

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002

10243 HOUSE JUDICIARY



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William J. Carter

Signature of Camera Operator

10/14/2003

Date

OVERVIEW

DEPT.

OF

LAW

1/10/01

STATE OF ALASKA

DEPARTMENT OF LAW

CRIMINAL DIVISION CENTRAL OFFICE

January 18, 2001

Representative Norman Rokeberg
State Capitol, Room 118
Juneau, AK 99801-1182

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

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JAN 23 2001

Dear Chairman Rokeberg:

During the Department of Law's overview on Wednesday, January 10, 2001, committee members asked questions about when juveniles are tried as adults. I gave a general explanation and offered to provide copies of the relevant statutes. Those statutes are attached. Below is a brief description of each statutory provision.

AS 47.12.010 sets forth the goals and purposes of the juvenile justice system.

AS 47.12.020 says that most proceedings relating to minors under 18 are governed by the provisions of Title 47.

AS 47.12.030 is what is generally called the "juvenile waiver" provision. It requires minors 16 years of age or older to be treated as adults if they are charged with the following offenses: a crime against the person that is an unclassified or class A felony (i.e., murder in the first and second degree, manslaughter, sexual assault and sexual abuse of a minor in the first degree, kidnapping, assault in the first degree); arson in the first degree (a class A felony); or, a class B felony against the person if the minor is alleged to have used a deadly weapon and the minor has a prior adjudication involving the use of a deadly weapon in the commission of the prior crime.

In addition, minors are treated as adults for the following less serious offenses: violations of traffic regulations; possession of tobacco; possession, control, and consumption of alcohol; violations of fish and game regulations;

violations of statutes relating to parks and recreational facilities; some municipal curfew ordinances; and court-ordered license revocations under AS 28.15.185.

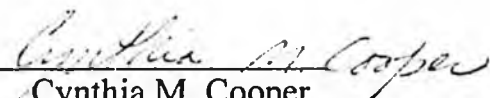
AS 47.12.065 allows for dual sentencing if the minor is 16 years of age or older and the offense is sexual abuse of a minor in the second degree, or the minor is charged with a felony crime against the person and the minor has a prior adjudication for a felony crime against the person.

AS 47.12.100 allows the state seek discretionary waiver of any juvenile into adult court. The judge must find probable cause for believing the minor committed the alleged crime and that the minor is not amenable to treatment in the juvenile system before the minor reaches 20 years of age.

If you have any questions, please do not hesitate to contact me in Juneau at 465-3428, or in Anchorage at 269-6379. You may also contact Dean Guaneli at 465-3428.

Sincerely,

BRUCE M BOTELHO
ATTORNEY GENERAL

By: 
Cynthia M. Cooper
Deputy Attorney General

CMC:nkl

cc: Committee Members:
Rep. Scott Ogan
Rep. Ethan Berkowitz
Rep. John Coghill, Jr.
Rep. Janette James
Rep. Al Kookesh
Rep. Kevin Meyer

AS 47.12.010. Goal and purposes of chapter

(a) The goal of this chapter is to promote a balanced juvenile justice system in the state to protect the community, impose accountability for violations of law, and equip juvenile offenders with the skills needed to live responsibly and productively.

(b) The purposes of this chapter are to

(1) respond to a juvenile offender's needs in a manner that is consistent with

(A) prevention of repeated criminal behavior;

(B) restoration of the community and victim;

(C) protection of the public; and

(D) development of the juvenile into a productive citizen;

(2) protect citizens from juvenile crime;

(3) hold each juvenile offender directly accountable for the offender's conduct;

(4) provide swift and consistent consequences for crimes committed by juveniles;

(5) make the juvenile justice system more open, accessible, and accountable to the public;

(6) require parental or guardian participation in the juvenile justice process;

(7) create an expectation that parents will be held responsible for the conduct and needs of their children;

(8) ensure that victims, witnesses, parents, foster parents, guardians, juvenile offenders, and all other interested parties are treated with dignity, respect, courtesy, and sensitivity throughout all legal proceedings;

(9) provide due process through which juvenile offenders, victims, parents, and guardians are assured fair legal proceedings during which constitutional and other legal rights are recognized and enforced;

(10) divert juveniles from the formal juvenile justice process through early intervention as warranted when consistent with the protection of the public;

(11) provide an early, individualized assessment and action plan for each juvenile offender in order to prevent further criminal behavior through the development of appropriate skills in the juvenile offender so that the juvenile is more capable of living productively and responsibly in the community;

(12) ensure that victims and witnesses of crimes committed by juveniles are afforded the same rights as victims and witnesses of crimes committed by adults;

(13) encourage and provide opportunities for local communities and groups to play an active role in the juvenile justice process in ways that are culturally relevant; and

(14) review and evaluate regularly and independently the effectiveness of programs and services under this chapter.

AS 47.12.020. Jurisdiction

Proceedings relating to a minor under 18 years of age residing or found in the state are governed by this chapter, except as otherwise provided in this chapter, when the minor is alleged to be or may be determined by a court to be a delinquent minor as a result of violating a criminal law of the state or a municipality of the state.

AS 47.12.030. Provisions inapplicable

(a) When a minor who was at least 16 years of age at the time of the offense is charged by complaint, information, or indictment with an offense specified in this subsection, this chapter and the Alaska Delinquency Rules do not apply to the offense for which the minor is charged or to any additional offenses joinable to it under the applicable rules of court governing criminal procedure. The minor shall be charged, held, released on bail, prosecuted, sentenced, and incarcerated in the same manner as an adult. If the minor is convicted of an offense other than an offense specified in this subsection, the minor may attempt to prove, by a preponderance of the evidence, that the minor is amenable to treatment under this chapter. If the court finds that the minor is amenable to treatment under this chapter, the minor shall be treated as though the charges had been heard under this chapter, and the court shall order disposition of the charges of which the minor is convicted under AS 47.12.120(b). The provisions of this subsection apply when the minor is charged by complaint, information, or indictment with an offense

(1) that is an unclassified felony or a class A felony and the felony is a crime against a person;

(2) of arson in the first degree; or

(3) that is a class B felony and the felony is a crime against a person in which the minor is alleged to have used a deadly weapon in the commission of the offense and the minor was previously adjudicated as a delinquent or convicted as an adult, in this or another jurisdiction, as a result of an offense that involved use of a deadly weapon in the commission of a crime against a person or an offense in another jurisdiction having elements substantially identical to those of a crime against a person, and the previous offense was punishable as a felony; in this paragraph, "deadly weapon" has the meaning given in AS 11.81.900(b).

(b) When a minor is accused of violating a statute specified in this subsection, other than a statute the violation of which is a felony, this chapter and the Alaska Delinquency Rules do not apply and the minor accused of the offense shall be charged, prosecuted, and sentenced in the district court in the same manner as an adult; if a minor is charged, prosecuted, and sentenced for an offense under this subsection, the minor's parent, guardian, or legal custodian shall be present at all proceedings; the provisions of this subsection apply when a minor is accused of violating

(1) a traffic statute or regulation, or a traffic ordinance or regulation of a municipality;

(2) AS 11.76.105, relating to the possession of tobacco by a person under 19 years of age;

(3) a fish and game statute or regulation under AS 16;

(4) a parks and recreational facilities statute or regulation under AS 41.21;

(5) AS 04.16.050, relating to possession, control, or consumption of alcohol; and

(6) a municipal curfew ordinance, whether adopted under AS 29.35.085 or otherwise, unless the municipality provides for enforcement of its ordinance under AS 29.25.070(b) by the municipality; in place of any fine imposed for the violation of a municipal curfew ordinance, the court shall allow a defendant the option of performing community work; the value of the community work, which may not be lower than the amount of the fine, shall be determined under AS 12.55.055(c); in this paragraph, "community work" includes the work described in AS 12.55.055(b) or work that, on the recommendation of the municipal or borough assembly, city council, or traditional village council of the defendant's place of residence, would benefit persons within the municipality or village who are elderly or disabled.

(c) The provisions of AS 47.12.010- 47.12.260 and the Alaska Delinquency Rules do not apply to driver's license proceedings under AS 28.15.185; the court shall impose a driver's license revocation under AS 28.15.185 in the same manner as adult driver's license revocations, except that a parent or legal guardian shall be present at all proceedings.

AS 47.12.065. Dual sentencing provisions

(a) The department or the entity selected by it may refer to the appropriate district attorney the circumstances involving a minor who is subject to the provisions of this section because the minor is alleged to have violated a criminal law of the state. The department or the entity selected by it may make the referral if the minor was 16 years of age or older at the time of the offense, and the offense is

(1) a felony that is a crime against a person and the minor has previously been adjudicated a delinquent under the laws of this state or substantially similar laws of another jurisdiction for a felony offense that is a crime against a person; or

(2) sexual abuse of a minor in the second degree.

(b) If a referral is made under (a) of this section, the district attorney may elect to seek imposition of a dual sentence in the case to further the goal and purposes of this chapter as set out in AS 47.12.010. If the district attorney seeks imposition of a dual sentence, the district attorney shall present the case to the grand jury for indictment. If the grand jury returns an indictment, the district attorney shall file with the court under AS 47.12.040(a) a petition seeking the minor's adjudication as a delinquent.

(c) If the district attorney decides not to seek imposition of a dual sentence under (b) of this section or if the grand jury does not return an indictment, the case shall proceed under the remaining provisions of this chapter.

AS 47.12.100. Waiver of jurisdiction

(a) If the court finds at a hearing on a petition that there is probable cause for believing that a minor is delinquent and finds that the minor is not amenable to treatment under this chapter, it shall order the case closed. After a case is closed under this subsection, the minor may be prosecuted as an adult.

(b) A minor is unamenable to treatment under this chapter if the minor probably cannot be rehabilitated by treatment under this chapter before reaching 20 years of age. In determining whether a minor is unamenable to treatment, the court may consider the seriousness of the offense the minor is alleged to have committed, the minor's history of delinquency, the probable cause of the minor's delinquent behavior, and the facilities available to the department for treating the minor.

(c) For purposes of making a determination under this section,

(1) the standard of proof is by a preponderance of the evidence; and

(2) the burden of proof that a minor is not amenable to treatment under this chapter is on the state; however, if the petition filed under AS 47.12.040 seeking to have the court declare a minor a delinquent is based on the minor's alleged commission of an offense that is an unclassified felony or class A felony and that is a crime against a person, the minor

(A) is rebuttably presumed not to be amenable to treatment under this chapter; and

(B) has the burden of proof of showing that the minor is amenable to treatment under this chapter.

MEMORANDUM


State of Alaska

Department of Law

To: Representative Norman Rokeberg
Chair, House Judiciary Committee

DATE: January 9, 2001

TELEPHONE NO.: (907) 465-2133

FROM: Bruce M. Botelho 
Attorney General

SUBJECT: Materials for January 10
Hearing

Attached please find organizational charts for the Department of Law as well as a chart outlining the role of the trial prosecutor in criminal cases. These materials are for the use of committee members in preparing for the Department of Law overview scheduled in your committee on Wednesday, January 10th.

I look forward to talking to you and the other members of the committee about the Department of Law and its work.

BMB:kh

ATTORNEY GENERAL

Juneau

CIVIL DIVISION

Deputy Attorney General

Juneau

Transportation

Anchorage, Fairbanks, Juneau

- construction/operations of public facilities, including ferries, airports, highways, harbors, buildings, and communications facilities

Human Services

Anchorage, Bethel, Fairbanks, Juneau

- child abuse and neglect
- juvenile delinquency prosecutions
- public assistance programs
- social and health services legal issues
- education issues; labor issues

Environmental Law

Anchorage, Fairbanks, Juneau

- environmental enforcement/defense including contaminated sites cleanup and restoration
- water and air quality
- Exxon Valdez cost recovery; Trustee Council

Oil, Gas and Mining

Anchorage, Juneau

- oil and gas tax and royalty claims
- oil and gas lease sale challenges
- pipeline tariff cases
- gas commercialization issues
- resource development (NorthStar, Alpine)

Commercial

Anchorage, Juneau

- banking, securities, investments, gaming, corporations, and insurance
- student loan program
- collection/enforcement of state taxes
- public housing; alcoholic beverage control

Special Litigation

Anchorage, Fairbanks, Juneau

- tort claims and admiralty/personal injury cases against state
- workers' compensation cases where state is employer

Collections and Support

Anchorage, Fairbanks, Juneau

- collection of debts, fines and judgments owed the state
- child support enforcement litigation

Governmental Affairs

Anchorage, Juneau

- public finance/budget legal issues
- employment/labor law; employee benefits
- elections; campaign finance
- procurement; Medicaid rate
- state/local government relations

Legislation/Regulations

Juneau

- preparation of governor's legislation
- review and analysis of all legislation before the governor takes action
- review of all regulations

Fair Business Practices

Anchorage

- public utility/oil and gas pipeline regulation
- occupational licensing
- postsecondary education

Natural Resources

Anchorage, Fairbanks, Juneau

- land management issues
- fish and game management and enforcement
- mental health lands issues
- Commercial Fisheries Entry Commission
- coastal zone management

Consumer Protection

Anchorage

- consumer protection
- antitrust law enforcement

Statehood Defense

Anchorage, Juneau

- submerged lands and navigability
- Native sovereignty
- RS2477 and access cases
- ANILCA challenges
- salmon treaty; ESA

ATTORNEY GENERAL
Juneau

CRIMINAL DIVISION
Deputy Attorney General
Anchorage

**Criminal Justice Litigation
and Legal Services**
Juneau

- Corrections legal services
- Public Safety legal services
- criminal justice legislation
- DMV appeals
- Violence Against Women Act
paralegal coordinator
volunteer coordinator

**Special Prosecutions
and Appeals**
Anchorage

- appeals
- white collar crime
- environmental crimes
- special fish and game violations
- Medicaid provider fraud
- welfare fraud
- child support prosecutions

First Judicial District

Juneau DA

Sitka DA

Ketchikan DA

Second Judicial District

Barrow DA
Supervised by Fairbanks

Nome DA

Kotzebue DA

Third Judicial District

Anchorage DA
- Narcotics Unit

Dillingham DA

Kenai DA

Kodiak DA

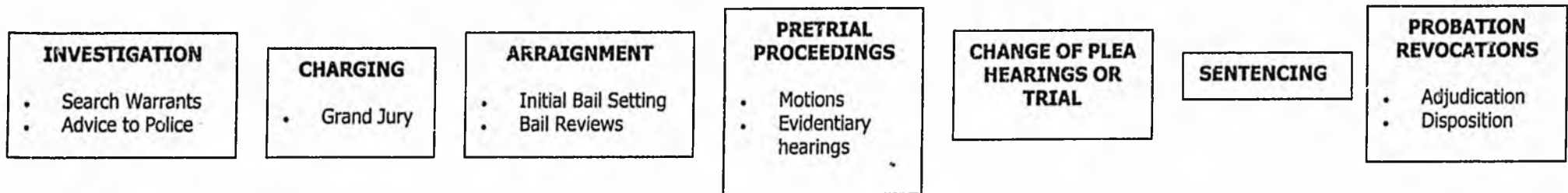
Palmer DA

Fourth Judicial District

Fairbanks DA

Bethel DA

The Trial Prosecutor's Role in Criminal Cases



Appeals

#1

- Direct appeal of conviction and/or sentencing to Court of Appeals
- Discretionary review by Supreme Court

#2

- Application for post-conviction relief in Trial Court
- Appeal to Court of Appeals
- Discretionary review by Supreme Court

#3

- Petition for writ of habeas corpus in Federal District Court
- Appeal to 9th Circuit Court of Appeals

Discretionary review by USSC possible in all 3 Appeals



RECORDS CERTIFICATION



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William J. Carter

Signature of Camera Operator

10/14/2003

Date

OVERVIEW

DIV. OF

INSUR-

ANCE

4/8/02

Sec. 21.06.087. Insurance report.

(a) The director shall require reporting of and shall compile information necessary to evaluate the effect of the measures enacted in chapter 26, SLA 1997 on the availability and cost of insurance in the state.

(b) Information described in (a) of this section shall be provided by all insurers doing business in this state in the format specified by the director and must include factual information stating premiums, claims, losses, expenses, and solvency of the company as a whole. Information shall be compiled by the division in a way that protects the identity of individual insureds.

(c) The director shall adopt regulations to implement and interpret this section, including requiring insurers doing business in the state to provide information necessary for the division to carry out its responsibilities under (a) and (b) of this section. If there are indications of market disruption, the director may waive all or part of the reporting requirements in this section.

(d) Beginning June 1, 2000, the information compiled under (a) of this section shall be reported annually to the governor and the judiciary committees of both houses of the legislature.

(e) The division may consult with the Alaska Judicial Council when determining what information to require to be reported under (a) - (c) of this section and when implementing the compilation required under (a) of this section.

(§ 33 ch 26 SLA 1997)

Revisor's notes. Formerly AS 21.86.087. Renumbered in 1999 to correct a publishing error.

Cross references. For a statement of legislative intent relating to the provisions of ch. 26, SLA 1997, see § 1, ch. 26, SLA 1997 in the 1997 Temporary and Special Acts. For severability of the provisions of ch. 26, SLA 1997, see § 56, ch. 26, SLA 1997 in the 1997 Temporary and Special Acts.

Editor's notes. Section 55, ch. 26, SLA 1997 provides that the provisions of ch. 26, SLA 1997 apply "to all causes of action accruing on or after August 7, 1997."



Division of Insurance

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**Impact of Tort Reform on Availability
and Cost of Insurance in Alaska**

Alaska Statute 21.06.087 requires the Alaska Division of Insurance (Division) to evaluate the effects of House Bill 58 on the availability and cost of insurance in Alaska. The Division held two public meetings, by teleconference, to discuss what data is currently available or could be collected by insurers to evaluate the effects of tort reform on the costs and availability of insurance. State Farm Insurance Company, AAA MountainWest Insurance Company/California State Automobile Association and Insurance Services Office, Inc. (ISO) participated in these meetings.

The first meeting focused primarily on data already available that could be used to evaluate the effects of tort reform. We considered various sources such as aggregate premium level data, the number of insureds in the residual markets, the number of complaints from consumers who cannot find coverage, the number of insurers in the market, rate changes in filings, and industry prepared reports that show premiums and losses. The group observed that while these items will provide general trends in insurance availability and cost, none of them will be effective in answering the question of what is causing the trend. The group identified the following reasons why the available data has limited value in identifying the effects of tort reform:

- The caps on damages are higher than most policy limits, particularly for the personal lines;
- Large claims are infrequent, so limited data is available for those claims that do exceed the caps;
- Countrywide data is used to price policies with high limits because of sparse data; and
- Insurance costs and availability are affected by many interrelated factors, not just tort reform.¹

The group also discussed the feasibility of collecting additional data, or changing the way data is coded by insurers, to capture information specific to the legislative reforms. The following items were identified as factors that may make it prohibitive to collect additional data:

- Changing claims handling practices may be expensive;
- Any data not used for ratemaking may not be accurately coded or reliable;
- It is difficult to identify and code the non-economic portion of a loss.

¹ Some of the other factors that affect insurance costs and availability are the cyclical nature of the insurance market, inflation, changes in medical costs, legislative changes, and changes in repair costs.

The participants in the first meeting were given assignments to gather additional information on some of the issues that were discussed.

The second conference call focused on identifying ways of compiling information to specifically address the effect of tort reform legislation, not just general trends in insurance costs and availability.

We looked at tort reform studies and reports from Louisiana, Texas and Pennsylvania. The Texas study used a focus group approach to obtain a qualitative impression of the effects of a cap on punitive damages. The Louisiana and Pennsylvania studies looked at historical claims data to evaluate the effect of specific cost containment measures. For example, the Pennsylvania reforms included medical cost containment provisions that limited the amount medical providers could charge auto insurers for medical services.

The Louisiana study divided the reforms into three categories based upon the effect the reforms were anticipated to have on automobile insurance costs. The first group included reforms that were expected to have a significant effect on insurance premiums and which could be easily measured. This included health care cost savings for auto medical claims, similar to those implemented in Pennsylvania, and restrictions on filing claims by individuals who are members of the insured's family. The second group included reforms that were anticipated to have savings potential, but no estimate of the savings was made due to lack of data. This second group included reforms such as allowing a jury trial when the claim is more than \$20,000 and claim cost reduction reforms to limit the cost of litigation.

The group did not find these reports and studies to be useful models for gathering data to measure the effects of the Alaska reforms.

We next looked at several industry studies prepared by Insurance Services Office, Inc. (ISO). Two tort reform studies were performed in the late 1980's. One study asked claim staff to evaluate typical, but hypothetical claims, under pre and post tort reform statutes to demonstrate claims costs differences. This report concludes "the study demonstrates the extreme complexity of any effort to estimate the value of a particular tort law change." The second study was an analysis of claim costs for states that had implemented tort reform. The study only looked at the impact tort reform had on claims and did not consider the impact on premium levels. This study notes that "the best a claim file study can do in measuring the impact of specific tort law changes is to ask claims professionals to offer a subjective estimate of how the outcome of a multifaceted negotiation might change if one or more elements of the law were different."

We also looked at the ISO Closed Claim Survey for Commercial General Liability. This study included a review of the influences of the tort system on the time to settle a claim and the amount of the final payment. This study found that 7% of the claims went to trial, but only 2% of the claims resulted in court verdicts. There were five Alaska claims included in this study, only one of which had a claim

amount large enough to be impacted by the current tort reform measures. Using a closed claim survey is of limited value because of the length of time needed for liability claims to close and because of the limited number of large claims.

In general, the group felt that these studies were of limited value in providing a model for evaluating the effects of tort reform in Alaska. The limitations deal with the lack of data, a small number of large claims, problems identifying economic, non-economic and punitive damages, and an inability to easily equate changes in claim costs with the cause of the change.

Next the group discussed a series of questions on the types of data that might be collected to specifically address the effect of the Alaska tort reform legislation, rather than just general trends. The following summarizes the group discussion.

1. *Can non-economic damages be coded separately from economic damages? Can losses be coded by type of injury, e.g., disfigurement or severe physical impairment?*

Insurers generally do not separately code non-economic and economic damages. ISO noted that only about 2% of the claims in the closed claim survey study even had an itemized verdict. A closed claim study in which each individual claim is reviewed would be needed to find the type of injury. Because of the limited number of claims for which this information exists, regardless of whether it is currently collected or coded by the insurer, the amount of work to identify the type of injury would be significant and provide a limited amount of information.

2. *For policies that cover punitive damages, is the amount of punitive damages separately coded? Are punitive damages included or excluded from ratemaking data? Can we track the reasons for punitive damages, e.g., was the defendant's action motivated by financial gain, was the damage related to unlawful employment practices?*

Insurers do not separately code punitive damages, but they would be the easiest to identify, if they are awarded, because they would be in the court judgment. However, even though the court may list the reasons for the award, this detail may not be included in an insurer's claims data.

3. *Historically, is prejudgment interest captured? Is it possible to measure the effect of excluding prejudgment interest for future economic damages, future non-economic damages, or punitive damages?*

If prejudgment interest is required, it is not separately coded but considered a part of the claim amount. Insurers do not generally identify this data.

4. *Can the effect of reducing the time to bring an action upon a contract from 6 years to 3 years be quantified? Is historical data available that would show average*

lengths of time in which action was brought upon a contract? What effect does this change have on insurance costs and availability?

This information is more likely to be available from the courts than from insurers. The ISO database associates each claim with the date the reserve is established. The statute of limitations does not apply to accident or reserve dates.

5. *What is the feasibility of collecting data on the number of policies with high limits and the number of claims that reach policy limits? If a claim reaches the policy limits, is it possible to record the full amount of the loss, even if it exceeds the policy limits?*

This is probably the easiest information to collect as it would not require an individual review of each claim as would be required for the other items, such as punitive damages or prejudgment interest. Large claim data might be able to be collected, but it would not include any loss amounts that exceed the policy limits. This information may be available for commercial claims, but most do not reach the caps, so the data would be sparse.

6. *Can trends in attorney costs assist in evaluating the effects of tort reform? If so, can these costs be evaluated by looking at allocated loss adjustment expenses or the new annual statement expense categories of defense and cost containment?*

Allocated loss adjustment expenses or defense and cost containment expense categories would not be an accurate gauge of the effects of tort reform as other expenses associated with adjusting losses are included in these categories, not just attorney fees.² Also, historical data may be distorted as different insurers coded internal and external counsel in different categories. Insurers may track when a claim is litigated, but this would only show frequency of litigated claims, not severity. Litigation data is not part of the ratemaking data and may not be reliable even if it is collected.

7. *Can trends in the number of claims settled prior to a court verdict vs. after a court verdict assist in evaluating the effects of tort reform?*

Most claims settle out of court. Removal of the threat of punitive damages probably affects settlement, but it is difficult to measure and the impact is indirect. However, it is likely that more claims would settle sooner.

² Allocated loss adjustment expense included costs related to settling claims that an insurer could allocate to a specific claim. This could include attorney fees, fees and expenses of adjusters or costs of engaging experts and any other claim settlement costs that the insurer could allocate to a specific claim. Defense and cost containment includes defense, litigation and medical cost containment expenses, including fees for appraisers, private investigators or costs of engaging experts when these costs are related to defense of a claim.

8. *The ISO general liability closed claim survey asks for a breakdown of the award if an itemized court verdict is available. This breakdown should include:*
- a. *Economic loss*
 1. *medical*
 2. *wage*
 3. *other economic*
 - b. *Non-economic damages*
 - c. *Punitive damages*
 - d. *Prejudgment interest*
 - e. *Postjudgment interest*
 - f. *Other expenses (court costs, etc.)*

For what percentage of claims is this type of information available?

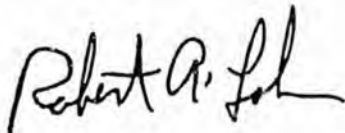
Even though the closed claim study asked for detailed information, there are few itemized verdicts, so the limited data is not credible for drawing conclusions. The data that is collected is not always complete and is only as good as the overall quality of the claim files.

The consensus of the group was that finding data to accurately measure the impact of tort reform on the costs and availability of insurance would be difficult. How should one measure things that did not happen? In addition, data that is collected only for this purpose may not be reliable since the insurer would have no other use, such as ratemaking, for this data.

The Division has attempted to find ways to measure the effects of tort reform on the costs and availability of insurance both by looking at data that is already collected and by considering the collection of additional types of data. We have not been able to identify specific types of information that will provide factual reliable estimates of the impact of tort reform. The primary issues that we have not been able to find a solution for are the limited number of large claims in general, the small number of claims that are settled with itemized verdicts, and cost and possible unreliability of collecting or coding data that is not used by the insurers for other purposes.

The Division welcomes your comments, questions or suggestions on this report.

Respectfully submitted,



Robert A. Lohr
Director

cc: Bruce Botelho, Attorney General
Deborah Sedwick, Commissioner

APPENDIX

Alaska Experience

Every year all insurers provide an Annual Statement to the Division. The Annual Statement provides information that is used to monitor the solvency of insurers. The Annual Statement includes, among other information, premiums, losses, assets and surplus of the insurer. Some of the information is countrywide data and some of it is specific to the insurer's Alaska business. The exhibits attached to this report are taken from these Annual Statements. We have included this information because it is the most readily available factual information related to premiums, claims, losses and solvency of the company as a whole. These exhibits show overall trends and include all factors that influence an insurer's operations. The available information is not adequate to make any conclusions about the effects of tort reform on the costs and availability of insurance.

Solvency

To evaluate the solvency of the insurer as a whole, the attached Aggregate Assets and Surplus for Insurers Writing Business in Alaska exhibit shows how assets and surplus have changed over the period from 1996 to 2000. The average change is an average of the individual insurer asset and surplus levels. Because all of an insurer's surplus is available to support losses that occur in any state, it is difficult to make a meaningful allocation of surplus to a particular state. Therefore, aggregate totals for assets and surplus are shown by year for all insurers writing business in Alaska. Both assets and surplus have increased by approximately the same amount per year.

Alaska Premium and Loss Experience From 1990 - 2000

For the liability lines of business, the attached exhibits show

- Aggregate Alaska premium earned
- Losses incurred
- Number of insurers
- ISO rate level changes

Premium and loss information is generally available for the period from 1990 - 2000. This information is from Annual Statements submitted by insurers to the Division. Because this information is based on losses incurred and premiums earned during a calendar year, it is useful for showing trends but should not be used to make determinations about the adequacy or excessiveness of insurance

premiums.³ Aggregate expense information is not included in these exhibits as it is not readily available

Rate level change data is available through 2002 for lines of business for which ISO submits rate filings. ISO rate level changes are used as a proxy for the average rate level change by line of business. For the commercial lines, this is probably fairly accurate as many insurers rely upon ISO loss costs to develop their rates. For the personal lines, many insurers do not use ISO loss costs, so the ISO loss cost changes may not be entirely representative of the overall rate changes in the personal lines market. The loss cost changes filed and approved for use by insurers using ISO filings are shown in the last column of each exhibit.

The data in these exhibits include all factors that affect insurance premiums, not just the effects of tort reform.

COMMERCIAL LINES

Aircraft

Because the aircraft line includes both property and liability coverages, any effect of tort reform will be difficult to isolate from this data. The number of insurers has decreased from 47 to 40 from 1990 to 2000. Losses increased 8.35% annually for a total increase of 141.67% over the ten-year period. Premiums increased an average of 6.99% annually for a total increase of 110.36% over the ten-year period.

Commercial Auto

Between 1990 and 2000, the number of insurers offering commercial auto insurance grew from 162 to 197, for an annual increase of 1.64% or 19.65% for the ten-year period. Losses grew 4.42% annually or 60.87% over the ten-year period. Premium grew 1.76% annually or 21.15% over the ten-year period.

Based upon ISO rate filings from 1993 to 2000, commercial auto rates are approximately 12% lower than they were in 1993.

Commercial Multiperil

The liability and property coverages of commercial multiperil insurance (CMP) were first split in 1992, so the exhibit includes data on premiums and losses beginning in 1992. The number of insurers increased from 137 to 166, between 1992 and 2000 for an average annual change of 3.17% or an eight-year increase of 40.93%. During the same period, premium increased by approximately 0.25% annually or 2.80% overall. Losses decreased 1.77% annually for a total decrease of 17.83% from 1992 to 2000.

³ Calendar year data does not match losses with the premiums used to pay the losses. Some of the losses incurred in one calendar year may be from policies that were issued in prior years.

Medical Malpractice

Between 1990 and 2000, the number of companies writing medical malpractice insurance grew from 35 to 42, for an average annual increase of 2.03%, or 24.75% over the ten-year period from 1990 to 2000. During the same period, losses increased on average by 1.29% annually, for a total ten-year increase of 15.18%, and premium decreased by approximately 0.90% annually, for a total ten-year decrease of 9.48%.

Other Liability

The number of insurers writing other liability grew from 198 in 1990 to 243 in 2000 for an average annual increase of 2.44% or 30.31% for the ten-year period. Losses decreased 5.25% annually or approximately 44.75% over the ten-year period. Premium decreased by 0.86% annually, for a total ten-year decrease of 9.02%.

Product Liability

Between 1991 and 2000, the number of insurers providing product liability was stable, 107 in 1991 and 109 in 2000. Losses increased approximately 25% annually and premiums decreased 1.52% annually. Because of the volatility of the data for this line, it is difficult to summarize the trends by the average changes. This is one line of business for which the premium trend and the loss trend go in opposite directions.

Based upon ISO filings from 1990 to 2002, the current loss costs are approximately 4% lower than they were in 1990.

PERSONAL LINES

Homeowners

Because homeowners insurance is a package policy that includes both liability and property coverages, the effect of tort reform is especially difficult to isolate. The number of insurers writing homeowners insurance has decreased from 70 in 1990 to 57 in 2000. This is an average annual decrease of approximately 2.91% or a total decrease of about 27.72% over the 10-year period. During the same period, premium increased an average of 7.2% annually or approximately 114.82% for the ten-year period. Losses increased an average of 3.43% annually or by 44.9% for the ten-year period.

Based upon ISO loss cost filings, homeowners rates are approximately at the same level in 2002 as they were in 1992. Because most of the larger insurers do not use ISO filings, this rate level approximation may not be an accurate reflection of the entire homeowners market.

Aggregate Assets and Surplus for Insurers Writing Business in Alaska

<u>Year</u>	<u>Assets</u>	<u>Average Change</u>	<u>Surplus</u>	<u>Average Change</u>
1996	\$661,393,007		\$219,179,535	
1997	\$749,194,654	21.24%	\$272,838,734	25.31%
1998	\$762,824,973	7.04%	\$296,359,655	9.14%
1999	\$779,096,896	1.46%	\$307,798,191	2.68%
2000	\$772,868,467	6.58%	\$280,096,626	7.95%

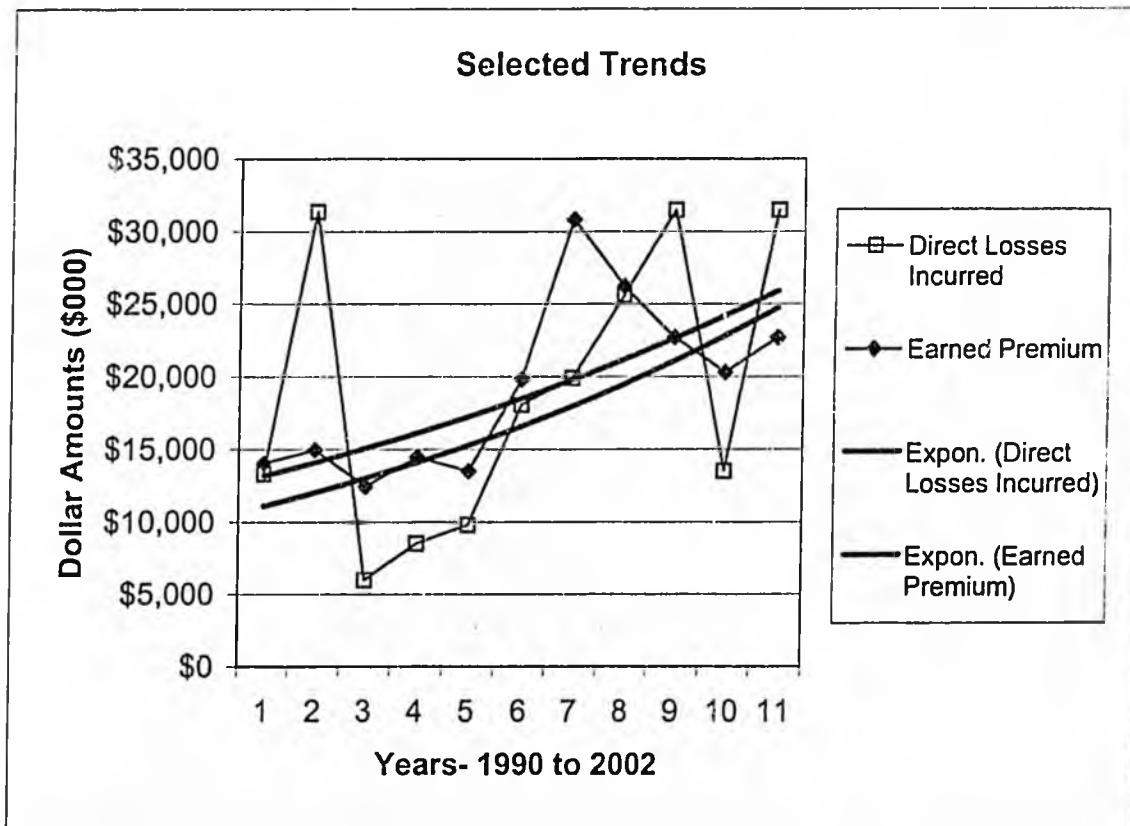
The average change is calculated by company.

The assets and surplus are countrywide amounts and do not represent an allocation to Alaska business only.

Aircraft

Calendar Year	Number of Companies	Direct Losses Incurred	Earned Premium
1990	47	\$13,304	\$14,034
1991	44	\$31,341	\$14,929
1992	42	\$5,976	\$12,433
1993	45	\$8,513	\$14,465
1994	45	\$9,797	\$13,488
1995	48	\$18,045	\$19,790
1996	47	\$19,868	\$30,799
1997	46	\$25,588	\$26,195
1998	39	\$31,455	\$22,681
1999	40	\$13,500	\$20,263
2000	40	\$31,455	\$22,669
2001	xxx	xxx	xxx
2002	xxx	xxx	xxx
Average Annual % Change	-1.20%	8.35%	6.99%
1990 to 2000 % change	-12.39%	141.67%	110.36%

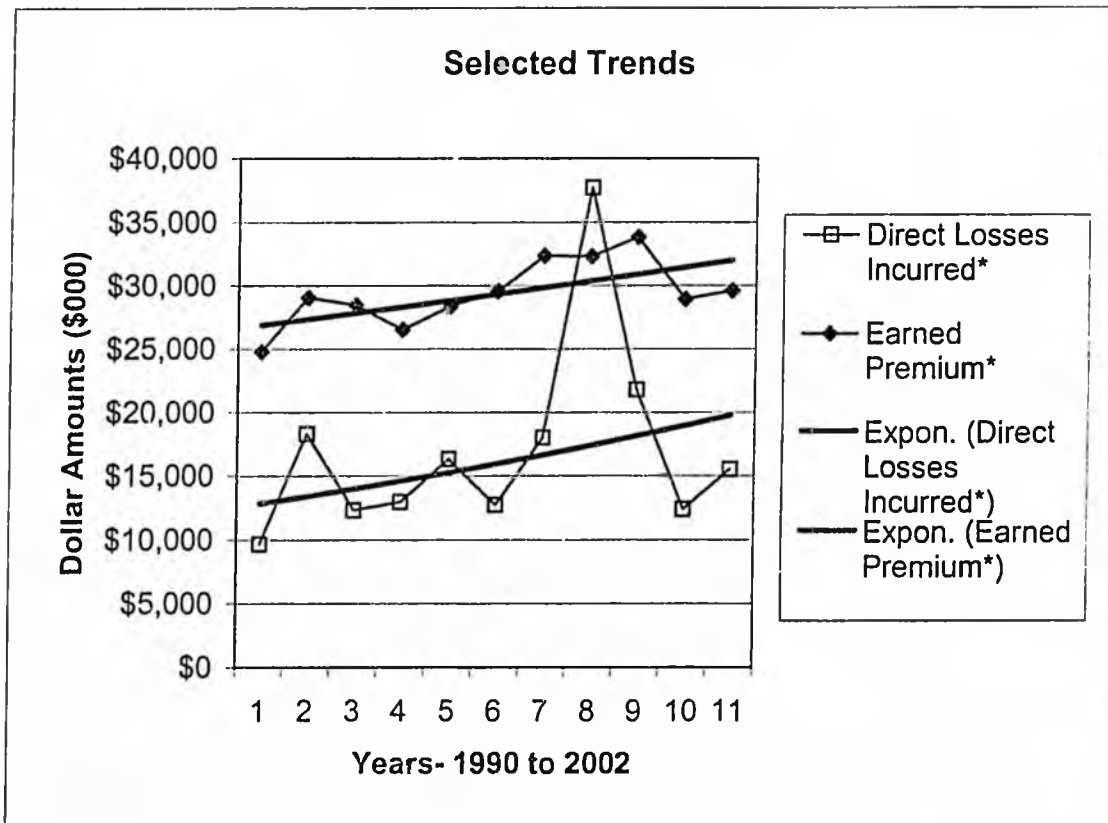
*Dollar amounts are in (\$000)



Commercial Auto

Calander Year	Number of Companies	Direct Losses Incurred*	Earned Premium*	ISO Recommended Rate Change
1990	162	\$9,660	\$24,752	xxx
1991	171	\$18,286	\$29,042	xxx
1992	175	\$12,307	\$28,435	xxx
1993	168	\$12,956	\$26,529	-5.6%
1994	180	\$16,279	\$28,361	-1.5%
1995	191	\$12,723	\$29,536	-2.5%
1996	175	\$17,988	\$32,333	-2.9%
1997	183	\$37,682	\$32,277	0.0%
1998	189	\$21,775	\$33,818	-5.1%
1999	191	\$12,384	\$28,904	0.6%
2000	197	\$15,506	\$29,598	4.4%
2001	xxx	xxx	xxx	xxx
2002	xxx	xxx	xxx	xxx
Average Annual % Change	1.64%	4.42%	1.76%	
1990 to 2000 % change	19.65%	60.87%	21.15%	
1992 to 2002 cumulative effect of rate adjustments				-12.26%

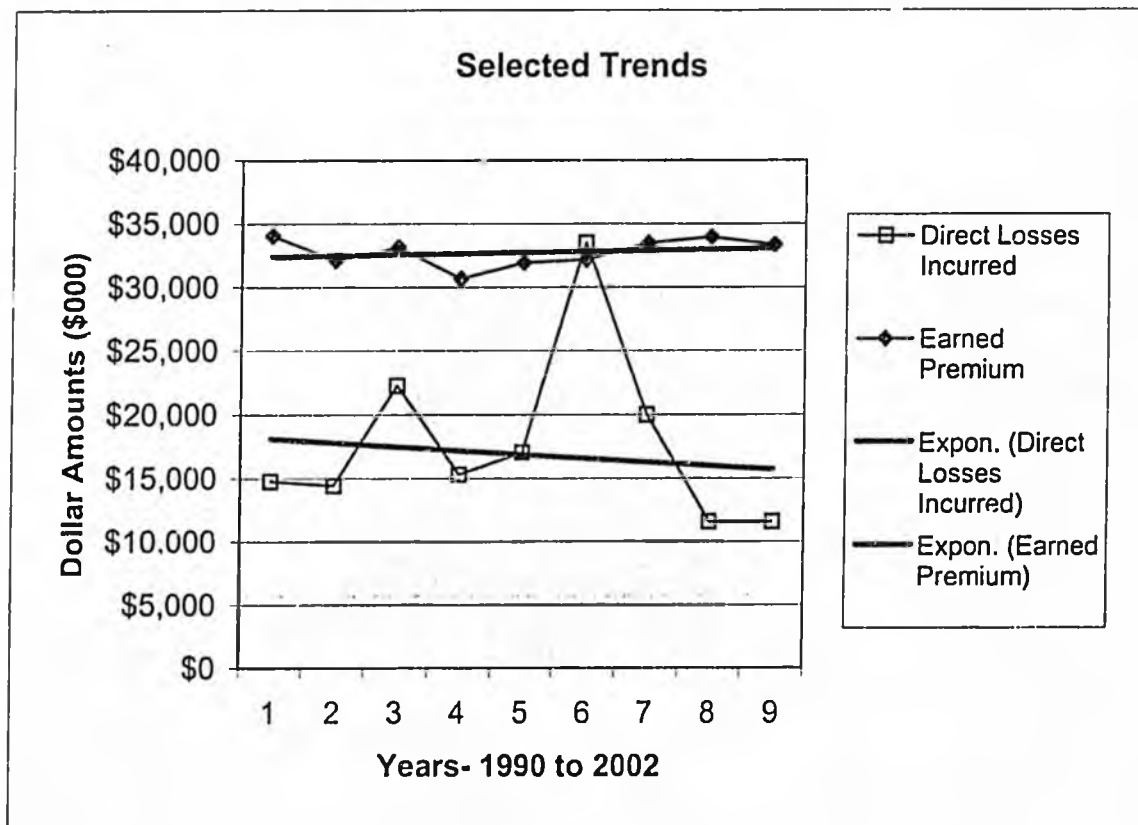
*Dollar amounts are in (\$000)



Commercial Multiperil

Calendar Year	Number of Companies	*Direct Losses Incurred	*Earned Premium
1990	xxx	xxx	xxx
1991	xxx	xxx	xxx
1992	137	\$14,756	\$34,036
1993	131	\$14,422	\$32,099
1994	140	\$22,233	\$33,107
1995	140	\$15,281	\$30,661
1996	151	\$17,021	\$31,898
1997	153	\$33,483	\$32,149
1998	163	\$19,960	\$33,461
1999	166	\$11,560	\$33,920
2000	166	\$11,560	\$33,334
2001	xxx	xxx	xxx
2002	xxx	xxx	xxx
Average Annual % Change	3.17%	-1.77%	0.25%
1992 to 2000 % change	40.93%	-17.83%	2.80%

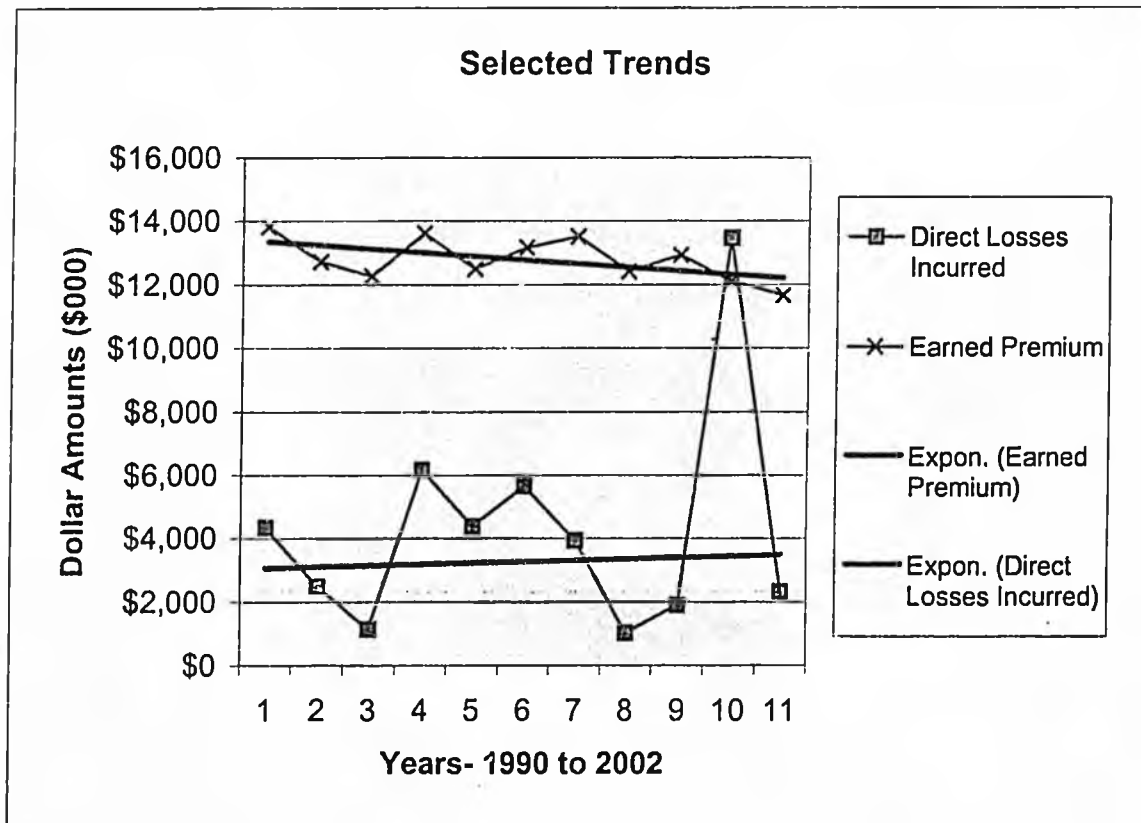
*Dollar amounts are in (\$000)



Medical Malpractice

Calander Year	Number of Companies	Direct Losses Incurred	Earned Premium
1990	35	\$4,336	\$13,812
1991	35	\$2,470	\$12,707
1992	38	\$1,150	\$12,264
1993	37	\$6,165	\$13,604
1994	38	\$4,377	\$12,488
1995	39	\$5,656	\$13,156
1996	40	\$3,933	\$13,500
1997	39	\$1,019	\$12,411
1998	41	\$1,886	\$12,911
1999	44	\$13,461	\$12,106
2000	42	\$2,311	\$11,652
2001	xxx	xxx	xxx
2002	xxx	xxx	xxx
Average Annual % Change	2.03%	1.29%	-0.90%
1990 to 2000 % change	24.75%	15.18%	-9.48%

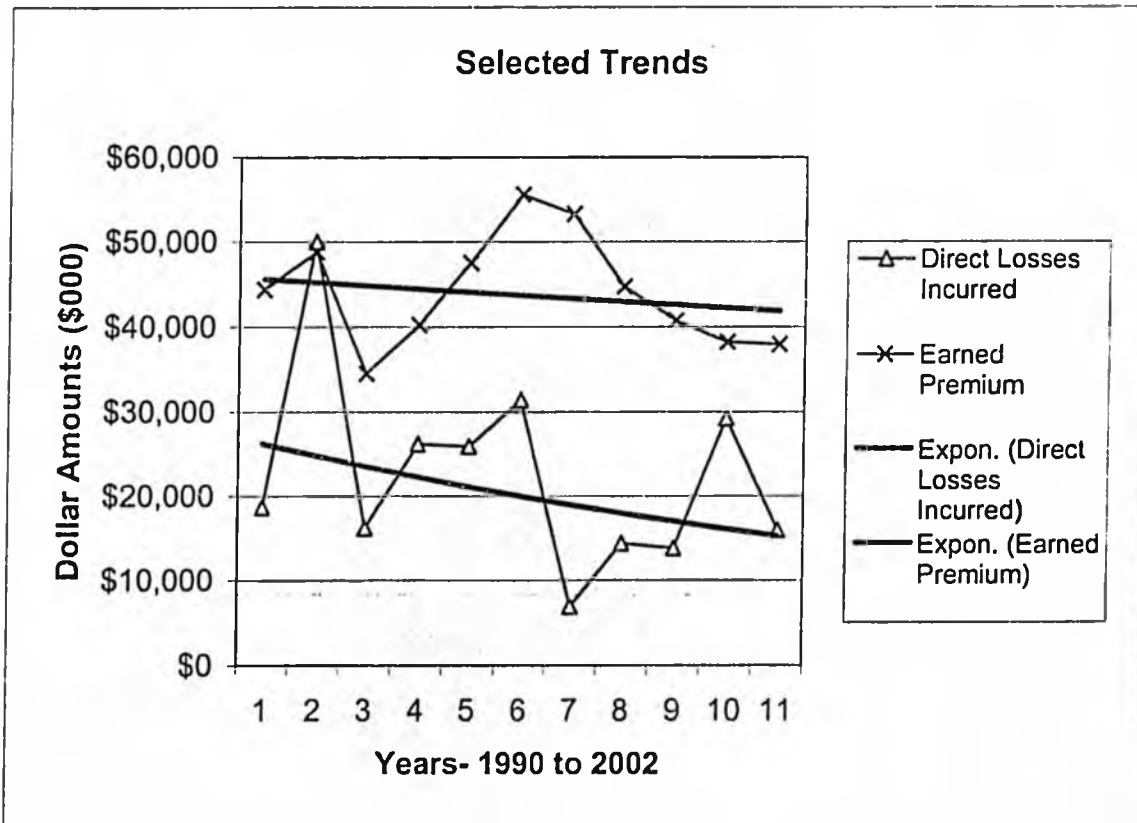
*Dollar amounts are in (\$000)



Other

Calander Year	Number of Companies	Direct Losses Incurred	Earned Premium
1990	198	\$18,658	\$44,363
1991	204	\$49,953	\$48,725
1992	202	\$16,189	\$34,482
1993	201	\$26,144	\$40,199
1994	212	\$25,868	\$47,464
1995	225	\$31,360	\$55,499
1996	232	\$6,901	\$53,219
1997	234	\$14,393	\$44,679
1998	241	\$13,793	\$40,694
1999	243	\$29,200	\$38,156
2000	243	\$15,940	\$37,880
2001	xxx	xxx	xxx
2002	xxx	xxx	xxx
Average Annual % Change		2.44%	-5.25%
1990 to 2000 % change		30.31%	-44.74%
			-9.02%

*Dollar amounts are in (\$000)



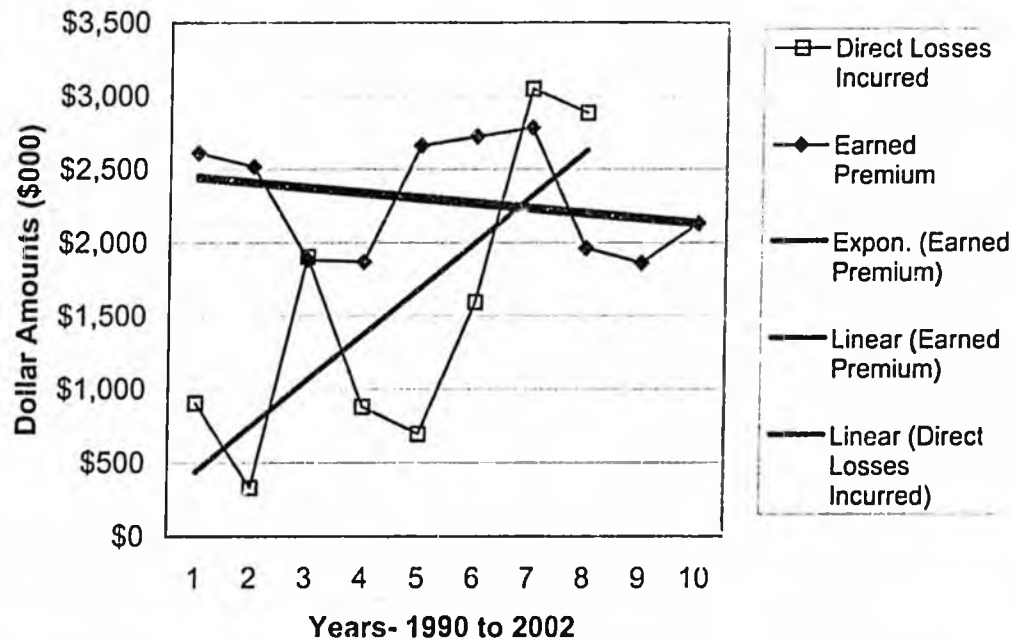
Product Liability

Calendar Year	Number of Companies	Direct Losses Incurred*⊗	Earned Premium*	ISO Recommended Rate Change
1990	xxx	xxx	xxx	6.1%
1991	107	-\$429	\$2,610	14.0%
1992	94	\$904	\$2,516	0.0%
1993	99	\$331	\$1,882	0.0%
1994	101	\$1,902	\$1,869	0.4%
1995	105	\$879	\$2,660	-10.4%
1996	102	\$696	\$2,721	1.2%
1997	103	\$1,595	\$2,782	-1.6%
1998	111	\$3,047	\$1,961	0.0%
1999	116	\$2,883	\$1,861	-5.7%
2000	109	-\$151	\$2,129	-6.3%
2001	xxx	xxx	xxx	4.5%
2002	xxx	xxx	xxx	xxx
Average Annual % Change	1.37%	24.57%	-1.52%	
1991 to 2000 % change	14.54%	479.90%	-14.18%	
<i>1992 to 2002 cumulative effect of rate adjustments</i>				-4.26%

*Dollar amounts are in (\$000)

⊗ Dollar amounts for 1991 and 2000 are not included in average change totals.

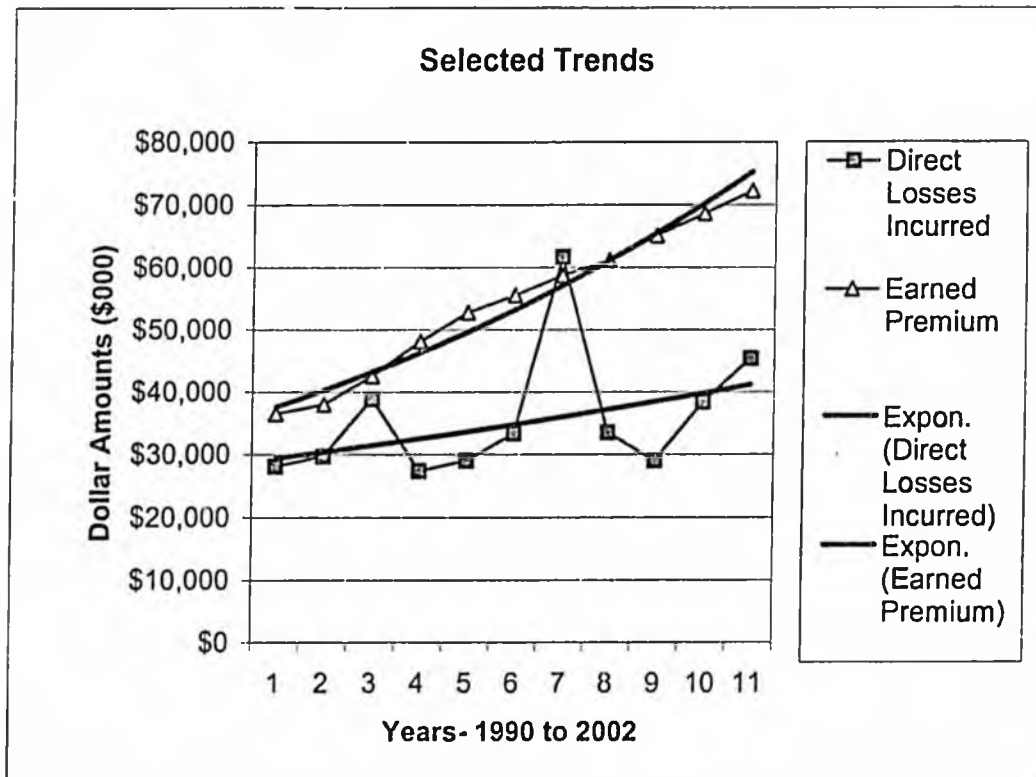
Selected Trends



Homeowners

Calander Year	Number of Companies	Direct Losses Incurred	Earned Premium	ISO Recommended Rate Change
1990	70	\$28,070	\$36,489	xxx
1991	71	\$29,695	\$37,949	xxx
1992	65	\$38,812	\$42,501	-6.7%
1993	64	\$27,334	\$48,079	14.5%
1994	59	\$28,973	\$52,736	12.9%
1995	56	\$33,321	\$55,502	0.0%
1996	55	\$61,628	\$58,660	-2.4%
1997	54	\$33,483	\$61,151	1.3%
1998	50	\$28,987	\$65,054	0.0%
1999	55	\$38,367	\$68,628	0.0%
2000	57	\$45,353	\$72,198	-5.1%
2001	xxx	xxx	xxx	-5.0%
2002	xxx	xxx	xxx	-5.7%
Average Annual % Change	-2.91%	3.43%	7.20%	
1990 to 2000 % change	-27.72%	44.90%	114.82%	
1992 to 2002 cumulative effect of rate adjustments				0.04%

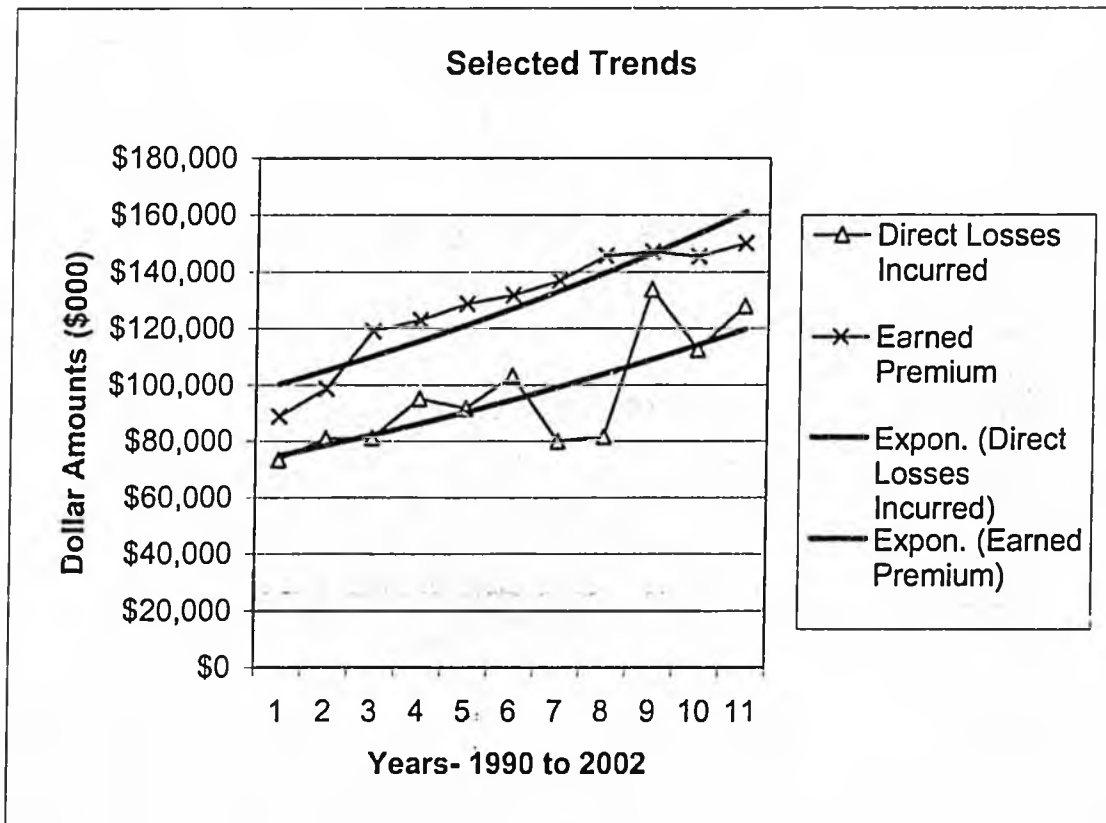
*Dollar amounts are in (\$000)



Private Passenger Auto

Calander Year	Number of Companies	Direct Losses Incurred	Earned Premium	ISO Recommended Rate Change
1990	111	\$73,323	\$88,766	xxx
1991	110	\$80,894	\$98,587	xxx
1992	115	\$81,067	\$118,981	-7.7%
1993	102	\$94,989	\$122,877	8.4%
1994	105	\$91,594	\$128,603	0.7%
1995	88	\$103,152	\$131,694	-3.4%
1996	90	\$79,946	\$136,792	-4.3%
1997	88	\$81,614	\$145,589	5.6%
1998	92	\$133,761	\$146,990	7.0%
1999	95	\$112,524	\$145,426	-1.3%
2000	97	\$127,827	\$150,060	-2.6%
2001	xxx	xxx	xxx	-10.2%
2002	xxx	xxx	xxx	5.1%
Average Annual % Change		-2.14%	4.80%	4.86%
1990 to 2000 % change		-21.17%	67.56%	68.46%
1992 to 2002 cumulative effect of rate adjustments				-7.65%

*Dollar amounts are in (\$000)





RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original documents after microfilm reproductions have been made.

William J. Carter

Signature of Camera Operator

10/14/2003

Date

OVERVIEW

ELECT.

LAWS

2/7/01



FRAN ULMER
LIEUTENANT GOVERNOR
STATE OF ALASKA

Joint Hearing
House Judiciary Committee
House State Affairs Committee
February 7, 2001
1 p.m. - Senate Finance Room

Overview of Alaska's Election Procedures
by Lt. Governor Fran Ulmer

1. Overview of National Association of Secretaries of States (NASS) Resolutions
2. Alaska Election overview
3. Let's Vote Alaska
4. Primary Election Task Force

**Division of Elections
Summary Review
2000 Election Cycle**

**THINGS THAT WORKED WELL
2000 ELECTION CYCLE**

- ◆ Uniform election procedures throughout Alaska
- ◆ Uniform, easy to read ballot in all precincts
- ◆ Standardized, modern voting equipment
- ◆ Election worker training enhancements and outreach
- ◆ Timely and accurate reporting of election results
- ◆ Solid procedures for pre-election equipment testing, election day procedures and post-election results certification
- ◆ Expansion of Accu-Vote precinct vote counting machines into four new communities
- ◆ Record number of absentee ballots processed
- ◆ Record number of questioned ballots processed
- ◆ Voter outreach and education
 - ◆ Two-ballot primary election - new procedures
 - ◆ When, where and how to vote information on web site
 - ◆ *Official Election Pamphlet* for general election, with links, on division web site
 - ◆ Polling Place Locator - telephone automated
 - ◆ Updated look in newspaper advertising
 - ◆ Additional newspaper advertising
 - ◆ Voter registration and absentee ballot applications on web site
- ◆ Responses to voter and public information requests- our web site was a primary source of information
- ◆ Press relations, including production of press kits
- ◆ Outreach (especially to municipal clerks) through division quarterly newsletter
- ◆ Successful Election Central events in Anchorage, Fairbanks and Juneau
- ◆ Electoral College voting process opened up to full public participation

February 7, 2001

**Division of Elections
Summary Review
2000 Election Cycle**

**RECOMMENDATIONS
TO MAKE THINGS WORK BETTER
2002 ELECTION CYCLE**

- ◆ Adopt primary election rules this year to ensure on-time primary for 2002
- ◆ Increase pay for election workers - current pay of \$7.50/hr set in 1982
- ◆ Adopt "seasonal" status for key temporary election workers to retain expertise
- ◆ Increase pool of election workers - major turnover in current pool
- ◆ Improve fax voting process
 - address growth by: changing to electronic format; adding staff
 - define parameters for fax voting - emergency only? or for all?
- ◆ Add appropriate resources to accomplish the division's responsibilities for drawing precincts after redistricting by Reapportionment Board
- ◆ Add additional resources to expand Accu-Vote into hand-count precincts and for new early voting process
- ◆ Add capacity to web site for Polling Place Locator
- ◆ Add capacity to verify voter registration status on web site
- ◆ Expand resources/options for election board training
- ◆ Continue improvements to statewide mainframe voter registration database and computerized Election Management System

February 7, 2001

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Office of the Lieutenant Governor

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NEWS RELEASE

www.state.ak.us

FOR IMMEDIATE RELEASE: December 14, 2000

0050

**Big Increase in Youth Voter Turnout;
Lt. Governor Ulmer Appoints Civics Education Task Force to
Continue Work of *Let's Vote! Alaska* Initiative**

Lt. Governor Fran Ulmer today announced that voter turnout had significantly increased among 18 to 24 year olds in the 2000 General Election. Ulmer launched the nonpartisan Let's Vote! Alaska: New Voters for a New Millennium initiative in February to reverse the downward trend in voting among Alaska's 18 to 24 year olds.

Alaska's youth voted in strong numbers this year compared with the last presidential election in 1996: while 16,889 people in this age group voted in 1996, over 25,000 voted this year, for a net increase of 48 percent. Voter turnout among young people has been declining since the 1994 election.

"When we started Let's Vote! Alaska, we were facing a downward trend in youth voting. I'm pleased to announce that thanks to the effort of many people and organizations that worked with us on Let's Vote! Alaska, we have reversed that trend," Ulmer said.

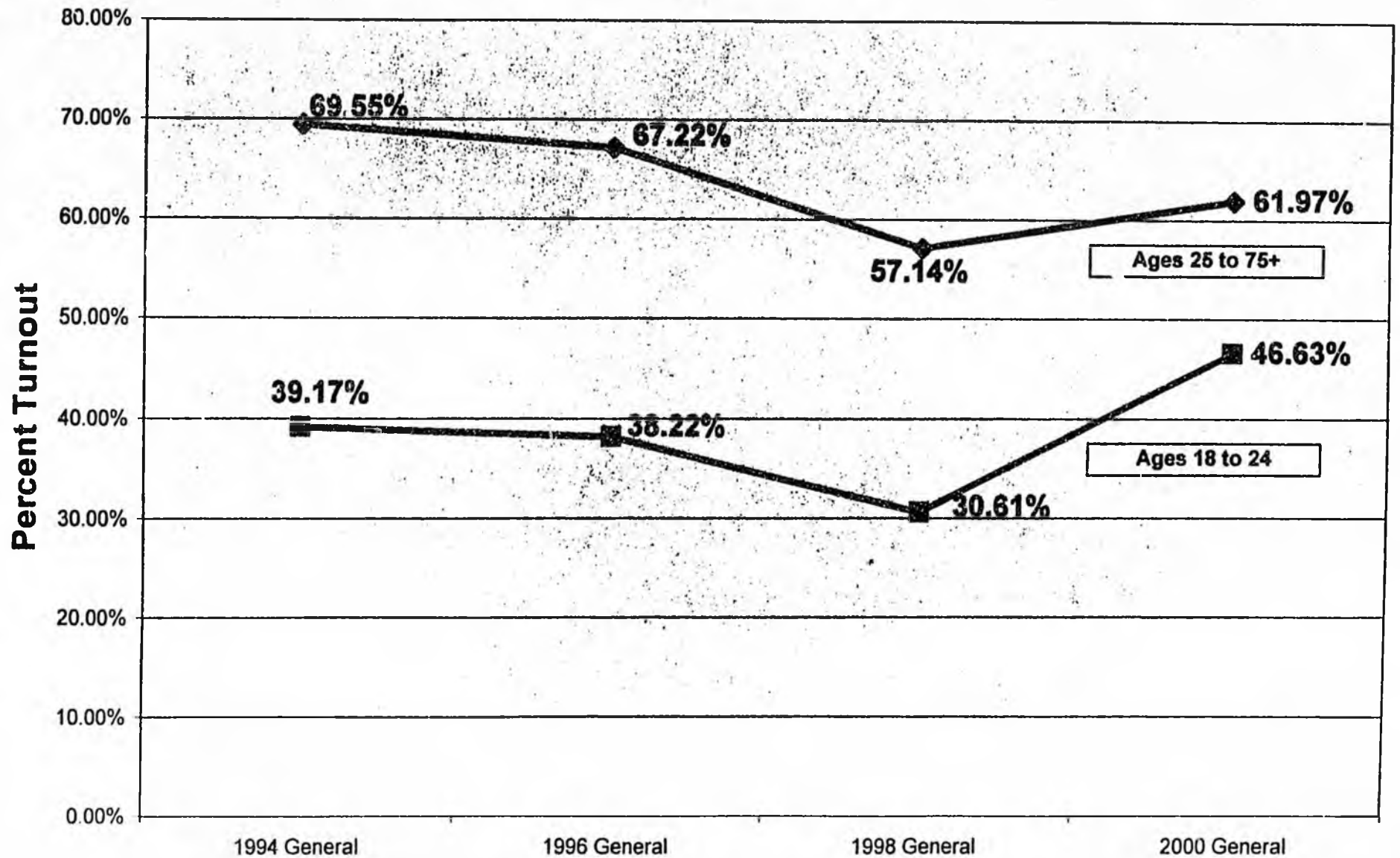
The Let's Vote! Alaska initiative aims to educate and excite young people about voting through a variety of different projects. Let's Vote! Alaska was Alaska's response to the New Millennium Project, launched by the nonpartisan National Association of Secretaries of State. This year, Let's Vote! Alaska implemented several projects, including producing two youth celebrity television spots featuring NHL star Scott Gomez and Alaskan Native actress Irene Bedard; sending "how to vote" brochures to all '00 high school graduates; sending absentee by-mail applications to 8,000 student loan recipients; encouraging several of Alaska's largest companies to designate youth voter captains; organizing a series of seminars on youth voting; and putting on the first-ever on-line mock election for high school students, Youth e Vote.

The substantial increase in youth voter turnout was reflected in another index used to measure voter turnout: nearly 47 percent of Alaska's registered 18 to 24 year olds voted in the 2000 General Election, whereas 38 percent voted in the 1996 election. "No matter how you crunch the numbers," Ulmer said, "this represents a turnaround in the trend of youth voter apathy in Alaska."

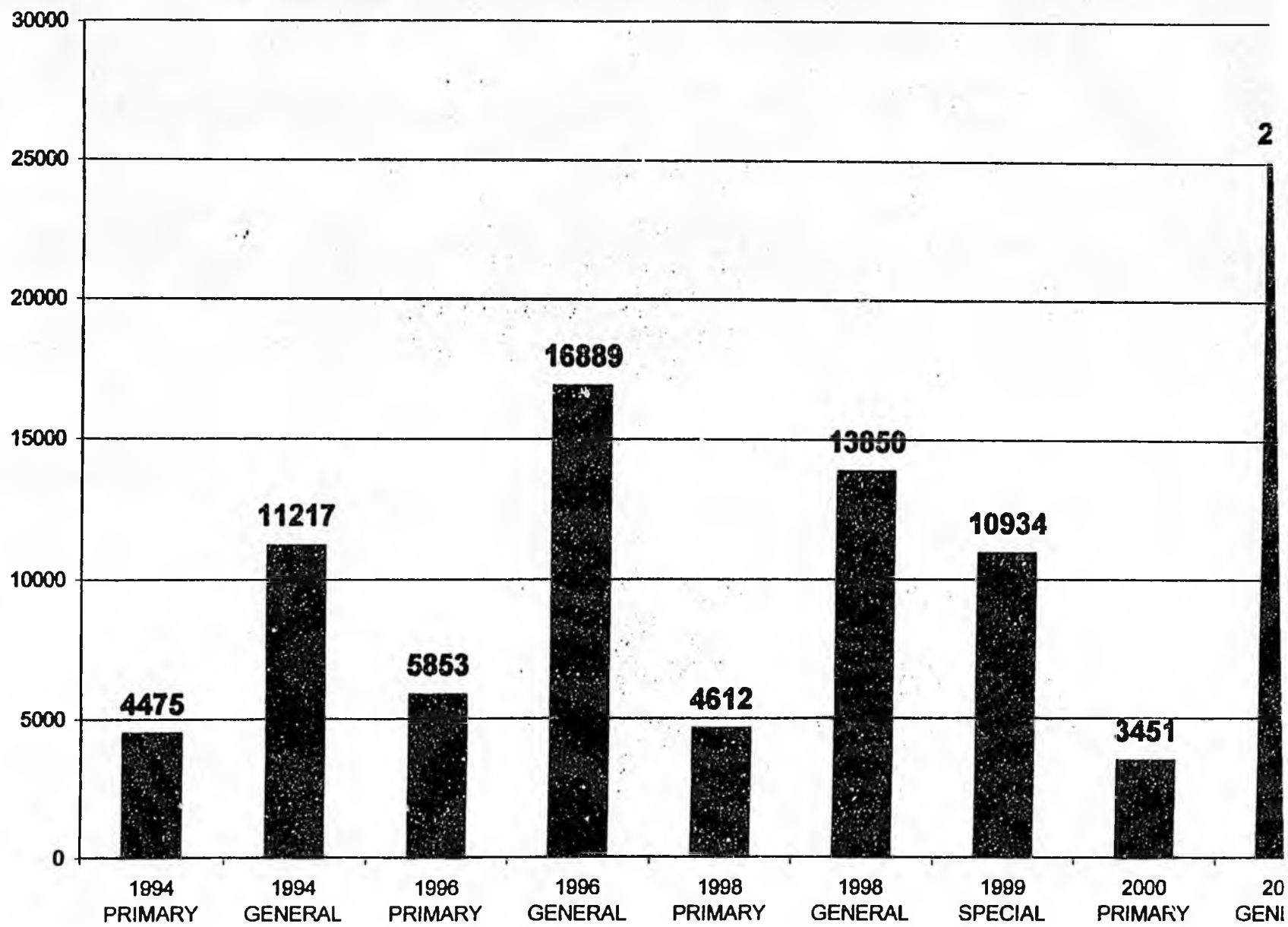
Ulmer also announced the creation of a civics education task force co-chaired by the Department of Education and Early Development and the Division of Elections that will build upon the success of Let's Vote! Alaska. "Once upon a time, civics was taught in most public schools. That's rare today," Ulmer commented. "In fact, 75 percent of high school seniors were found not 'proficient' in civics in testing released by the U.S. Department of Education." Ulmer will call on education and civics leaders statewide to serve on the civics education task force.

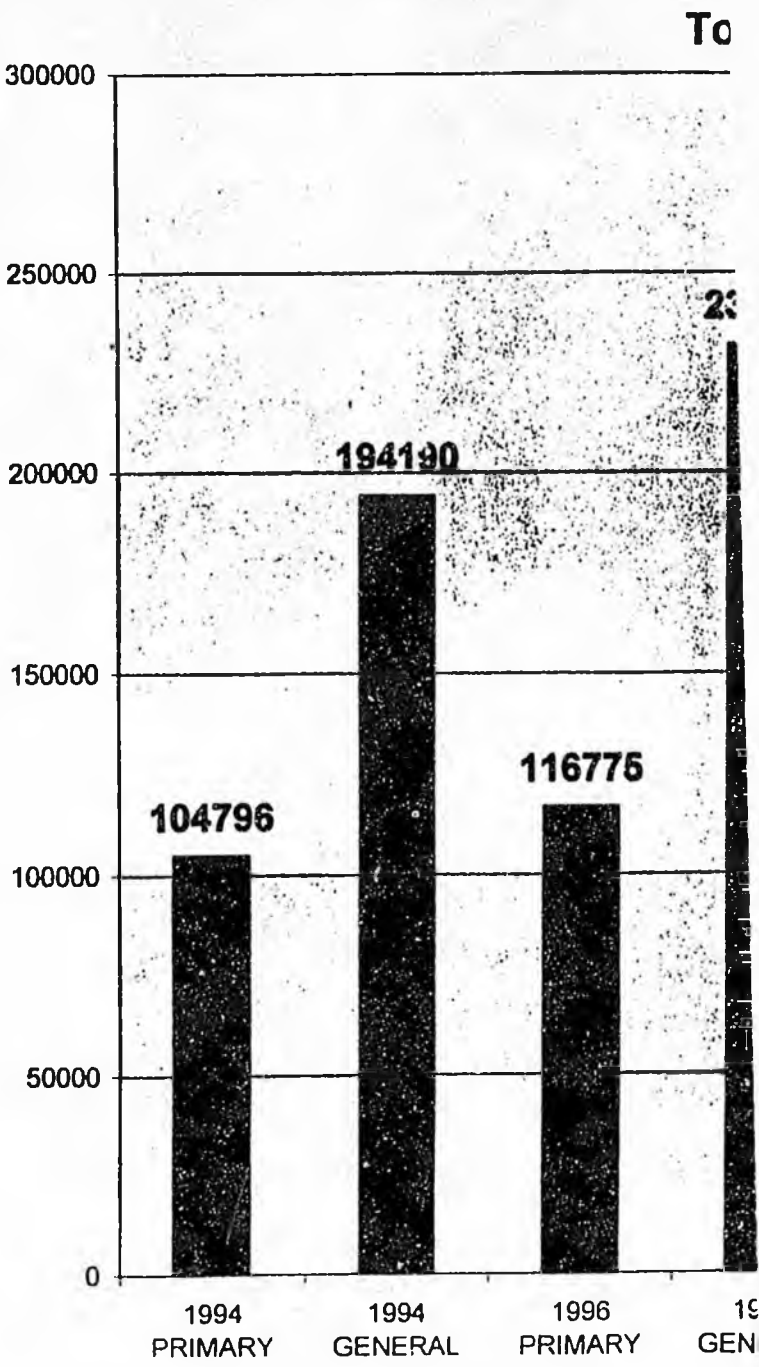
For more information, contact Moira Smith at (907) 321-2645 or Moira_Smith@gov.state.ak.us.

Voter Turnout Comparison
Percent turnout among registered
18-24 year olds v. registered 25-75+ year olds



Total Voted Ages 18-24





Division of Elections

State of Alaska
Office of the Lieutenant Governor

FRAN ULMER
Lieutenant Governor
P.O. Box 110015
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NEWS RELEASE

www.state.ak.us

FOR IMMEDIATE RELEASE: January 25, 2001

0103

Lt. Governor Ulmer names task force on primary elections

Lt. Governor Fran Ulmer has appointed four former lieutenant governors, a representative of the League of Women Voters and two former attorneys general to a task force that will discuss and recommend how Alaska should run its primary elections.

A decision last June by the U.S. Supreme Court ruled California's blanket primary was unconstitutional. The ruling also affected other states' blanket primary elections including Alaska's.

"As a result of that decision we held a modified closed primary election in August under emergency regulations," Ulmer said. "Voters had to choose between a Republican ballot or an Open ballot. That was a temporary solution."

Lieutenant Governors Lowell Thomas, Jr., H.A. Red Boucher, Stephen McAlpine and Jack Coghill join Ulmer, Joyce Anderson of the League of Women Voters, Doug Baily and Avrum Gross on the Alaska Primary Election Task Force. Baily was attorney general for the Cowper Administration. Gross, who will chair the task force, served seven years in the Hammond Administration.

The task force's first job will be to review Alaska's laws, court decisions and states' primary election systems. "We need to move fairly quickly," Ulmer said. "We plan to introduce a bill this legislative session with hopes that the legislature will pass it in a timely manner."

The group will hold its first meeting on February 9 via videoconference. In the meantime, Ulmer will testify January 26 via teleconference to a Washington State legislative hearing on primary elections. Washington's blanket primary was also nullified by the Supreme Court's ruling and the Washington State legislature is evaluating alternative systems for adoption this session.

Broadcast Advisory: Radio actualities will be available on the Governor's Information line (465-5213 or 800-478-5669) after 3 p.m. today.

Alaska's Primary Election History

1947 **Blanket primary enacted following a referendum.**

It is reasonable to assume that encouragement for the referendum came from Washington State, which had a blanket primary system.

1960 **Single ballot open primary enacted by First State Legislature replaced blanket primary.**

After 1947 the question of the blanket primary became a partisan issue, with Republicans supporting it and Democrats opposing it. In the first session of the first state legislature the blanket primary was replaced by the single ballot open primary. Voters received one ballot listing candidates from both parties. In the privacy of the polling booth they checked a box indicating they were voting Democratic or Republican. If they voted for candidates from more than one party, their ballots were invalidated.

1967 **Blanket primary restored during first session of Fifth State Legislature.**

When Republican majorities were elected to both houses of the legislature in 1966, the blanket primary was restored at the request of Governor Walter J. Hickel but it attracted considerable bipartisan support.

1992 **Partially-closed primary held under court stipulation. (Zawacki v. State)**

In 1992 the Republican Party of Alaska sued the State of Alaska in Federal Court, challenging the constitutionality of the statutory blanket primary system. An agreement between the state and the RPA called for a party rule ballot that would contain the names of candidates who filed for the RPA nomination and would be available to Republican, nonpartisan and undeclared voters. A statutory ballot would contain the names of candidates of all other political parties and would be available to all voters. A voter could vote only one ballot.

1994 **Partially-closed primary retained under court stipulation. (O'Callaghan v. State)**

The 1992 agreement remained in place for the 1994 primary election.

1996 **Blanket primary held constitutional under Alaska Supreme Court Decision.**

In 1996, the State of Alaska changed its position and asked the court to uphold the constitutionality of the blanket primary. The Alaska Supreme Court ruled that the

blanket primary did not infringe on the Republican Party's First Amendment right of association. The U.S. Supreme Court refused to review O'Callaghan.

June 2000 U.S. Supreme Court rules California blanket primary unconstitutional.

The U.S. Supreme Court ruled on June 26 that California's blanket primary violates political party's First Amendment rights of association by letting voters unaffiliated with a party choose the party's primary nominees.

FRAN ULMER
LIEUTENANT GOVERNOR
STATE OF ALASKA

December 4, 2000

The Honorable Sharon Priest
Secretary of State
256 State Capitol Building
Little Rock, Arkansas 72201

Dear Secretary Priest,

I read with great interest the announcement from the NASS Executive Committee that it has appointed an Elections Integrity Task Force and that it will meet in Dallas on December 14. I'm writing this letter to offer a few suggestions and relay some information about our experience in administering a uniform, statewide election system in Alaska, which may be helpful to the task force as it reviews centralized procedures, standardized ballots, uniform polling place hours, and improved technology.

First, our own experience shows that centralization and standardization work well. When we Alaskans read about the problems that occurred in Florida, we felt a great sense of relief that we have a "statewide" system for conducting all statewide elections. We would encourage other states to follow our model and migrate toward centralized systems with one ballot type, standardized procedures and a standardized use of technology.

Our state Division of Elections, which is part of the Office of the Lieutenant Governor, conducts all statewide elections. The State of Alaska owns all the optical scanning voting equipment and polling booths, etc. The Division of Elections has four regional offices that are responsible for hiring and training of precinct workers, continual updating of the statewide voter registration system for voters in their respective regions, and assisting city and borough clerks with conducting local elections. Cities and boroughs in Alaska are responsible for conducting local elections only. Cities and boroughs are offered free use of our state equipment for their local elections. In return, we ask city and borough clerks to assist us when we conduct our state elections. This "partnership" has worked extremely well since statehood in 1959.

Technology is important but procedures and training are just as important. In 1996, the first year we conducted an election after I became lieutenant governor, some things did not go as well as I would have liked. We were unhappy with our existing punch card system and the centralized counting system. It was slow and cumbersome and we worried about reliability. It was clear that we had to make a change. We put out a request for proposals for optical scanning equipment and Global Elections Systems won the bid. We are quite satisfied with our Accu-Vote optical scanners and the GEMS central counting system. The speedy reporting of results on election night pleased candidates, the media and the public. Using reliable technology is


obviously important. But it is also important that detailed and standard procedures be established and that all precinct workers be trained well on how to follow the procedures. It is inevitable that a few optical scanning machines will jam or their memory cards will rebel on election day. Those problems can be easily rectified as long as elections employees and precinct workers are well trained on what procedures to follow.

Voter training is also important when migrating to a new system. Before we made the switch from punch cards to optical scanning in the 1998 election, we conducted an extensive public awareness campaign to alert voters about the new system before they went to the polls. We didn't want anyone to be surprised. We brought Accu-Vote machines to newspapers and radio stations, Rotary Clubs, League of Women Voters meetings, etc. We had special training sessions for the press. We set machines up in malls on weekends so voters could try them out. The awareness campaign worked well and voters have reported that they like the ballots and the optical scanners. We get very few complaints about voter confusion.

Uniform polling place hours and election night media coverage. It was ironic to many Alaskans that there were complaints in Florida about the election being "called" before polls were closed in some parts of the state. In Alaska, Hawaii, and other states in the west, that situation has been unsettling for years. Our complaints have fallen on deaf ears in the east and inside the television networks. *I do not believe that uniform polling hours are the answer. Alaska is four hours away from the east coast and the time difference would be too problematic.* It appears that the only answer to this problem would be restrictions, or a ban, on exit polling, which would no doubt face legal challenges. I recommend that the Elections Integrity Task Force discuss ways to determine if there is a compelling public interest in such restrictions or a ban. Courts would no doubt require that such an interest be proven in order for it to withstand a challenge.

I hope this information will be helpful to the task force. I would be happy to discuss our experience with a statewide system with any task force members or any other members of NASS. Good luck on the job ahead. I'll look forward to hearing about the group's recommendations.

Sincerely,



Fran Ulmer
Lieutenant Governor of Alaska

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February 5, 2001

Panel Suggests Election Changes That Let States Keep Control

By KATHARINE Q. SEELYE

WASHINGTON, Feb. 4 — Top election officials from across the country plan to endorse on Monday more than a dozen recommendations to improve how elections are conducted in America.

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The resolution of 15 recommendations essentially encourages the enforcement of laws and regulations already in place. Its subtext is that despite last fall's 36-day dispute over the presidential election in Florida, the federal government should not overreact and reduce the authority that state and local governments have over election procedures.

"There is nothing, at least to people in the elections business, new or earthshaking in there," said Sharon Priest, secretary of state of Arkansas, president of the National Association of Secretaries of State and chairwoman of the association's task force on election standards, which produced the resolution.

"Part of it is the simple task of following the laws that are already on the books in each of the states, and part of it is looking at what the best practices are," Ms. Priest said. "There is no need to reinvent the wheel."

The recommendations say that the federal government should help states and local governments pay for upgrades in voter equipment. The election officials strongly insist that states and local governments retain control over voting procedures. But, Ms. Priest said, the federal government could set some voluntary standards for how to determine voter intent on punch

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cards, for example, or when to conduct a recount.

"We can make recommendations for uniform standards but not a uniform ballot" across the country, she said, although uniform ballots within states seemed practical. She said she had seen polls showing that voters liked the idea of a national uniform ballot. "But I don't think people have thought it through," Ms. Priest said. "Local governments don't want to give up local control."

The recommendations call for:

- Aggressive voter education.
- Better training and pay for poll workers. One idea floated was that poll workers be selected from tax rolls just as jurors are, but there seems little support for this.
- Making sure voters know their rights, including that they can ask for a second ballot if they spoil their first.
- Examining the array of voting technologies available, including voting on the Internet and whether voters would feel comfortable with it.
- Ensuring equal access to balloting for minorities, the elderly and people with disabilities.
- Maintaining up-to-date lists of registered voters. "Florida hired a company to remove convicted felons from the rolls and the company removed names of some people who were not felons." Ms. Priest said.
- Ensuring the integrity of absentee ballots. Ms. Priest said there was a thin line between making it relatively easy for people to vote absentee so as not to disenfranchise them and guarding against fraud.
- Encouraging states to abide by federal standards for voting systems set by the Federal Elections Commission.
- Certifying elections officials.
- Collecting detailed data on the mechanics of each election.
- Providing money to local elections officials, ensuring that small counties have the same access to money that large counties have.

The officials — members of the National Association of Secretaries of State — are expected to approve the recommendations on Monday, send them to another panel to refine them in July, and then send them to Congress.

Bill Jones, California's secretary of state and a member of the task force, said the Florida dispute was spurring officials at all levels of government to action. But, Mr. Jones said, it was important that the federal government not impose unfinanced mandates on the states.

"What you find after the Florida problem is this headlong rush to legislate," he said. "What happens when the feds help us too much, you get mandates that we then have to spend a lot of time trying to untangle."

Mr. Jones said that the task force, which met last month to hammer out these recommendations, did not want the federal government to impose uniform standards, not only to maintain local control but also because not all of the problems that occurred in Florida could recur elsewhere. "There are some problems inherent in Florida," he said, noting that other states had procedures for recounts, for example.

Gary McIntosh, state elections director in Washington State and also a member of the task force, said that one of the group's themes was that fixing the problems extended beyond new technology.

"This is not a problem that's going to be solved by election officials going out and buying a bunch of new stuff," Mr. McIntosh said. "We need to purchase systems but make sure they're managed well and that the people who are operating them have the training and experience to manage an election. Hopefully what we're doing will capture the awareness of Congress and state and local leaders and voters will have a greater appreciation for the complexity of the process."

Ms. Priest said that the secretaries of state began holding conference calls with each other as the election recount unfolded in Florida in November. Asked if there was a sense of alarm, she said no.

"It was almost joy because we said, 'Wow! We have an audience now of people who are interested in these issues and all those issues that we've been talking

about for years, we've got resolutions from meetings going back 20 years."

She said that the issues include barring the projection of winners on television before polls close across the country, efforts to have uniform poll-closing hours and extending voting over more than one day, but that states should make the final decisions.

"The East and West Coasts tend to be much more 24-hour based than the heartland," Ms. Priest said.

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National Association of Secretaries of State

Election Reform Resolution

Adopted February 6, 2001

WHEREAS, the nation's Secretaries of State are committed to protecting an individual's right to vote by ensuring access, accuracy and integrity in elections;

WHEREAS, the administration of elections is a complex enterprise involving 200,000 polling places, 7,000 jurisdictions, 1.4 million poll workers, more than 700,000 voting machines, 100 million voters and 22,000 elections officials;

WHEREAS, the United States was founded upon the principle of self-government in which the right to vote is the most important and fundamental right of the people;

WHEREAS, the conduct of elections is primarily the responsibility of state and county elections officials;

WHEREAS, America's voting systems and election procedures must ensure that all votes are counted accurately and that voting is easily understood and as convenient and accessible as possible;

WHEREAS, our collective expertise with elections issues and our strong commitment to fair and accurate elections will enhance our democratic process;

WHEREAS, the recent election and subsequent civics lesson that emerged draws critical attention to the issues that NASS has steadfastly sought to address; and

WHEREAS, to ensure that all eligible voters are afforded their constitutional right to vote and unfettered access to the elections process,

The National Association of Secretaries of State recommend that State and Local governments and election officials continue to work to:

- 1. Ensure non-discriminatory equal access to the elections system for all voters, including elderly, disabled, minority, military, and overseas citizens.**
- 2. Encourage the adoption and enforcement of election day rules and procedures to ensure equal treatment of all voters;**

3. Modernize the voting process as necessary, including voting machines, equipment, voting technologies and systems and implement well-defined, consistent standards for what counts as a vote throughout the election process ensuring accurate vote counts and minimal voter error;
4. Encourage states to adopt uniform state standards and procedures for both recounts and contested elections, in order to ensure that each vote is counted and to provide public confidence in the election results;
5. Provide elections officials with increased funding to implement the recommendations of this resolution;
6. Conduct aggressive voter education and broad-based outreach programs;
7. Expand poll worker recruitment and training programs by adopting the innovative practices of other states and localities, with the ultimate goal of providing a satisfactory election day experience for all voters;
8. Maintain accurate voter registration rolls with a system of intergovernmental cooperation and communication;
9. Enhance the integrity and timeliness of absentee ballot procedures;
10. Adopt and adhere to the Voluntary Federal Voting Systems Standards for Voting Systems;
11. Provide for continuous training and certification for election officials; and
12. Collect data and election information on a regular and consistent basis to provide a nexus for public consumption and systemic improvements.

NASS further recommends that the Congress:

1. Fully fund the continuous update of the Federal Voting Systems Standards developed in consensus with state and local election officials;
2. Fund the development of voluntary management practices standards for each voting system;
3. Promote intergovernmental cooperation and communication among state and local elections officials to facilitate the maintenance of accurate voter registration rolls; and

4. Provide funding to the States to implement the state and local recommendations of this resolution.

Now, THEREFORE BE IT RESOLVED that the National Association of Secretaries of State welcomes the opportunity to work with the Administration, Congress, governors, state legislators and county election officials as well as organizations such as National Association of State Election Directors and the Election Center, all members of the election community, and concerned organizations, community groups, and the public to secure funding to ensure our citizens will have accurate, reliable, and efficient systems of elections;

THEREFORE BE IT FURTHER RESOLVED, that we, the National Association of Secretaries of State, reaffirm our determination and commitment to ensure that all eligible voters can register and vote, and that all votes will be counted accurately and fairly in each and every election.

**National Association of Secretaries of State
Resolution to Support the FEC Budget Requests**

Adopted February 6, 2001

WHEREAS, the National Association of Secretaries of State acknowledge the important role that the Office of Election Administration of the Federal Election Commission plays in elections in the United States;

WHEREAS, the Office of Election Administration assists state and local election officials as a national clearinghouse for election administration;

WHEREAS, there is a need for an update to the Voluntary Federal Voting System Standards;

WHEREAS, standards should be developed to address operational standards for acquisition, installation, testing, training, administration, and maintenance of existing and new systems;

WHEREAS, the Federal Election Commission has submitted a funding request to Congress to update the voluntary voting system performance standard;

Now, THEREFORE BE IT RESOLVED that the National Association of Secretaries of State supports the budget request of the Office of Election Administration of the Federal Election Commission to update the Voluntary Federal Voting System Standards and to develop additional standards for new and existing voting systems.

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Small counties wasted more than 1,700 votes

Roger Roy and David Damron of the Sentinel Staff

Thousands of potential presidential votes were lost in Florida's most error-prone counties because of confusing ballot designs, inconsistent counting methods or because elections officials simply never looked at ballots that were rejected by machines.

The first examination of ballots in the state's 15 counties with the highest rate of discarded votes found more than 1,700 ballots on which a voter's choice for president could be easily determined.

The 15,596 discarded ballots, examined in a joint project by the Orlando Sentinel, the South Florida Sun-Sentinel and the Chicago Tribune, were identified by elections officials as "overvotes" or "undervotes," meaning counting machines either detected multiple votes for president or no votes at all.

While all but one of the mostly Republican counties were won by George W. Bush, the study showed that most of the clear votes that were thrown out were for Al Gore. In fact, had canvassing boards tallied those ballots during Florida's long recount, Gore would have seen a net gain of 366 votes -- equivalent to two-thirds of Bush's 537-vote winning margin statewide.

Finding more lost votes for Gore in these counties adds a note of irony to the post-election strategizing by both presidential campaigns. The Bush campaign sought to halt recounts in counties including Miami-Dade, where conventional wisdom predicted big gains for Gore. And the Gore campaign never pushed for recounts in the counties examined in the newspaper study, because they were mostly Republican strongholds where Bush was expected to gain votes. Most of the 15 counties

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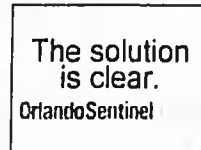
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are small and rural -- Lake County was the largest with about 92,000 ballots; 11 are in North Florida. Together, they represent just 4.6 percent of the 6.1 million ballots cast in Florida's Nov. 7 election. But because of flaws associated with the type of ballots and vote-counting equipment used in those counties, they accounted for 8.6 percent of all the state's rejected ballots, and had the highest rates of lost ballots in Florida.

The review of ballots -- the first time many of the discarded votes had been examined since the election -- found hundreds that were thrown out even though it was clear which candidates those voters wanted. The review also helped explain the common errors made by voters that caused so many ballots to be discarded in those counties -- and how an unusual ballot design contributed to the problems.

Many ballots were rejected because voters selected Bush or Gore, then also wrote in the candidate's name. Counting machines read those ballots as double votes, and canvassing boards in nine of the 15 counties either never looked at the ballots or decided not to count them. The review found 962 cases where such a vote for Bush or Gore was not counted. In the other six counties, those votes were counted.

Some voters used pens instead of pencils on their ballot or made marks that were outside the ovals they were supposed to fill in. Counting machines detected no votes on those ballots, and canvassing boards never examined them. The review found 275 of those ballots with easily discernible votes that were thrown out.

When voters tried to erase mistakes on their ballots, counting machines often detected those votes anyway. The review found 239 ballots rejected because machines detected the erased vote and read the ballot as a double vote.

Some voters made no mistakes on their ballots, but they were thrown out anyway because of apparent errors by counting machines. That happened with 14 absentee ballots in Charlotte County.

A ballot design that for the first time in Florida listed presidential candidates in two columns may have confused thousands of voters into believing there were two separate races. More than 4,000 ballots -- representing a third of all the rejected ballots in those counties -- were thrown out

WERSINGER ORLANDO SENTINEL

[FLORIDA'S FLAWED ELECTION PHOTO GALLERY](#) (JOE SURBANK/ORLANDO SENTINEL)

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because voters selected a candidate in both of the two columns.

Hundreds of voters cast "anybody but" ballots, 781 casting votes for everyone in the first column but Bush and 197 for everyone but Gore -- a 3-1 margin that might have cost Gore up to 584 votes on Election Day. These votes weren't included in the 1,700 clear votes the study identified.

Mistakes such as these have happened before. But in a presidential election decided by a few hundred votes, every lost ballot became crucial. And never before have a state's election practices been so intensely scrutinized.

"These are not novel or brand-new problems," said Ron Labasky, attorney for the Florida State Association of Supervisors of Elections. "There's just been so much attention put on this state. Every wart got picked, and every rock got kicked over."

Further scrutiny ahead

It's impossible to know how important the lost votes identified in the review may have been without examining the much larger number of uncounted ballots around the state. A consortium of newspapers, including the Sentinel, is making preparations to inspect all 180,000 ballots that were rejected across Florida. Duval County alone has 22,000 punch-card ballots that were thrown out. All those ballots could have had a dramatic effect on the overall totals -- or almost none at all. For example, a count of the 10,600 rejected punch-card ballots in Miami-Dade County by The Palm Beach Post found fewer than 500 discernible votes, with Gore losing a net of six votes, rather than gaining a decisive 600 as his campaign had predicted.

With the election long over and President Bush in the White House, the question of potentially lost or gained votes is academic. The most pertinent aspect of the Sentinel's examination may be how it reveals the variety of mistakes made by voters -- and underscores the crazy-quilt pattern of election policies around the state.

The thousands of discarded ballots also demonstrate the daunting challenge facing state officials seeking to prevent so many spoiled ballots in future elections.

All 15 counties shared a similar type of voting equipment: paper ballots filled in with pencil and tabulated by an optical-scan counter at voting headquarters.

Twenty-six other counties, including Orange, use similar paper ballots that are fed into a counting machine at the precinct by the voter. If these are marked improperly, the machine spits them back so the voter can correct mistakes. That feature kept the reject rate in Orange at less than 1 percent.

But systems such as Orange's require a machine for each precinct, rather than a single counter at headquarters. Many smaller counties cannot afford the precinct counters, which cost about \$6,000 each.

The distinction between precinct- and centrally tabulated voting systems, an obscure detail before Florida's election debacle, is likely now to become a central political issue. Gov. Jeb Bush has said he wants all Floridians to cast their votes on precinct-tabulated paper ballots by the 2002 election -- which could cost \$35 million in equipment upgrades.

National attention focused on Florida's problem-plagued punch-card ballots, with their hanging and pregnant chads. But in fact, the centrally tabulated paper-ballot system used in the 15 counties actually had a higher rejection rate: 5.7 percent of ballots in those counties were thrown out, compared with 3.9 percent in the 24 counties that used punch cards.

The ballots examined by the Sentinel were discarded for many reasons. But in almost all cases, it was because of mistakes made by the voters.

Some voters simply failed to follow instructions. Others took the instructions too literally. And many seemed confused by unnecessarily complicated instructions or the ballot design.

Some choices obvious

Still, the Sentinel's examination of the paper ballots in many cases showed clearly which candidate the voter intended to choose. It also revealed the range of small mistakes and unforeseen confusion that led to so many ballots being discarded for errors.

It appeared that many voters were confused by the ballot instruction that said "Write-in Candidate." Taking the instruction literally, those voters filled in the write-in oval and wrote "Bush" or "Gore," even though they already had filled in the regular oval for the same candidate.

The counting machines in all the counties read those as double votes and rejected them.

How the different counties handled those ballots illustrates how Florida's vague election laws influenced the election.

State law directs county canvassing boards -- three-member panels usually made up of an elections supervisor, a judge and a county commissioner -- to count ballots that show a voter's "intent" but gives little direction about how to go about it.

Some canvassing boards, including Jackson, Gadsden and Liberty, sorted and counted those ballots right after the election. Others, including Franklin and Charlotte counties, never sorted or inspected those ballots. In Lake, the canvassing board inspected some of those ballots but voted 2-1 not to count them.

In nine of the 15 counties, election officials threw out 962 ballots in which voters filled in the oval for Gore or Bush, then also wrote the candidate's name in the write-in space.

Those decisions cost Bush 384 votes, Gore 578.

All the ballots instructed voters to use pencils only, which were provided by poll workers. Many even mailed the correct pencils out with absentee ballots.

Despite that, 109 clear votes for Gore or Bush went uncounted in the 15 counties because voters used pens or markers that could not be detected by vote-counting machines and were never examined by canvassing boards.

Bush lost 50 of those votes, and Gore lost 59.

A presidential vote is technically a vote for a candidate's electors, who cast their vote weeks after the election, in the Electoral College. Because of that, the heading over the presidential candidates on most counties' ballots read "Electors," and the ballot instructed "Vote for Group."

More than 7,000 voters in the 15 counties took that literally, filling in ovals for several candidates.

"You have to ask yourself, what in the world were they thinking?" said Franklin County Elections

Supervisor Doris Gibbs, examining a Precinct 1 ballot in which the oval for all 10 presidential candidates had been filled in.

Some voters filled in an oval, then tried to erase it.

Most ballot instructions said nothing about erasing mistakes, but some told voters to ask for new ballots if they made an error. The pencils provided to voters had no erasers.

On some ballots, it appeared voters had tried to wipe out votes using nothing but their moistened fingers. Some voters clearly used erasers. But no matter where voters got the erasers, or how well they tried to wipe out their mistakes -- and some rubbed the paper so hard they erased the printed oval -- counting machines often detected the erased vote.

In all, 239 voters in the 15 counties lost their votes because they tried to erase mistakes instead of asking for a new ballot. Of these, 95 were for Bush, and 144 for Gore.

Some voters made no mistakes at all -- but their votes still were thrown out.

In Charlotte County, 14 absentee ballots were discarded because a counting machine detected two votes for president. But the second vote didn't exist. What the counting machine had read as a vote was in fact a crease made when the ballots were folded to be placed in mailing envelopes.

Bush lost 12 of those votes, and Gore lost 2.

The canvassing board never looked at those ballots. In fact, the ballots were not sorted until a circuit judge, ruling in a lawsuit filed by newspapers including the Sentinel, ordered the elections supervisor to do so.

Elections Supervisor Judy Anderson said the county lacked

the computer software needed to allow counting machines to sort out the over- and undervote ballots until it was purchased weeks after the election, when the Florida Supreme Court ordered counties to review undervotes. Before Charlotte could use it, the recount was halted by the U.S. Supreme Court.

In fact, most of the counties lacked the software needed to sort all ballots until days or weeks after the election.

Lake was able to sort overvotes on election night, and later obtained sorting software for its undervotes but has not used it. A hand-sorting of the county's ballots for the newspaper's review could not identify all the undervotes rejected on election night.

Ballot design flawed

Thousands of voters in the counties with the most rejected ballots filled in the oval for Bush or Gore, then made a mistake that ruined more ballots than any other single error.

Because of a voter-approved constitutional amendment that made it easier for minor-party candidates to get on the ballot, there were 10 presidential candidates on Florida's 2000 ballot -- compared with four in 1996.

That left elections supervisors struggling to fit so many names onto the ballot. "They want to put everyone but their coon dog on the ballot," complained Lafayette County Elections Supervisor Lana Morgan.

Many elections supervisors followed the example of the sample ballot prepared by the state Division of Elections.

That sample ballot split the list of candidates into two columns, a "broken-ballot" solution that elections supervisors in 14 of the 15 counties adopted.

Throughout the counties examined in the study, nothing accounted for more lost votes than the broken-ballot mistake.

In the 14 counties using broken ballots, Bush lost 1,852 apparent votes to these double votes, and Gore lost 2,416.

The total of 4,268 lost votes represents more than one-third of all the discarded ballots in those 14 counties.

Even subtle differences in ballot designs or instructions appeared to affect the kinds of mistakes that voters made.

For example, on Gulf County's ballot, the space for the presidential write-in did not include a line for the name, as did the other ballots. The result: In Gulf, only four of more than 400 rejected ballots had a name written in the write-in spot.

Write-ins written off

Lake County's ballot had all presidential candidates listed in a single column, so there were no votes wasted on confusion about a second column. But with the write-in spot at the bottom of the first column, Lake had many more voters who



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Capitol Roundup

Friday, January 26, 2001

CAPITOL ROUNDUP

Democrats propose statewide end to punch-card balloting

SALEM -- The dreaded "dimpled chad" would be a thing of the past in Oregon with a bill introduced Thursday by Democratic legislative leaders. The bill would require optical scanners to tabulate votes in all counties.

House Minority Leader Dan Gardner, D-Portland, said it is important to eradicate punch cards in Oregon's vote-by-mail system because voters must use booklets to determine how to vote. The booklets, he said, can be difficult to decipher and the likelihood of dealing with dimpled and pregnant chads is increased because voters have to use whatever utensil they have available at home to punch holes.

He said dropping punch cards in favor of optical scanners was being considered even before last year's hair-thin presidential election in Florida made "chad" a household word.

It would cost about \$300,000 to provide 10 new machines for the seven counties -- Clackamas, Lane, Linn, Polk, Washington, Union and Umatilla -- that use punch cards. Most of the other 29 counties use scanners, although some use paper ballots.

Senate Minority Leader Kate Brown, D-Portland, said federal money might be available to cover the costs of the upgrade.

-- The Associated Press

Falling stock prices keeping veteran state workers on job

SALEM -- The rate of retirement among

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Pennsylvania legislators aim to avoid voting chaos

Thursday, January 25, 2001

By John M.R. Bull, Post-Gazette Harrisburg Correspondent

HARRISBURG -- Reacting to the presidential election fiasco in Florida, state lawmakers are moving quickly to overhaul Pennsylvania's election procedures.

"Florida was the bright neon warning sign that America's voting system is flawed," said House Majority Leader John Perzel, R-Philadelphia. "We intend to identify the flaws that may exist here in Pennsylvania and do everything we can to make the system work the way every voter expects it should."

Perzel and Senate Majority Leader David "Chip" Brightbill, R-Lebanon, yesterday announced that a 10-member task force will study state election laws and procedures.

They said they want to move fast to identify problems and enact laws to correct them. They don't want what happened in Florida during the November election to happen here, they said.

The leaders said the work will focus on the nuts and bolts of elections and not on the politically sticky issue of campaign finance reform.

Some of the issues to be examined are:

- Should all counties use one voting method, instead of the hodgepodge now in place? How much would it cost? Who would pay for it? Which method would be best?
- Should ballots be uniform in design throughout the state, instead of the various forms currently chosen by individual counties? Should ballots be designed to make it easier to vote for third-party candidates or write-in candidates?

- How should ballots be counted if there is a dispute? Are legal procedures adequate to quickly settle challenges to election results or the legitimacy of individual ballots?

- Should provisions be enacted for statewide recounts? Currently, losing candidates must challenge results on a precinct-by-precinct basis and post bond, which discourages recounts.

- Should absentee ballot deadlines or counting procedures be changed?

- Are voter registration lists accurate? Should the state maintain a master voter registration list for each county to check its records against? Are deceased voters purged quickly enough from registration lists? Does the current system allow voters who change addresses to vote twice in some cases because of inaccurate registration lists? Should voter identification cards be issued?

"Accuracy is of paramount importance, particularly when you consider that we had a number of extremely tight state and local races in Pennsylvania last year," Brightbill said.

"Because we have so many different ways to vote, we have just as many methods to count those votes. As a result, this is serious business."

The new panel will have Senate and House members from both parties, although Republicans, who control both chambers, will outnumber Democrats.

That provision, predictably, drew criticism from some Democrats yesterday.

"If the Republicans were truly serious about election reform, they would recognize the need to have the panel split evenly in number," said the top Senate Democrat, Robert Mellow of Lackawanna. "They send the wrong signal by trying to get a leg up on Democrats rather than demonstrating a true commitment to the issue of working to provide a level playing field for all."

The seating of a panel less than three months after the election disputes in Florida is fast by state Legislature standards, underscoring the importance of the issue and the fear lawmakers have that something similar could happen in Pennsylvania.

Brightbill said he hoped to have reforms in place by next

Jan. 25, 2001

Friday, January 25, 2001

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Ohio voting systems debated**Party wants to punch out card system; Blackwell readies push at state level**

By Howard Wilkinson
The Cincinnati Enquirer

While Cincinnati's Charter Committee called for an end Thursday to punch-card balloting, Ohio Secretary of State J. Kenneth Blackwell was preparing a push to modernize Ohio's voting system.

The Charter Committee, Cincinnati's independent political party, released a report Thursday calling for the replacement of the punch-card voting system used in 70 of Ohio's 88 counties — including Hamilton, Butler and Warren — saying the "old technology" is inaccurate and threatens voters' ability to have their votes count.

The Charter report made no recommendation as to what kind of system should replace punch-card balloting, although it did conclude that the least problems are found with the direct recording electronic (DRE) machines used in most Kentucky counties, including Kenton, Boone and Campbell.

"Kentucky is leading the way and Ohio is backwards in terms of technology," said Charter President Jerry Newfarmer.

The punch-card voting system in Florida led to a protracted legal battle where the presidency of the United States hung in the balance, as the campaigns of Al Gore and George W. Bush argued over whether punch card ballots with "hanging chads" or barely perceptible indentations should be counted as votes.

Scrapping punch-card systems in Ohio for more advanced technology, Mr. Newfarmer said, would "prevent the Florida situation from happening here."

But the Charter report made no recommendations on how local governments in Ohio could pay for a conversion to electronic

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US states shocked into voting reform after Florida

RAW NEWS

CHICAGO (Reuters) - There may be a silver lining to the chaos in Florida that left Americans waiting more than a month for the outcome of the 2000 presidential election.

Dozens of U.S. states are rushing to reform their voting systems to avert another Florida-style debacle. From voter registration, to the punch-card ballots made infamous by the Nov. 7 election, to computerized voting, to standards for counting and recounting ballots -- the problems in Florida and other states have shocked elections officials into action. But elections are run by local governments in the United States so the reforms, like the problems that spawned them, are likely to be a patchwork rather than a coordinated national fix. President Bush won the election battle against Democrat Al Gore only after a divided U.S. Supreme Court ended the recount battle in Florida, handing him that state's 25 electoral votes. Bush's win in the state by a scant 537 votes out of 6 million cast has continued to spark protests that he stole the election, including demonstrations at his inauguration on Saturday featuring "Hail to the Thief" banners. **FLORIDA MULLS WHAT WENT WRONG** Florida Gov. Jeb Bush wasted little time after the controversial

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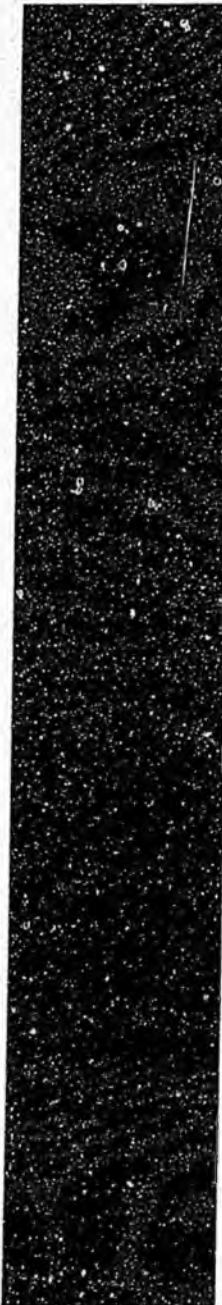
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HELP & TOOLS

win by his brother in the state in appointing a bipartisan task force to conduct an elections review. He also asked lawmakers to provide \$30 million to replace outdated voting machines. "I would think there will be a strong will to make some changes," said University of Miami President Tad Foote, who is co-chairing the governor's panel. Doug Lewis, executive director of the Election Center, an administrative and educational organization for state and local election officials, said the recount of Florida's disputed punch card ballots could have been done in two days if the state had a clear definition of what constitutes a vote. He said more than half of the states lack such a definition. Another simple reform for states to adopt is procedures for requiring a recount of votes. "Those two things alone would have eliminated all the chaos and confusion during this election," he said. In fact, Illinois' elections board is mulling asking the Legislature for a law governing how to determine voter intent, said Ron Michaelson, the board's executive director, who added that 90 percent of the state uses punch cards, which caused many problems in Florida. Kansas Gov. Bill Graves is preparing legislation that would require an automatic recount when a candidate wins by one half of 1 percent of the vote or less, according to his spokesman Don Brown. Some states also want to fix problems spotlighted by their own close presidential election. In Wisconsin, where Gore beat Bush by 5,688 votes, the election was marred by alleged abuses such as multiple voting by non-resident college students, Illinois residents crossing the border to register and vote in Wisconsin on Election Day, and cigarettes being used to bribe votes from homeless people, according to State Rep. Steve Freese, R-Dodgeville, who chairs the Legislature's campaigns and elections committee. "We've always been known as a clean election process state," Freese said, adding that the election raised questions over the integrity of the state's voting system. He said changes such as a state-wide voter identification list, voter



identification cards and uniform voting hours will be considered. New Mexico, another close state in the November presidential election, experienced computer glitches, clerical errors and lost-and-found ballots that kept the state's Electoral College votes up for grabs until Nov. 30, when Gore was finally certified a winner by 368 votes. **TOUCH-SCREEN VOTING MACHINES CONSIDERED** Election officials in that state said they are considering the use of touch-screen voting machines and completion of a new voter registration system to avoid a repeat of problems. With most of Iowa using optical scanners to count votes and punch card ballots outlawed since 1975, Secretary of State Chet Culver said his state's election system stood up to intense scrutiny following the closest presidential election in its history when Gore beat Bush by a slim margin of 4,144 votes. Still, Culver has embarked on what he called a "healthy review" of voting in Iowa and said he wants to upgrade or replace his state's 1970s-vintage mainframe database system for tracking voter registration. A new personal computer-based system tied in with the state's 2,126 precincts could cost as much as \$10 million. Culver said he also wants to improve voting technology for eight counties still using antiquated lever machines or hand-counted paper ballots. Punch card voting systems are also being targeted for extinction or reform. The Wisconsin State Elections Board in late November voted unanimously to end the use of punch card systems this year for 51 municipalities that still use them. Kevin Kennedy, the board's executive director, said the system was the least voter friendly from an accuracy standpoint. He added that 80 percent of the state uses optical scanners for counting votes. A Texas proposal would ban punch card ballots in the 14 counties where they are used. Other possible changes in the Lone Star State include better defining what constitutes a punch card vote and outlawing so-called butterfly ballots that caused confusion for some Florida voters, according to a House



elections committee aide. Cook County, Illinois, which covers the city of Chicago and is a Democratic stronghold was drawn into the Florida ballot controversy due to its use of a butterfly ballot for judicial elections on Nov. 7, wants to simplify ballot language to reduce the need for facing pages. County Clerk David Orr also wants the Illinois Legislature to authorize the use of existing technology to check for accidental overvotes on punch card ballots. States where absentee voting is a major factor are also considering reforms. Proposals to tighten the time for the receipt of absentee ballots have surfaced in Washington, where ballots currently must just be postmarked by Election Day. In Oregon, where everyone votes by mail, proposals have been made to standardize ballots and supply voters with postage paid envelopes. States such as New York and Georgia are also seeking voting studies or will hold hearings on possible reforms, while California Secretary of State Bill Jones wants to create a \$230 million fund to update county voting systems. Most states will be looking to the federal government to help foot some of what could be a substantial bill for new or improved voting systems as long as there are no strings attached, according to Iowa's Culver. ^

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02/14/2001 - Updated 09:47 AM ET
 Updating voting machines could take a decade

By Jim Drinkard, USA TODAY

If the nation decided to dump its antiquated voting machines tomorrow and get new ones, it wouldn't be able to do it. In fact, replacing the now-suspect punch-card machines that are common across the country probably can't be accomplished by the next presidential election in 2004, and a complete modernization could take a decade, according to election officials and executives in America's tiny voting equipment industry. Fewer than a dozen U.S. companies make voting equipment, and even the largest of those has limited manufacturing capacity. Even more crucial, they don't have enough trained personnel to carry out a crash national election upgrade. "I don't think the industry is ready for the demand that is potentially going to come," says Kimball Brace, a leading election consultant.

Voting technology

Percentage of Americans that use these voting methods:*

1%	Paper ballots (1769)
18%	Lever machines (1892)
36%	Punch cards (1964)
27%	Optical scan (early '80s)
9%	Electronic (late '80s)

* Voters in jurisdictions that use a mix of methods are not included.
 Source: Election Data Services

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"What happens when Miami-Dade, Dallas and Chicago say all of the sudden, 'We'd like to buy'? There is no manufacturer out there big enough

, " Brace says.

A host of government and professional task forces are churning out recommendations for how to avoid another election debacle like the one that unfolded last year in Florida. Newer equipment is high on their lists.

Florida wants to switch to a uniform statewide system of optically scanned ballots, the same technology used in grading standardized tests such as the SAT.

Georgia wants to convert to all-electronic voting, in which voters make their choices using a touch screen like those on ATMs.

The nation's secretaries of State want modernized equipment, and Congress may pour up to \$2.5 billion into upgrades.

There are an estimated 600,000 or more outmoded punch-card and mechanical lever machines across the country that would be up for replacement in any national upgrade — many times the industry's normal annual production. Without larger staffs and deep-pocket financing, it will be impossible for equipment makers to ramp up production immediately, analysts say. Some components are in short supply, and though there is talk that big players such as IBM may join the voting machine business, no major high-tech firm is in a position to start selling.

"One of the assumptions these task forces are making is that there is an industry ready to meet their demands," says Peter Cosgrove, CEO of Sequoia Voting Systems, a leading equipment maker based in Exeter, Calif. "It would be dangerous of those groups to make the assumption that the entire country can change to new technology for the 2002 elections, or even for 2004."

The collision between a surge in demand and limited supply is "the next hurricane coming for election administrators," Brace says. "It has the potential of not being a very pretty sight."

The industry that provides equipment, supplies and expertise for the nation's elections is a niche business. Because elections come in cycles, so do its sales and profits. Total annual revenue is estimated at about \$200 million in election years and \$150 million in non-election years. Only a handful of companies that make approved voting equipment attempt to do business nationally. Nearly all are private companies; public shareholders would be impatient with their uneven earnings, executives say.

Not much bigger than an outlet store

Election Systems & Software (ES&S), with about 430 employees, is by far the largest.

At its small manufacturing facility in Omaha, about 20 employees sit at workbenches assembling and testing half a dozen different voting machines. They range from a large gray unit designed to count optically scanned ballots at high speed for an entire county to touch-screen electronic voting machines that look like an oversized child's Etch A Sketch and are used at local polling places.

In an adjacent warehouse, molded plastic equipment cases are piled high. One section has shelves where a limited inventory of parts awaits assembly. The entire operation isn't much bigger than a warehouse outlet store.

Jim Schmidt, who oversees the company's manufacturing, recalls how the company scrambled in 1998 to produce 7,350 voting machines in 100 days for Venezuela. "We had to pull out a lot of stops to do that," he says. All together, the company turned out 20,000 voting or vote-counting machines in the past 18 months, a record level.

Company officials are salivating over the coming boom and the profits it would bring.

ES&S is lining up outside producers to increase its manufacturing capacity.

Its nearest competitor, Global Election Systems in McKinney, Texas, plans to add a second or even a third shift at its plant. "We are gearing up to run 24/7 if necessary to meet the demand," says Global Vice President Larry Ensminger. The company may also turn to outside firms for additional assembly capacity.

Not all equipment makers are so sure the demand can be met. Chip Rabinowitz, who designed an electronic voting machine for Diversified Dynamics of Richmond, Va., says some components — particularly touch screens and flash memory chips — are in short supply. "It's probably going to take a minimum of 10 years" to complete a nationwide upgrade, he says.

Paul Craft, who oversees election technology for Florida, says his state hopes that by upgrading many counties at once, it can save money by buying voting equipment in large quantities. "That may not prove true," he says. "You may find yourself waiting in line to buy them at full retail."

Sequoia's Cosgrove says production capacity isn't even the toughest problem. "What's not achievable is being able to send out support people who understand the technology and elections and the legislative requirements in each state," he says. "There is a concern that the industry, in pursuit of early profits, will try to bite off more than it can handle."

Aldo Tesi, president of ES&S, says he believes that his company can meet demand. However, he agrees that "if there's a challenge, it's on the

people side. We're going to have to be very smart about how we approach it."

Frightened by history

No major corporation has ventured into the U.S. voting equipment business since IBM, which popularized punch-card voting in the United States, got out of it in the early 1970s. IBM sold the rights to its Votomatic machine to four of its salesmen, who started a company called Computer Election Systems. At the time, their only competition was from old-fashioned paper ballots and from mechanical lever voting machines, which had been around since the late 1800s.

IBM unloaded the business because it knew bad publicity from a botched election could damage its far more profitable electric typewriter business, says Jack Gerbel, an IBM salesman who became vice president of the spinoff company. "Most of the free publicity they were getting was about elections, yet it was just a drop in the bucket, profit-wise," he recalls.

Gerbel is now president of his own company in Dublin, Calif. UniLect sells an electronic touch-screen voting machine.

Later, the punch-card business was sold to Business Records Corp., which also marketed optical scanning vote-counters. In 1997, that Texas company was in turn acquired by the Omaha firm that now is ES&S.

At the time, only three companies made optical scan vote-counting machines, so the Justice Department forced BRC to sell its scanning technology to Sequoia as well as the Omaha company to remedy antitrust concerns.

Now, the prospect of huge infusions of federal money is prompting some large players to rethink their aversion for the voting equipment business. Computer giant Unisys announced last month plans to market an election system that would automate everything from voter registration to vote counting. Other high-tech companies are working to perfect Internet voting systems, and IBM is rumored to be considering jumping back into the business. "We are examining that issue right now, but have not made any determination," says company spokesman Ed Barbini.

Harder than selling computers

But selling voting machines is more complex than selling computers, says Richard Striolka, publisher of a national newsletter on running elections. "When a vendor sells a county, they go in and instruct key personnel in procedures, changes, a host of little internal things," he says. "This is what new companies lack: support people and the experience."

Dave Keeler, vice president of a company in Dayton, Ohio, that prints ballots and sells electronic voting machines, says companies like his are

crucial parts of the election system. "When they put in a new county elections director, who do you think is holding that person's hand? The experts reside in the private industry, and that's what makes it go around."

Any company angling for a piece of the action faces a long, tortuous road. Elections are a complex undertaking, carried out under state laws that vary widely and procedures and requirements that are different in each of America's 7,000 voting jurisdictions. Voting equipment must be certified by testing laboratories, then blessed by each state's top election officials. Sales are made by slogging from one county election board to the next. In most states, each county makes its own purchasing decisions.

Even if new orders pour in, those barriers remain. Sometimes salesmen seek to ease their jobs by pitching their wares at the annual meetings where each state's county election officials gather to keep current on election laws and practices.

For example, when Ohio election officials gathered at a Columbus hotel in January, equipment vendors turned the hotel's fifth floor into one continuous cocktail party. Riding up in an elevator, one county official checked with an equipment salesman to make sure he was ready to pour her favorite, Captain Morgan rum.

In room 531, Triad GSI of Xenia, Ohio had set up a Votomatic machine with a butterfly ballot from Palm Beach County, Fla., side by side with its electronic touch-screen model.

In Room 501, elections printer Barrett Brothers had its hospitality suite. Dayton Legal Blank, a printer and sales representative for an equipment maker, entertained in 505. The best party was in Room 506, where ES&S served hot hors d'oeuvres along with drinks.

'Extremely competitive environment'

Ten days later, some of the same companies — and even a few of the same salesmen — were in Orlando, where Florida county election supervisors gathered. Global's suite was holding a drawing for a large box of Belgian chocolates. Hart Intercivic, marketing an electronic voting machine, gave away a 13-inch color TV/VCR. Election software maker Iris lured officials by offering a chance at a gold necklace. "It is an extremely competitive environment," says Craft, the Florida official. "You have a static market, a fixed number of jurisdictions that need equipment. You've got all these vendors fighting for the same market."

It's not unusual, he says, for a company to spend two or three years trying to persuade local officials to buy its equipment only to lose out when the officials it has targeted go out of office. It's common, as well, for a vendor to be about to close a sale and have its competitors seek to sabotage the deal by planting doubts about the equipment in the minds of local officials who control the purse strings. "It's a dog-eat-dog world,"

Craft says.

Sometimes, salesmen feel the pressure to perform what they consider improper favors for election officials. One, who asked not to be identified for fear of losing business, told of encountering an election supervisor in a small Georgia county who listened to a sales presentation, then asked, "What's in it for me?" The salesman ignored the question, and the official repeated it. No favors were done, and the company won the contract anyway.

"This is no different from other government procurement," says Caleb Kleppner, an elections analyst with the non-profit Center for Voting and Democracy, based in Takoma Park, Md. "Kickbacks happen, and favored contractors win despite not having the lowest bid. Politics affects it, too. Anytime there are hundreds of millions of dollars being spent, there is incentive for that to happen."



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Alaska Division of Elections

HAND TALLY PRECINCTS

Updated 7/25/00

Of Alaska's 451 voting precincts, 170 (38 percent) will hand count ballots in November's election. Results (counted at the precinct) will be telephoned to the closest regional elections office, entered into tabulation centers there and forwarded immediately to the main accumulation center in Juneau.

Click here [for a complete breakdown of Accu-Vote and hand-count precincts.](#)

Region I

There are 24 hand-tally precincts in Region I, which includes Southeast Alaska, Kodiak Island and the Kenai Peninsula. These precincts are located primarily in District 5, plus some in the Kenai Peninsula and small towns in on Kodiak Island.

Region II

There are no hand-tally precincts in Region II, which includes the greater Anchorage area and the Matanuska-Susitna Valley.

Region III

There are 58 hand-tally precincts in Region III, which is the greater Fairbanks interior area plus Valdez and Cordova. Fifty of these precincts are located in District 36, an area that encompasses many small towns and villages, including Aniak, Bettles, Fort Yukon, McGrath, Rampart and Tanana.

Region IV

All but ten precincts in Region IV (Nome, the northwest coast and the Aleutians - Districts 37-40) will be hand counted, a total of 88 precincts. The largest communities in Region IV will be counted by Accu-Vote: Barrow, Bethel, Dillingham, Kotzebue, Nome and Unalaska.



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To comment on this page, contact [Barbara Whiting](#)
at the Alaska Division of Elections.



Alaska Division of Elections

HOW YOUR PRECINCT'S BALLOTS WILL BE COUNTED

Updated 7/25/00

For a quick search to see the precincts in a particular district and how the ballots will be counted, click on the district:

- [Senate Dist. A = House Dist. 1 and House Dist. 2](#)
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REGION I

Senate Districts A - E

House Districts 1 - 9

Southeast Alaska, Kodiak Island & the Kenai Peninsula

SENATE DISTRICT A:

HOUSE DISTRICT 1

14 Accu-Vote Precincts

Clover Pass

Ketchikan (7 precincts)

Mountain Point

Mud Bay