirement under a contract or lease with the state, or as
31 a requirement under an administrative order or court order or decree;

1 (3) information that a regulatory agency obtains by observation,
2 sampling, or monitoring;

3 (4) information that a regulatory agency obtains from a source that was
4 not involved in compiling, preparing, or conducting the environmental or health and
5 safety audit report;

6 (5) a document, communication, datum, report, or other information
7 collected, developed, or maintained in the course of a regularly conducted business
8 activity or regular practice other than an environmental or health and safety audit;

9 (6) a document, communication, datum, report, or other information
10 that is independent of the environmental or health and safety audit, whether prepared
11 or existing before, during, or after the audit; and

12 (7) a document, communication, datum, report, or other information,
13 including an agreement or order between a regulatory agency and an owner or
14 operator, regarding a compliance plan or strategy.

15 (b) An audit report is not privileged and is admissible as evidence and subject
16 to discovery in a proceeding relating to pipeline rates, tariffs, fares, or charges.

17 **Sec. 09.25.465. Exception: disclosure required by court.** (a) A court with
18 jurisdiction may require disclosure of confidential self-evaluation and analysis
19 contained in an audit report in a civil proceeding if the court determines, after an in
20 camera review consistent with the appropriate rules of procedure, that the

21 (1) privilege is asserted for a criminal or fraudulent purpose;

22 (2) information for which the privilege is claimed is evidence of
23 substantial injury to one or more persons at the site audited or to persons, property, or
24 the environment offsite;

25 (3) audit report shows evidence of noncompliance with an
26 environmental or health and safety law and appropriate efforts to achieve compliance
27 with the law were not promptly initiated and pursued with reasonable diligence after
28 discovery of noncompliance;

29 (4) audit report was prepared for the purpose of avoiding disclosure of
30 information required for an investigative, administrative, or judicial proceeding that,
31 at the time of the report's preparation, was imminent or in progress; or

1 (5) privilege would result in a miscarriage of justice or the denial of
2 a fair trial to the party challenging the privilege.

3 (b) A party seeking disclosure under this section has the burden of proving that
4 (a) of this section applies.

5 **Sec. 09.25.475. Voluntary disclosure; immunity.** (a) Except as provided by
6 this section, an owner or operator who makes a voluntary disclosure of a violation of
7 an environmental or health and safety law is immune from an administrative or civil
8 penalty for the violation disclosed, for a violation based on the facts disclosed, and for
9 a violation discovered because of the disclosure that was unknown to the owner or
10 operator making the disclosure.

11 (b) Immunity is not available under this section if the violation resulted in
12 substantial injury to one or more persons at the site audited or to persons, property, or
13 the environment offsite.

14 (c) A disclosure is voluntary for the purposes of this section only if

15 (1) the disclosure is made promptly after knowledge of the information
16 disclosed is obtained by the person;

17 (2) the disclosure is made in writing by certified mail to an agency that
18 has regulatory authority with regard to the violation disclosed;

19 (3) an investigation of the violation was not initiated or the violation
20 was not independently detected by an agency with enforcement jurisdiction before the
21 disclosure was made using certified mail; under this paragraph, the agency has the
22 burden of proving that an investigation of the violation was initiated or the violation
23 was detected before receipt of the certified mail;

24 (4) the disclosure arises out of a voluntary environmental or health and
25 safety audit;

26 (5) the owner or operator making the disclosure initiates, within a
27 reasonable time, an appropriate effort to achieve compliance, pursues that effort with
28 due diligence, and corrects or implements a series of measures designed to remedy the
29 noncompliance within a reasonable time; and

30 (6) the owner or operator making the disclosure cooperates with the
31 appropriate agency in connection with an investigation of the issues identified in the

1 disclosure and agrees under terms of a confidentiality agreement to disclose to the
2 agency, on request of the agency, the part of the audit report that describes the
3 implementation plan or tracking system developed to correct past noncompliance,
4 improve current compliance, or prevent future noncompliance.

5 (d) To qualify for immunity under this section, the owner or operator making
6 the disclosure must

7 (1) promptly initiate appropriate efforts to achieve compliance and
8 remediation and pursue those efforts with due diligence;

9 (2) correct the violation within 90 days or enter into a compliance
10 agreement with the appropriate agency that provides for completion of corrective and
11 remedial measures within a reasonable time;

12 (3) implement appropriate measures designed to prevent the recurrence
13 of the violation; and

14 (4) cooperate with the appropriate agency in connection with an
15 investigation of the issues identified in the disclosure; an agency may request that the
16 owner or operator allow the agency to review, under an agreement as described in
17 AS 09.25.455(b)(3), the relevant portions of the confidential self-evaluation and
18 analysis as necessary to determine that appropriate corrective actions have been
19 identified.

20 (e) A disclosure is not voluntary for purposes of this section if it is a
21 disclosure to a regulatory agency expressly required by an environmental or health and
22 safety law, a permit, a license, or an enforcement order or decree.

23 (f) Immunity under this section for violation of an environmental law is
24 available only for a violation that is discovered as a result of information or documents
25 first produced or obtained during the time period specified in the notice required under
26 AS 09.25.450(b).

27 (g) During the audit period specified in the notice required under
28 AS 09.25.450(b), the department may not initiate an inspection, monitoring, or other
29 investigative activity concerning the audited facility, operation, or property based solely
30 on the receipt of a notice under AS 09.25.450. The department has the burden of
31 proving that an inspection, monitoring, or other investigative activity concerning the

1 audited facility, operation, or property initiated after receiving a notice under
2 AS 09.25.450 was not initiated based solely on receiving the notice.

3 (h) A violation that has been voluntarily disclosed and to which immunity
4 applies under this section shall be identified by the regulatory agency in its compliance
5 history report as having been voluntarily disclosed.

6 **Sec. 09.25.480. Exceptions to immunity; mitigation.** (a) There is no
7 immunity under AS 09.25.475 if a court finds that

8 (1) the owner or operator claiming the immunity has

9 (A) intentionally, knowingly, or recklessly committed or
10 authorized the violation;

11 (B) within the 36 months preceding the violation, repeatedly or
12 continuously committed violations that are the same as, or similar to, the
13 violation for which immunity is sought;

14 (C) not attempted to bring the facility, operation, or property
15 into compliance and this failure constitutes a pattern of disregard of
16 environmental or health and safety laws; or

17 (2) the offense was committed intentionally or knowingly by a member
18 of the owner's or operator's management or an agent of the owner or operator and the
19 owner's or operator's policies or lack of prevention systems contributed materially to
20 the occurrence of the violation.

21 (b) An administrative or civil penalty that is imposed on a person for violation
22 of an environmental or health and safety law when the person has made a voluntary
23 disclosure under AS 09.25.475(a) but is not granted immunity because of (a) of this
24 section may, to the extent appropriate and not prohibited by law, be mitigated by

25 (1) the voluntariness of the disclosure;

26 (2) efforts by the disclosing party to conduct environmental or health
27 and safety audits and to complete any resulting implementation plan or tracking system
28 for corrective and preventive action;

29 (3) remediation;

30 (4) cooperation with government officials investigating the disclosed
31 violation;

- 1 (5) the nature of the violation; and
2 (6) other relevant considerations.

3 Sec. 09.25.485. Relationship to other recognized privileges. AS 09.25.450 -
4 09.25.490 do not limit, waive, or abrogate the scope or nature of a statutory or
5 common law privilege, including the work product doctrine, the attorney-client
6 privilege, and any other privilege recognized by a court with appropriate authority in
7 this state.

8 Sec. 09.25.490. Definitions. (a) In AS 09.25.450 - 09.25.490,

9 (1) "audit report" means a report that includes each document and
10 communication, other than those set out in AS 09.25.460, produced from an
11 environmental or health and safety audit; general components that may be contained
12 in a completed audit report include

13 (A) a report, prepared by an auditor, monitor, or similar person,
14 including the scope of the audit, the dates the audit began and ended, the
15 information gained in the audit, findings, conclusions, recommendations,
16 exhibits, and appendices;

17 (B) memoranda and documents analyzing all or a portion of the
18 materials described in (A) of this paragraph or discussing implementation
19 issues; and

20 (C) an implementation plan or tracking system to correct past
21 noncompliance, improve current compliance, or prevent future noncompliance;

22 (2) "confidential self-evaluation and analysis" means the part of an
23 audit report that consists of memoranda and documents that evaluate or analyze all or
24 part of the material described in the audit report, including implementation issues or
25 an audit implementation plan or tracking system to correct past noncompliance,
26 improve current compliance, or prevent future noncompliance with an environmental
27 or health and safety law, and that is

28 (A) a voluntary, confidential, critical, internal, and retrospective
29 review, self-evaluation, or analysis of conduct, practices, and occurrences and
30 their resulting consequences; and

31 (B) prepared and maintained with the expectation that it will be

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kept confidential;

(3) "department" means the Department of Environmental Conservation;

(4) "environmental or health and safety audit" means a voluntary, confidential, critical, internal, and retrospective review, self-evaluation, or analysis of current or past conduct, practices, and occurrences and their resulting consequences, including an assessment that is a part of the owner's or operator's compliance management system, whether or not conducted on a regular basis or in response to a particular event, by an owner or operator or by an employee or independent contractor of an owner or operator and is

(A) conducted in the expectation that it will be confidential; and

(B) specifically and exclusively designed and undertaken for the purpose of determining compliance with environmental or health and safety laws or a permit issued under those laws;

(5) "environmental or health and safety law" means

(A) a federal or state environmental or occupational health and safety law; or

(B) a rule, regulation, or municipal ordinance adopted in conjunction with or to implement a law described by (A) of this paragraph;

(6) "intentionally" has the meaning given in AS 11.81.900;

(7) "knowingly" has the meaning given in AS 11.81.900;

(8) "owner or operator" means a person who owns or operates a regulated facility, operation, or property;

(9) "penalty" means an administrative or civil sanction imposed by the state to punish a person for a violation of a statute or rule; the term does not include a technical or remedial provision ordered by a regulatory authority;

(10) "recklessly" has the meaning given in AS 11.81.900;

(11) "regulated facility, operation, or property" means a facility, operation, or property that is regulated under an environmental or health and safety law.

(b) To fully implement the privilege and immunity established under AS 09.25.450 - 09.25.490, the term "environmental or health and safety law" shall be

Amend #1
Consider an amendment to broaden

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construed broadly.

* Sec. 3. APPLICABILITY. The privilege and immunity created by AS 09.25.450 - 09.25.490, added by sec. 2 of this Act, apply to environmental or health and safety audits that are conducted on or after the effective date of this Act.

SENATE BILL NO. 41

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY SENATORS LEMAN, Pearce, Taylor

Introduced: 1/13/97

Referred: L&C, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to environmental audits and health and safety audits to**
2 **determine compliance with certain laws, permits, and regulations."**

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

4 *** Section 1. FINDINGS; INTENT.** The legislature finds and intends as follows:

5 (1) as environmental and health and safety regulations evolve, performance-
6 based standards will increasingly replace the traditional command-and-control approach of
7 state regulatory practices; this shift is expected to save money for both the state and regulated
8 entities and to lead to the integration of environmental and health and safety protections and
9 normal operating procedures for regulated facilities and operations; in order to foster a
10 partnership between the public and private sectors and promote this integration, it is the intent
11 of the legislature to establish under this Act a responsible incentive program to encourage
12 voluntary, critical self-evaluation by regulated entities of their compliance with environmental
13 and health and safety requirements by authorizing certain qualified privileges and immunities
14 related to those self-evaluations;

1 (2) the public has a strong interest in encouraging routine self-review of
2 environmental and health and safety business practices and procedures; this encouragement
3 can best be achieved by preserving the free flow of information; the free flow of the kind of
4 information that is generated by self-audits would be curtailed if a privilege for the audits
5 were not available; therefore, it is the intent of the legislature to recognize an audit privilege
6 under this Act to protect the confidentiality of communications related to voluntary internal
7 environmental and health and safety audits; however, the legislature does not intend that audit
8 reports privileged under this Act may be used to shield a person from liability under
9 applicable laws and regulations by blocking access to relevant facts;

10 (3) the public also has a strong interest in obtaining cost-effective correction
11 of inadvertent environmental and health and safety violations; this goal can best be achieved
12 by offering qualified immunity from administrative and civil penalties to regulated ^{persons} entities that
13 promptly report known violations of environmental and health and safety regulations that are
14 uncovered as part of an audit so that the violations can promptly be corrected and a ^{compliance} corrective
15 action plan can be negotiated with the appropriate governmental regulatory agency;

16 (4) an effective enforcement program is also necessary to protect the public
17 health and welfare and the environment; the legislature intends that the audit privilege and the
18 immunities established in this Act should be applied in a manner that promotes compliance
19 with environmental and health and safety laws, whether through voluntary compliance or
20 through enforcement efforts.

21 * Sec. 2. AS 09.25 is amended by adding new sections to read:

22 **Article 5. Privileges and Immunities**

23 **Related to Disclosure of Certain Self-Audits.**

24 **Sec. 09.25.450. ^{Environmental and Safety Audits} Audit report privilege.** (a) Except as provided in

25 AS 09.25.455 - 09.25.475, ⁴⁸² an audit report is privileged and ^{the privileged information} is not admissible as
26 evidence or subject to discovery in

27 (1) a civil action, whether legal or equitable; or

28 (2) an administrative proceeding, except for workers' compensation
29 proceedings. *Go to page 8 for parallel structure adding notice requirement for privilege*

30 (b) A person, when called or subpoenaed as a witness, may not be compelled
31 to testify or produce a document related to an environmental or health and safety audit

Do not change header and report privilege

*b) Xerox...
✓*