

1975-76

HOUSE JUDICIARY COMMITTEE

TABLE OF CONTENTS

1975-76 INDEX

1975 MINUTES: 1/21/1975 - 6/4/1975

1976 MINUTES: 1/13/1976 - 5/7/1976

1975-76

HJ

MINLOG

1975-76

INDEX

NOTE:

1/9/86

Minutes end on 5/7/76.

There are tapes from
5/8 - 5/28/76.

Bills Covered on those
tapes are not
included in this
index.

Jeannie Henry

1975-76 Index to Minutes

HB 2	Alaska Art	67
HB 6	Smoking materials	13, 16, 25
HB 14	Criminal Code	2, 46
HB 27	School Bus Drivers	45
HB 31	Abandoned Vessels	56, 78
HB 35	Guide Licensing	53, 54
HB 42	Anti Trust	28, 33, 39, 40
HB 45	Ombudsman	9, 17, 19, 21, 23, 27
HB 48	Transfer Interests in Realty	45, 56
HB 52	Public Adjustor	93
HB 55	Post Bond	7, 10, 14, 16
HB 59	Teacher Tenure	43
HB 62	Transporting	119
HB 74	Assault	5, 26, 27
HB 81	Supplemental	10
HB 90	Adultery and fornication	34
HB 91	Post Bond	7
HB 92	Case Against State	38
HB 94	Conflict of Interest	7
HB 96	Mutual Savings Bank	34
HB 98	Medical Malpractice	59, 65
HB 99	Guide licensing	46, 53, 54
HB 105	<i>Hold Harmless 138</i>	
HB 106	Zoning state parks	53, 54
HB 112	Conspiracy	25
HB 114	Violent Crimes	42, 44
HB 118	Transporters	113, 114, 119
HB 129	Smoking	27, 31, 36, 37, 49, 50, 51
HB 130	<i>Fishing Permits P.W. Sound</i>	<i>152</i>
HB 137	Anti Trust	28, 33, 39, 40

HB 138	Income Tax penalties	34
HB 139	Rental Adjustment	54
HB 140	Official maps	99, 100
HB 148	Conscience Clause	46, 51
HB 151	Log Brands	38
HB 154	Assault	26, 27, 29
<i>HB 156</i>	<i>OBSTRUCTION OF OFFICER</i>	<i>125, 126</i>
HB 157	Unauthorized entry	38
HB 159	Edible Meat	87
HB 170	Judicial Fines	46, 66
HB 175	Department of Labor	82
HB 176	Comparative Negligence	62, 79
HB 177	Security deposits	61, 62
HB 178	Third Party Beneficiaries	82
HB 187	Rape	53, 89
HB 191	Transportation Tariffs	56, 67, 77, 89
HB 192	Public Utility Tariffs	56
HB 197	Military fish and game	73
HB 202	Board of Regents	80, 83
<i>HB 203</i>	<i>Salary Commission</i>	<i>167</i>
HB 209	Income Tax penalty	52
HB 211	Revenue	79, 89, 90
HB 213	University of Alaska	75
<i>HB 214</i>	<i>Absentee Voting</i>	<i>221</i>
HB 222	Prostitution	88
HB 237	Divorce	47, 48, 63
HB 238	Child's Representation	47, 48, 64
HB 239	Judicial districts	34, 57, 58
HB 241	Fishing gear	85
HB 242	Dress Code	91
HB 246	Liquor licenses	108
HB 248	Public Adjustor	55

<i>HB 261</i>	<i>Residential Property Exemption 261, 269</i>	
HB 249	Judicial districts	34, 57, 58
<i>HB 256</i>	<i>Dentistry</i>	<i>145</i>
HB 265	Legal Assistance	60, 63
HB 266	Legal Assistance	60, 63
HB 276	Real Estate Appraisers	81, 91, 103, 105
<i>HB 280</i>	<i>Vice No</i>	<i>147, 148</i>
HB 282	Public Administrators	55
HB 283	Acting district court judge	55
HB 295	Teacher retirement	89
HB 298	Security	139
HB 312	King crab	82
HB 314	Outdoor advertising	101
HB 318	Imposed sex	76
HB 321	Rent control	72
HB 350	Municipal tax	113
HB 356	Pari mutuel	106, 110, 118
HB 366	Deeds of trust	141, <i>229, 242</i>
HB 370	Fish and Game Prosecutor	86, 90
HB 371	Fish and Game Prosecutor	86, 90
HB 380	Vital Statistics	112
HB 383	Medical Examiner	87, 96, 111, 119, 120
HB 384	Evaluation of judges	85, 107
HB 385	Early judicial appointment	93
HB 390	Conflict of interest	82
HB 391	Contractor names	130, 138
HB 396	Non prescription drugs	104, 113
HB 401	Public monies	83
HB 402	Disabilities of a minor	121, 127
HB 416	Abuse of Power	107, 109

HB 417	Intelligence Info.	107,109
HB 418	Conflict of Interest	105,109,134
HB 422	Public Assistance Programs	122
HB 432	Child Protection	121,127
<i>HB 442</i>	<i>Sanctuaries</i>	<i>241</i>
HB 444	Life Insurance	123,124,132,158
<i>HB</i>		
HB 459	Father's Leave	138,139
HB 476	Attorney's fees; malpractice	206
HB 488	Campaign disclosure	136,137
HB 510	ASHA Land sales	177
HB 522	Lobbying	182,195,196-7,201
HB 531	Freedom of Info	150,151,153,159-60,172,173,174
HB 541	Visitation of Prisoners	162
HB 546	P.U. Surcharges	199, <i>230, 258</i>
<i>HB 554</i>	<i>insurance holding companies</i>	<i>227</i>
<i>HB 558</i>	<i>insurance practices</i>	<i>228</i>
HB 559	Insurance filing review periods	177
- HB 574	Medical Malpractice	156,157,161,163-4,166,168,169,170,171, 181,183-9,190,193-4,195
HB 575	Voluntary arbitration	180,183
HB 581	Watercraft	177
HB 584	Generic Drug Substitution	<i>191</i> ,200
HB 598	Tort Claims, motor vehicles	162, <i>225</i>
HB 600	Determinate Sentencing	176, <i>226, 240, 263, 264</i>
<i>HB 604</i>	<i>Land Sales Act</i>	<i>233, 240</i>
HB 606	Vacancies U.S. Senators	155,165,173,178
HB 614	GOB Court System	180,202
HB 630	Muni. tele, exempt	208
HB 631	Comm. carrier/APUC	193
HB 632	Small tele. exempt	208
HB 633	Reg. P.U. Rates	193
<i>HB 634</i>	<i>Employment of Minors</i>	<i>233-5, 240, 263</i>
HB 653	Legal Counsel APUC	179,208
<i>HB 639</i>	<i>Payment of Wages</i>	<i>274</i>

HB 655	Foreclosure	177
~~HB 677~~	<i>Anti-Trust Banking</i>	~~221~~
HB 679	Indebtedness of P.U. Subsidiaries	209, 258
HB 694	Criminal Code Rev. Commission	200
~~HB 705~~	<i>Apelene Comm</i>	~~217, 222~~
~~HB 713~~	<i>Student Regent</i>	~~233, 236~~
HB 722	Consumer Protection	201
HB 724	Administrative Adjudication	290
HB 723	Homestead exemption	201
~~HB 735~~	<i>Defrauding</i>	~~222~~
HB 738	Misc. Court Awards	191
~~HB 774~~	<i>COLA Magistrates</i>	~~210~~ HB 775 - 215
HB 784	Cook Inlet Land Sales	205, 208
HB 785	Electric Dart Guns	203
~~HB 795~~	<i>Women's services</i>	~~214, 221~~
~~HB 809~~	<i>Gambling limitations</i>	~~201~~ 216, 217, 222
~~HB 823~~	<i>St-Chartered Credit Unions</i>	~~232, 236-7, 250-57, 263~~
HB 833	Abatement of nuisances	203, 206-7
HB 839	Fish & Game Data	203-4

HB 851	<i>Quasi-jud</i>	230, 236, 258, 259-62
HB 853	<i>RUCAG</i>	213, 223, 239
HB 864	<i>Interrogatories</i>	226
HB 871	<i>Bethel judges</i>	226
HB 873	<i>Dissolution Marriage</i>	224, 227, 241-2, 243-48
HB 855	<i>Conflict of Interest</i>	269, 70
HB 857	<i>Camp, Disclosure</i>	239, 264-5, 277
HB 885	<i>Student/Collective Bargaining</i>	277
HB 890	<i>Coop Resource Management</i>	277
HB 808	<i>Hippie Homestead</i>	267, 270, 273
HB 861	<i>Capitol Site</i>	281

HCR 2	Election Districts	86
HCR 5	Drivers license regs	7,25,32,36,38
HCR 28	Fishing rights	111
HCR 39	Criminal Code	63
HCR 53	Retention elections	111
HCR 57	Do it yourself divorce	114
~~HCR 88~~	<i>Capitol Site</i>	<i>281</i>
~~HCR 109~~	<i>Atty Ice</i>	<i>268</i>
HJR 1	Unicameralism	3,15,30,41
HJR 3	Grand Jury	8,12,13,34,35,36,175
HJR 4	Governor's term	77,89
HJR 10	Inherent rights	118
HJR 11	Veto, special session	45,77
HJR 15	University of Alaska	75,76
HJR 19	Judicial districts	34,57,58
HJR 35	Child support	147
HJR 36	Qualifications of legislators	147
~~55 HJR 39~~	<i>Permanent Fund</i>	<i>218-220,221</i>
HJR 43	Traps	154
~~HJR 44~~	<i>Yautishna Mining</i>	<i>208</i>
HJR 45	Gun Control	191
	Judicial pay raise	131
HJR 49	90 day sessions	206
HR 3	Dept. of Justice	142

SB 1	Ombudsman	9, 17, 19, 21, 23, 27
SS SB 5	Anti Trust	28, 33, 39, 40, 71, 83, 84
SB 11	Artificial insemination	132
CS SB 28 am	Marriage	43, 47, 61
SB 44	Smoking materials	25, 13, 16
SB 53	Post bond	7, 14, 16
SB 59	Juvenile names	102 ~~4~~ 106
SB 60	Arbitrary Discrimination	122, 128
SB 62	Conflict of interest	69, 70
SB 80	Case against state	38
SB 89	Conflict of interest	8, 10
SB 96	Salmon eggs	10 ³ ~~1~~ , 10 ⁴ ~~2~~
SB 99	Public Records	108, 109
SB 113	Health Care Information	134, 138
SB 132	Nursing Home Administrators	122, 127
SB 138	Zoning S-ate Parks	46, 52, 54, 143
SB 140	Admin. of Justice	140
SB 148	Smoking	27, 31
SB 153	Sound Recordings	139
~~SB 151~~	<i>Consciousness Clause</i>	~~268~~
SB 158	Larceny	138
SB 167	False reports	109
SB 180	Salmon hatcheries	108
SB 182	Arrest without warrant	140, 142
SB 202	Malicious mischief	134, 135
SB 215	Navigable Waters	123, 274
SB 230	Antlerless moose	91, 92
~~SB 257~~	<i>Mon, Fire Dept</i>	~~143~~
SB 261	Rape	96
~~SB 284~~	<i>Re-use</i>	

SB 266	Motor vehicles	105
SB 269	Punch card voting	129, 132
SB 290	Rent Control	94, 95, 97, 98, 100, 107
SB 296 ^{um}	Bar Act	129, 132, 133, 191-192, 195
SB 300	Stolen property	125
SB 301	Insufficient funds	125
SB 302	Weapon/criminal	125, 132, 134
SB 306	Sexual Assault	141
336	~~Treatment Drunks~~	211, 215
345 & 346	~~Drunks Hwy + Uniform Act~~	211
SB 350	Marijuana	115, 116, 117, 127, 128
SB 358	Trust Lands	140
SB 361	MEDICAL MALPRACTICE	145, 146
SB 384 am	Revise statutes	142, 143
SB 399	Imitation gold	141
SB 407	Motor vehicle safety	140
SB 411	Dr. guide	142
CS SB 440	~~Security interest~~	178
SB 507	Risk Management	169
SB 511	Revenue laws	212
SB 546	Eminent Domain	231, 263
SB 594	Unavoidable Insurance	216
SB 659	Child Support	271, 278, 280
SB 673	~~Child Support~~	271
SB 684	Abandoned Mot. Veh.	266, 268, 273
SCR 5	Criminal code	109
SCR 15	Rape	140
SCR 17	Rape	140
SCR 19	Rape	140
SJR 37	Outboard motors.	142
SB 691	Public Broadcasting	279
SB 748	Glacier Bay Monument	242
SB 443	Take over Bids	281
SB 570	Holding municipal office	279
SB 592	Theft of Telecommunication Services	281
SB 627	Larceny by Trick	281
SB 630	Apprenticeship	274
SB 641	Wage Rates	276
SB 670	Superior Court Judges	278
SB 694	Telecommunications	273
SB 720	Kachemak Bay	275, 283
SB 741	Teaching Practices	279

SB 443 Taken over Bids 272

1975 Minutes

1975

MINUTES

1/21/1975 - 6/4/1975

House Judiciary Committee
January 21, 1975

January 23, 1975

Very brief meetings were held on these dates which served to introduce and orient the committee members. Chairman Gardiner listed the major bills expected to be referred to the committee and requested that members make a listing of legislative priorities which the committee would consider.

Meetings were set for 1:30 daily in Room 100 of the Capitol Building.

House Judiciary Committee
January 24, 1975

The meeting was called to order at 1:35 p.m. by Chairman Gardiner. Members present: Gardiner, Specking, Cotton, Bradley, and Parr

HB 14 Criminal Code

Joel Bennett of Legislative Affairs testified on the history of the current bill. It was first introduced in 1972 as HB 524 and was considered by the House Judiciary Committee. Hearings were held in Anchorage and Fairbanks. The following research was compiled and is on file: comments from the bar, judges and the general public; a comparative analysis of the new and old legislation; the minutes of the House Judiciary Committee which contain approximately 100 proposed changes to the bill. By the end of the 1972 session approximately 30 of these amendments had been approved by the Committee. Mr. Bennett was requested to review the remaining proposed amendments and to include those which he judged to be of merit.

In 1973 Rep. Huber requested an update of HB 524 to include those bills passed during 1972 and 1973.

In 1974 no committee action was taken on the bill but it was again updated. HB 14 is a product of all past research and updates.

Mr. Bennett recommended that a separate or special committee, or a subcommittee be formed to look at this bill. He also suggested that Rep. Brown be consulted since he has thoroughly researched the matter.

Senator Pat Rodey testified that the criminal code, as well as all of the state statutes need complete review. He suggested that a commission be organized to thoroughly study the matter and emphasized that it should be done right the first time.

Rep. Specking suggested that a consultant be hired to supervise the project. He stressed the need for obtaining a monetary commitment before proceeding further.

Senator Ziegler has suggested that a study group be set up through the Attorney General's office with a national expert as consultant. Public and legislative input should be solicited.

Rep. Parr suggested a joint Senate/House committee which included laymen.

Mr. Bennett stated that the question now is whether to work with HB 14 or to start from scratch. He suggested that once this decision has been made a resolution could be introduced asking for an appropriation or the committee could go to the Legislative Council.

Rep. Gardiner stated that he would confer further with Senator Ziegler.

Adjourned at 3 p.m.

House Judiciary Committee
January 27, 1975

HJR 1 - Unicameral Legislature

The meeting was called to order at 1:34 by Chairman Gardiner. Members present: Gardiner, Brown, Cotton, Parr, Bradley, and Fink.

Representatives Parker and Bradner, sponsors of HJR 1, gave presentations on the merits of the bill and fielded questions.

Rep. Parker gave a brief history of the bicameral legislature to the time of the "one man, one vote," decision. Since this time state legislators represent the same constituents. He stressed that the unicameral legislature would do away with the free conference committees powers, shorten sessions, and eliminate the unnecessary check within the legislative branch which does not exist in the other two branches of government. In response to a question from Rep. Parr, Rep. Parker explained that although either house can reject the report of a free conference committee, it is rarely done since such committee reports are made in a bunch at the end of the session.

Rep. Fink questioned the time restrictions on passing a bill as contained in HJR 1 as well as the redistricting procedures. He suggested that redistricting be done on the basis of substantial population change instead of every ten years. Perhaps the minimum percentage increase should be stipulated.

Rep. Brown questioned that any of these changes should be made to the Constitution but to the statutes.

Rep. Parker expressed the opinion that rural representatives would be on a more equal footing in a unicameral legislature. He said that the power of committee chairmen would increase due to fewer committees but decrease as a result of loss of "bargaining status." It would force committee members to accept responsibility for their actions. Mr. Fink added that chairman power would depend on the number of referrals given a bill.

Rep. Bradner expressed the following: The situation in Alaska is different from other states due to our streamlined judiciary and powerful executive. A unicameral system would allow the public to fix responsibility, would limit chairmen's power, would eliminate passing the buck to the other house and the guessing game of whether a bill would pass, would be an advantage to rural areas since smaller districts would allow more personal representation, would eliminate personality clique power in the Senate, would lend itself to either single member districts or plurality districts, and would provide stability due to longer terms.

7
House Judiciary Committee
January 27, 1975
page 2

Rep. Brown urged restrictions on the number of days required to pass a bill as a guarantee of civil rights against quick, arbitrary change. Mr. Bradner explained that at present the free conference committee has virtually no restrictions on changing a bill or time constraints. Mr. Brown expressed the hope that there would be some other way of limiting the power of the free conference committee. He suggested that the language "in final form" be added to the bill when stipulating time restrictions. Mr. Bradner explained that at present, bills can be amended on the floor and passed the same day.

The question was raised concerning when reapportionment for such a unicameral body would be done. It was suggested that some time after the expiration of the terms of present legislators but before the construction of the new capitol be considered and stipulated in the bill.

The committee adjourned at 2:40 p.m.

5

House Judiciary Committee
January 28, 1975

HB 74 Aggravated Assault

The meeting was called to order at 1:40 p.m. by vice-chairman Bradley. Members present: Bradley, Cotton, Brown, Fink and Parr

Rep. Hugh Malone, sponsor of HB 74, stated that the main purpose of this legislation is to allow assault without a deadly weapon to be charged as a felony at the discretion of the arresting officer and the D.A.

Deputy Commissioner of Public Safety, Bud Weberg, and Special Assistant to the Commissioner of Public Safety, Pat Wellington, testified that the Department supports the bill. The legislation would fill the gap between assault and battery (misdemeanor, no weapon used) and assault with a dangerous weapon (misdemeanor or felony).

Rep. Brown stated that if the lesser sentencing language is deleted as proposed in HB 74, all assaults with or without a weapon would be charged as felonies. If there is no option of a misdemeanor sentence, the crime is not a misdemeanor.

A discussion followed of the words purposely and recklessly. Since it is very difficult to prove purpose, it is necessary that the reckless criteria be included.

A copy of "Reported Offenses Throughout the State" was distributed to those committee members who wished one by the Public Safety officials.

Ivan Lawner, Assistant District Attorney, suggested that the language "without a dangerous weapon" be deleted from the bill. He raised the possibility of a person carrying a weapon who did not use such weapon in an assault and the possibility that if the language is left in the bill the prosecutor would perhaps have to prove that the person was NOT carrying a weapon at the time of the assault.

He also objected to the language "manifesting extreme indifference to the value of human life. . ." and suggested less serious "indifference".

He noted that the AG's office is currently preparing bills to be submitted by the Governor on the subject of assault and suggested that the Committee hold HB 74 until the other bills are submitted.

Mr. Lawner suggested that the difference between the felony and misdemeanor aspects of the crime be defined and that the misdemeanor sentencing language be kept in the bill. He also suggested legislative intent guidelines.

Reps. Fink and Brown suggested that the committee contact the AG's office to determine when the Governor's bill would be submitted. If no response is received within a week,

House Judiciary
January 28, 1975
page 2

the committee should draw up a CS for the bill which incorporates the changes suggested.

Mr. Bradley requested that Mr. Brown and Mr. Cotton contact Chairman Gardiner regarding the possible CS.

The meeting was adjourned at 2:45 p.m.

House Judiciary Committee
January 30, 1975

The meeting was called to order at 1:35 by Chairman Gardiner.
Members present: Gardiner, Bradley, Parr, Fink, Cotton, Brown.

HB 94 - Conflict of interest

Rep. Fink mentioned that SB 62, which is the Governor's bill on the same subject, stipulates that one must file if still in office at the filing deadline, instead of the December 11 date stipulated in HB 94. The committee agreed that the language in SB 62 was preferable.

Rep. Brown moved CS for HB 94 which included Section 10 from SB 62 and Sections II and III from HB 94. The CS was approved and reported out of committee with a do pass.

HCR 5 - Drivers License regulations

Three representatives of the Department of Public Safety, Charlie Smith, Director of Traffic Safety, Dan Kanouse and Dennis Robertson, fielded questions from the committee. They requested that the effective date of the regulations be postponed to allow time for reorganization of several department offices.

The committee requested that the Department resubmit the regulations with the effective date included so that the total package could receive legislative approval.

The committee also pointed out a typographical error in the regulations which should be corrected. Members also requested additional information concerning the weights of vehicles which are generally towed by passenger cars.

Mr. Smith indicated that the Department would gather the requested information and make the requested changes in the regulations. A meeting would be called for next week to reconsider HCR 5.

HB 55 by Cowper

SB 53

HB 91 - all concerning the requirement of posting bond before bringing suit against the State

John Spencer, City Attorney of Anchorage, testified concerning the problem of collecting attorneys fees in suits against political subdivisions other than the State. He emphasized that bonds should still be required in injunctions and temporary restraining orders cases and suggested that this be mentioned in the committee report to avoid possible misinterpretation of the law.

Rep. Cowper, sponsor of HB 55, indicated that his bill goes further than HB 91.

The committee requested that the bills be held and that a representative of the Attorney General's Office be invited to give testimony.

Adjourned 2:50 p.m.

House Judiciary Committee
January 31, 1975

The meeting was called to order at 1:35 by Chairman Gardiner.
Members present: Gardiner, Parr, Bradley, Fink, Cotton.

SB 89 Conflict of Interest

Since SB 89 and HB 94 are identical, and a CS for HB 94 had been drawn up previously, Mr. Fink moved that the identical CS be submitted for SB 89 and that the CS do pass.

HJR 3 Grand Juries

Leroy Barker of the Anchorage Bar and the Board of Governors of the Alaska Bar Association suggested that the language in line 12 "capital, or otherwise infamous crime," be changed to the word "felony." He also suggested that the language in lines 17 and 18 which would be deleted by the bill be retained.

He listed some of the advantages of the proposed bill:

There is no longer an historical basis for the grand jury. Elimination of grand jury hearings would encourage preliminary hearings. The option of a grand jury indictment is still open. A grand jury provides no actual safeguards to defendants. A grand jury almost always brings an indictment. The bill would be worthwhile in the day to day administration of justice. Grand jury indictments could still be used in cases of secrecy, to protect the victim, and in complicated security cases.

Tom Wordell of the Board of Governors of the Alaska Bar Association stated that the prosecutor could see the evidence and witnesses at a preliminary hearing but the defendant would still retain the right of a grand jury hearing. Under the present system the defense gets more time due simply to the number of hearings. Preliminary hearings are actually helpful to the defense.

Another meeting on this subject will be held February 4, 1975, to which representatives of the District Attorney and Public Defender will be invited.

The meeting adjourned at 2:15.

Joint Hearing
Senate State Affairs Committee
House Judiciary Committee January 31, 1975

SB 1, HB 45 Ombudsman

Professor Stan Anderson of UC Santa Barbara summarized the history and development of the Ombudsman function. He stated that American contributions to this function were informalism, and the creation of Ombudsman functions in prisons and in health care delivery. The states of Hawaii, Iowa and Nebraska now have Ombudsmen. He believes that the function is a result of higher public morality and a concern for due process in the administrative sphere.

Professor Anderson then answered questions from the committee members. His responses are summarized:

Although he would see no harm in the inclusion of the governor's office, the courts and the legislature under the Ombudsman's sphere of responsibility, very few cases would come from the top officials, primarily because they don't take the kind of actions which might require Ombudsman intervention. The Commission on judicial qualification is not doing its job so perhaps the actions of judges which do not directly relate to the law could be under the purview of the Ombudsman. The Ombudsman is concerned with the acts of agencies, not individuals.

Model Ombudsman statutes: Gelhorn, Harvard, American Bar.

Municipalities could be included under the Ombudsman's jurisdiction or could be added later. He suggested that the specific exclusions not be listed in the bill, but that the "acts of agencies" be defined.

The Ombudsman should teach people to deal with government by insisting that the formal grievance procedures be exhausted before he accepts a case.

On the subject of Ombudsman immunity, Professor Anderson stated that it is only rarely that such immunity must be claimed. Check title 09.25.150-220 of Alaska statutes on immunity of judges.

Administrative employees of the court system should definitely be covered.

Concerning the political danger of one group or another using the Ombudsman, Mr. Anderson prefers the legislative council as an appointing body, or that the governor could nominate and the legislature confirm.

Regarding the cost of establishing such an office, Professor Anderson urged the committee to consider this cost in comparison with the cost of litigation.

House Judiciary Committee
February 3, 1975

The meeting was called to order at 1:38 by Vice Chairman Bradley.
Members present: Bradley, Parr, Fink, Specking, Cotton, Brown.

HB 81 - Supplemental appropriation to Department of Law

Bob Shroeder of the Department of Law explained why the \$120,300 was needed. \$12,400 would go to pay off private attorney fees on work done in FY 74. FY 74 funding to meet this obligation lapsed before a billing was submitted. \$107,900 would cover the amount necessary to bring the lower Cook Inlet case to a close -- FY 75 and FY 76. He explained that there was no liquidity in the FY 75 budget to meet these obligations without taking from something else. Rep. Fink stated that these were old cases of which the department has been aware for several years. He felt that supplemental appropriations should be for unforeseen expenses.

Rep. Specking moved that in line 12 a period be inserted after "party" and that the rest of the sentence be deleted.

Rep. Brown suggested that the language "specialized legal services in" be inserted after "funding for" in line 11 and be deleted from line 12.

Rep. Bradley moved and asked unanimous consent that Mr. Brown's version of the amendment be adopted. There was no objection.

Rep. Brown moved that HB 81 be passed out favorably as amended with a report to the Finance Committee requesting that they thoroughly explore the fiscal ramifications. There being no objection, HB 81 was signed out.

SB 89 Conflict of Interest

The redrafted CS of SB 89 was accepted by the committee and passed out.

HB 55 - Requirement to post bond

Rep. Cowper, sponsor of the legislation, gave the following testimony:

This is a special requirement of the State of Alaska. The federal government does not require posting of bond. The requirement is discriminatory and its constitutionality questionable. The State's insurance company requested the bill - Alaska Pacific Insurance. Indigents don't have to post bond.

Art Peterson, Assistant Attorney General stated that his office is "mildly opposed" to the bill although they approve of its motivation. He stated that the State is an unusual "target" and that the State has to protect the public trust. He recommended that a provision be added to allow the court discretion. The bill was drawn to discourage vexatious litigants, but there is no existing definition of this category of persons. He saw merit to having all levels of government treated the same.

Questions which Legislative Affairs will answer at a later meeting: Line 12, Title "unincorporated" and lines 14 and 15, the difference between public and corporate. Rep. Brown stated that lines 14, 15 and 16 were confusing and surplus language.

Rep. Fink requested Mr. Peterson to prepare the amendment he proposed and to submit it to the committee for consideration.

HB 55 will be considered again later this week.

The meeting adjourned at 3:15 p.m.

12

House Judiciary Committee
February 4, 1975

HJR 3 - Grand Jury

The meeting was called to order at 1:40 by Chairman Gardiner.
Members present: Gardiner, Parr, Bradley, Fink.

Joel Bennett of Legislative Affairs explained that the first proposed amendment would eliminate archaic terms. There are no capital crimes in Alaska. He declined to comment on the second proposed amendment until after hearing testimony from the District Attorney.

Bud Carbonetti, of the Public Defender's Office, testified that the present system is unnecessarily burdensome but sometimes helpful to the defense. He felt that the defendant should be able to opt to waive information or indictment by grand jury to protect his privacy.

Since the representative of the District Attorney's Office had not yet arrived, a recess was called at 2:10.

At 2:30 the meeting was adjourned.

House Judiciary Committee
February 5, 1975

The meeting was called to order at 1:35 by Chairman Gardiner.
Members present: Gardiner, Parr, Cotton, Brown

HB 6 - Smoking materials

Representative Jim Duncan gave a brief description of the bill. He stated that the city and borough of Juneau presently have such an ordinance and the passage of this bill would not jeopardize anyone's option to file suit as the result of a fire.

The question was raised as to whether the passage of this bill would eliminate the possible felony prosecution of negligent homicide.

Rep. Parr offered a proposed amendment to line 13: in damage to the property of another to eliminate the possibility of being fined for damage to one's own property.

Rep. Brown suggested that a letter of intent accompany the bill to state that "This new criminal offense is not intended to preclude prosecutions for homicide in appropriate cases."

HJR 3 - Grand Jury

Dan Hickey, District Attorney stated that the 5th amendment guarantee in the U.S. Constitution of grand jury indictment is not transferred to the states through the 14th amendment. He cited two Supreme Court decisions.

He indicated that if the bill passes, prosecutors would still choose grand jury indictments in cases of: fugitive defendants, corrupt public conduct, doubtful cases, and to get testimony under oath.

He stated that 12.80.020 should also be amended. The committee agreed that, should HJR 3 receive voter approval, there would still be time for the next legislature to amend the above statute prior to the existence of a conflict.

Mr. Hickey favored the proposed amendment to line 12 - felony. He suggested that "presentment" be deleted in line 12 since in Alaska persons are not held on a presentment. In line 14 he suggested that the language, "or magistrate" be added after "judge." In line 14 eliminate "hearing" and insert "examination."

Mr. Hickey continued that in a preliminary hearing, probable cause is the standard of proof. In a grand jury hearing, sufficiency of evidence is unexplained and uncontradicted.

Rep. Parr indicated that probable cause needn't be defined in the constitution but in the court rules or statutes.

Rep. Fink indicated that he preferred that this guarantee be specified. Mr. Hickey stated that only suspicion is less grounds than probable cause.

Rep. Brown expressed his concern that the investigative functions of the grand jury would be virtually eliminated as would most grand juries.

Mr. Hickey expressed the opinion that although grand juries should improve the prosecutors' public images, in reality they do not.

HB 55 - Bond/Suit

Mr. Walker of Legislative Affairs explained a proposed amendment to lines 12 - 18. He also presented a proposed committee report to accompany the bill.

Rep. Fink moved and asked unanimous consent that the amendment suggested by Arthur Peterson of the AG's office be adopted. Mr. Brown objected. On a tied vote, the amendment failed.

Mr. Brown moved the amendment explained by Mr. Walker and asked unanimous consent. There being no objection, the amendment was accepted.

SB 53, on the same subject and currently in this committee will be acted on. A House CS for SB 53 will be drawn up which incorporates all of HB 55 as amended.

The meeting was adjourned at 3:20.

HJR 1 - Unicameral Legislature

Senator John Rader, sponsor of SJR 1, testified that the House and Senate versions are very similar. HJR 1 contains no section on adjournment. He stated that since there is no longer a historical basis for two houses due to the one man, one vote decision, it is merely an "historical accident" that our legislatures have continued to be bicameral. He explained that the bills have been designed so that the transition occurs in 1978, the second session of the 10th Legislature. This would allow for no inexperienced legislators.

Rep. Fink asked if it would perhaps be wise to have the bill go into effect in 1980, after the new capitol building was built. Senator Rader replied that the cost of remodeling the present physical chamber should not be a consideration in voting on the bill. Mr. Fink stated that he was opposed to reapportionment on the basis of registered voters rather than census. Stu Hall of Legislative Affairs stated that although numbers of registered voters have been more accurate than census data, problems still exist.

Senator Rader stated that the body's size - 61 - had been chosen to allow more equal representation to sparsely populated areas.

Rep. Specking brought up the question of the numbers of "displaced" voters as a result of the Pipeline. Senator Rader stated that he was agreeable to either method of apportionment. Rep. Brown mentioned the possibility that this committee amend the bill to allow for apportionment by population.

In response to a question by Rep. Parr, Senator Rader stated that it was better to be able to separate the accuser in an impeachment case from those who tried the case. However, we haven't used the impeachment procedures effectively in the past and the absence of this separation of function under the unicameral system isn't a major problem.

Rep. Brown suggested that the bill be amended to assure adequate time for deliberation. An emergency action would require nearly unanimous consent. Mr. Rader reminded the body of the present powers of free conference to pass what is, in fact, sometimes brand new legislation in a matter of minutes. In a unicameral system reports could be amended on the floor.

Mr. Fink asked about the proposed amendment to state that reapportionment would take place every ten years or "whenever a substantial population change occurs." Senator Rader stated that in drafting the bill they tried to change as little as possible of substance. If the bill passed and was approved by the voters, another amendment on reapportionment could be drawn up later.

In response to a question from Rep. Parr, Senator Rader stated that the committee chairman's power would probably be greater under a unicameral system but since there would be more committees, areas of jurisdiction would be more narrow. The whole system would be more open and the number of people with power to stop legislation would be limited. Rep. Specking stated that we need rules changes not a whole new system.

Rep. Gardiner asked the committee how they wanted to handle this piece of legislation. All members present indicated that they wished to pass it out of committee after amended. Rep. Gardiner stated that announcements would be made to the press of a public hearing to be held in about three weeks. In the mean time, amendments would be drawn up and considered.

HB 55 - SB 53

The proposed statement of intent was approved by the committee on a voice vote. Rep. Brown moved and asked unanimous consent that House CS for SB 53 be passed out of committee. There being no objections, the motion passed.

HB 6

Rep. Fink suggested an amendment to change the language to general recklessness or negligence and delete the reference to smoking materials. The committee asked that research be done into the present statutes on negligence. The title too would have to be amended.

House Judiciary Committee
February 10, 1975

Joint Public Hearing with Senate State Affairs

Ombudsman

The meeting was called to order at 1:27 p.m. by Senator Terry Miller.

Stephen Pherson, a Juneau lawyer and member of the Alaska Society of Public Administrators testified that he had been instrumental in drafting the Governor's bill. He listed the following major considerations: that the office be as small as practicle, that the office be apolitical, that the governor, legislature and courts be excluded from the Ombudsman's jurisdiction.

Committee members raised the question of legislating a new immunity as opposed to the general immunity provisions in Title 9. If Title 9 immunity would indeed cover the Ombudsman to the same extent as that stipulated in the proposed bill, that section could be eliminated from the bill.

Mr. Pherson stated that the section relating to inspection of confidential information was included to avoid all question as to the Ombudsman's scope of authority. He cited sections of the statutes that would be covered. Rep. Fink requested a listing of these citations.

Regarding the appointment of the Ombudsman, Mr. Pherson stated that the existing politically balanced agency was recommended.

Questions were raised concerning the differences in the definition sections of the two proposed bills as to "administrative acts" and "agencies."

The committee requested an opinion from the Attorney General on the subject of constitutionality of including administrative acts of the legislature and the courts in the bill. A concern was indicated regarding the seperation of powers doctrine.

Municipalities were not included in the bill but could be added to the jurisdiction of the Ombudsman at a later date.

Carolyn Berg of Juneau testified that she favored the bill.

Lt. Governor Thomas stated that the Ombudsman would take over some of the functions currently falling to legislators. He indicated that the creation of this Office was favored due to growing public suspicion of officials and complexity of government. He suggested that it was best to start with jurisdiction over state agencies.

House Judiciary Committee
February 10, 1975
page 2

He stated that both he and the governor did not care if they were included in the bill. In theory their inclusion does not seem to present a problem. However it is essential that the Ombudsman be kept out of the political arena.

Art Peterson, Assistant Attorney General, testified that the section concerning access to private information would be unique to the Alaska Office of Ombudsman. He assured the committee that access would never result in public disclosure. He felt that this access would be constitutional despite the Right to Privacy provision. If there could be assurance of no interference over the judicial function of the courts he felt that they could be included in the bill. The Ombudsman could aid the judicial council and the council on judicial qualification.

Regarding the inherent powers of the court, he stated that these did not preclude the role of the legislature in making regulations which were on other subjects than those specifically the court's.

The question arose concerning prohibiting the Ombudsman from running for political office after he had served as Ombudsman. The constitutionality of this proposal is questionable.

Rep. Gruening and Senator Huber stated that they favored inclusion of the judiciary in the bill.

The meeting was adjourned at 3:20 p.m.

House Judiciary Committee
February 11, 1975

HB 45 Ombudsman

The meeting was called to order at 1:05 by Chairman Gardiner. All members were present.

Appointment - the committee agreed to keep nomination by the Legislative Council.

page 1, line 23, delete "majority" and add 3/4 vote of the members of each house of the legislature. Delete joint session. Rep. Brown moved Amendment 1. There being no objection, the amendment passed.

Art Peterson testified regarding the stipulation that the Ombudsman could not run for political office for a given period of time after serving as Ombudsman: The legislature cannot impose additional qualifications on legislative eligibility. This was an Attorney General's opinion and a court decision in 1968 (Benish case). The committee requested that the constitutionality of such a provision be investigated.

Regarding stipulation that the Ombudsman and his staff shall refrain from partisan political activity, Stu Hall testified that the proposed language is similar to legislative employee regulations.

Rep. Fink moved the addition of amendment 2. There being no objection, the amendment passed after the language "which would tend to undermine . . ." was deleted.

Art Peterson suggested that the additional language be in a separate section or that the title of the previous section be amended to include the new language stipulations.

Regarding term of office, Rep. Parr moved that six years be amended to five. There being no objection, amendment 3 passed.

Representative Brown moved that the language "but may not serve for more than three terms" be deleted. There being no objection, amendment 4 passed.

The meeting was adjourned at 1:55 p.m.

House Judiciary Committee
February 11, 1975

Confirmation Hearing
Commissioner of Public Safety
Richard L. Burton

The meeting was called to order at 3:05 by Chairman Gardiner.
All members were present except Rep. Parr.

As statement of philosophy and in response to questions from
committee members, Commissioner Burton made the following
comments:

He hopes to beef up enforcement activities of the troopers
in urban areas and of the fish and wildlife division officers.

He feels that airport security police should be seperate
but stated that their training was being upgraded.

He does not favor trooper jurisdiction inside city limits.

The investigative function of troopers in rural areas needs
to be expanded.

Fish and wildlife officers have no background in biology.
They depend heavily on Fish and Game biologists. He hopes
to establish a close liaison between these departments and
is creating staff positions for this purpose.

He is against legalization of prostitution, marijuana, and
state controlled gambling. State operated gambling might
be a possibility.

He is not afraid to try new approaches.

Under cover narcotics officers presence in an area is, in
most cases, known by some official in the area.

House Judiciary Committee
February 12, 1975

Ombudsman

The meeting was called to order at 1:05 p.m. by Chairman Gardiner. All members were present.

The following additional amendments to HB 45 were passed.

page 2, Line 17 and 18: change the words "shall" to may
Amendment 5 passed

page 3, Line 7: after "salaries" add "and benefits"
Amendment 6 passed

page 4, Lines 7 - 9: Mr. Fink's motion to delete was defeated.

page 3, Line 24: after "unless he" add "reasonably"
Amendment 7 passed

page 4, Line 3 and 4: delete and renumber section
Amendment 8 passed
Chairman Gardiner requested Stu Hall to draft alternate language for this deleted language.

page 3, line 19: Rep. Brown's motion that the language "and administrative acts of any public official" be inserted after "agencies" was withdrawn.

page 4, Line 16 and 17: After "reasons" insert a period and delete the remaining language in both lines.
Amendment 9 passed.

page 5, line 7: after inefficient add "or discourteous"
Amendment 10 passed.

Meeting adjourned shortly after beginning discussion on page 5, line 6 -- whether this line contained an implied requirement that reasons be given.

House Judiciary Committee
February 12, 1975

Confirmation Hearing
Attorney General
Avrum M. Gross

The meeting was called to order at 3:10 by Chairman Gardiner. Representatives Parr and Brown were absent.

In response to questions from committee members, Mr. Gross made the following comments:

He has no personal objection to releasing information on assets over \$500 not specifically required by the law, but the present act does not require this. The administration's proposed amendments to the conflict of interest law will remedy this situation.

An Organized Crime Task force has been set up. Members include civil attorneys who are versed in finance, prosecutors, representatives of the Departments of Commerce and Revenue, and state troopers.

An Assistant Attorney General has been named to deal exclusively with fish and game matters on a trial basis. If this proves successful, the position would become permanent.

The meeting was adjourned at 3:35 p.m.

House Judiciary Committee
February 13, 1975

Ombudsman

The meeting was called to order at 10:45 a.m. by Chairman Gardiner. Representatives Bradley, Cotton and Brown were absent.

The following are amendments to HB 45:

Page 5, Line 6: change "unaccompanied" to "unsupported"
Amendment 11 passed.

Page 6, Lines 2 - 8: Rep. Fink moved that the language be redrafted to state that in seeking confidential information, the Ombudsman must receive the approval of the superior court or the court of appropriate jurisdiction. Check into the statutes regarding disclosure of confidential information and make sure that it is a felony. The motion passed.

Page 6, Lines 8 - 11: delete sentence beginning "however"
Amendment 12 passed.

Page 6, Line 11: after "information" insert "required by law to be confidential." Delete "confidential at end of line 10 and beginning of line 11."
Amendment 13 passed.

Page 7, Line 9: after "legislature" insert "a grand jury,"
Amendment 14 passed.

Page 7, lines 12 - 15: delete all but title of this section and insert "After a reasonable time has elapsed, the ombudsman shall notify the complainant of the actions taken by him and by the agency."
Amendment 15 passed.

Page 7, Line 21: after "to" insert "a grand jury"
Amendment 16 passed.

Page 7, Line 29, Page 8, Lines 1 and 2: After the title delete remaining language and insert "No civil action may be brought against the ombudsman or a member of his staff for anything done, said or omitted in performing his duties or responsibilities under this chapter."
Amendment 17 passed.

House Judiciary Committee
February 13, 1975
page 2

Page 9, Line 1: after "governor," delete the remaining language of the section and insert "and members of the legislature."
Amendment 18 passed.

Page 8, Line 24: strike "branch" and insert "or judicial branches"
Amendment 19 passed.

Page 8, Line 24 and 26: after "commission" insert in both places "corporation, authority, committee, council"
Amendment 20 passed.

Page 9, Line 5: after "legislation" insert "or substantive content of any judicial order, decision or opinion."
Amendment 21 passed.

Page 9, Line 9: Insert a new section to read "Sec. 24.55.320. CITIES AND BOROUGHES. A city or borough may by ordinance elect to become subject to the jurisdiction of the ombudsman appointed under this chapter. If a city or borough so elects, it shall notify the ombudsman of that election and shall thereafter be considered an agency for purposes of this chapter." Change section numbering. Stu Hall will rearrange the sections in Article 6 to make the definitions come last.

The meeting was adjourned at 11:55 a.m.

House Judiciary Committee
February 13, 1975

The meeting was called to order at 1:35 p.m. by Chairman Gardiner. Members present: Gardiner, Fink, Specking, and Brown.

HCR 5 Drivers License Regulations

Charlie Smith and Dennis Robertson from the Department of Public Safety testified that the following changes had been made: The effective date was July 1, the implimentation date January 1. The maximum weight a towed vehicle could be with a regular license was increased from 5,000 to 6,000 lbs.

The committee suggested that a separate category of license be created for 5th wheel, boats and recreation vehicles but not house trailers. Special permits could also be issued for limited times.

Public Safety will make the requested changes and appear again before committee with a copy of the new regulations.

HB 112 Conspiracy

Dan Hickey, District Attorney explained the proposed CS. It is limited to specific crimes in section (a). Section (b) contains an area open to court interpretation: whether one could be prosecuted for an agreement made outside the state with an overt act within the state. Section (c) is just slightly changed. He also suggested no effective date, but would have the legislation go into effect 90 days after enactment.

Committee suggestions included adding to the list of covered crimes, forgery and drugs, adding a definition of overt act and agree to commit, and that some language should be added to cover those who renounce the crime and actually attempt to thwart its success.

Mr. Weberg and Mr. Wellington of Public Safety supported the bill and urged inclusion of narcotics offenses.

HB 6/SB 44

Gary Crouse, Deputy Fire Marshall testified for the bill. The committee agreed to accept the proposed amendments of Mr. Fink and Mr. Parr and submit House CS for SB 44.

House Judiciary Committee
February 14, 1975

HB 74/ HB 154 Assault

The meeting was called to order at 1:35 p.m. by Chairman Gardiner. All members were present except Mr. Cotton.

Dan Hickey, DA, testified that HB 154 cleans up technical problems and archaic language in the existing statutes and creates the new offense of aggravated assault.

The discussion centered primarily around language proposed by Mr. Brown including the word purposely. Mr. Hickey stated that this word might be interpreted by the courts to introduce an element of wilfulness or specific intent.

Rep. Parr objected to the proposed use of the word reckless since assault presupposes general intent.

Sec. 11.15.190, Assault while armed, imposes a minimum penalty of one year while Sec. 11.15.220 imposes a minimum sentence of six months. Also, 190 contains no fine provision. Mr. Hickey indicated no objection to making both one year minimums and the addition of a fine provision. Minimum sentences are unnecessary unless mandatory.

The committee discussed the possibility of forming a separate section to cover Mr. Brown's proposed amendment. It was decided that the committee would meet again to vote on the original bill.

House Judiciary Committee
February 18, 1975

The meeting was called to order at 3:10 p.m. by Chairman Gardiner. Members present: Gardiner, Bradley, Fink, Cotton, Brown.

HB 45 Ombudsman

Stu Hall presented the committee substitute which incorporated the amendments requested by the committee. Rep. Fink moved that the CS be adopted after language on page 9 concerning the judicial branch be deleted. Mr. Brown amended Mr. Fink's motion to delete the language on the first two lines of page 10 also. Mr. Brown's amended motion failed. Mr. Fink's motion passed and so the CS was adopted. Mr. Brown moved that when the committee receives SB 1 that the CS HB 45 be substituted and that it do pass. There being no objection, Mr. Brown's motion passed.

HB 129 Smoking in Public

Mr. Gardiner indicated that he wished only an idea of what the committee intended to do with this bill. Mr. Fink stated that he would attempt to prove that smoking is not "dangerous" and would then add other habits that bother people to the bill. Mr. Brown recommended that the definition of public accommodation in the 1964 Civil Rights Act be checked to possibly include more public places. Other committee members mentioned other possible amendments including the substitution of approved air conditioning for separate areas.

HB 154/HB 74

Mr. Cotton moved that in 220 six months be changed to 1 year. Amendment 1 passed.

Mr. Brown moved that in 190 the language in lines 22 and 23 relating to imposition of fine be added. Amendment 2 passed.

Mr. Brown will draft language to cover reckless actions to be another section either before or after Sect 4.

House Judiciary Committee
February 19, 1974

Joint Hearing with Senate Commerce

Anti Trust - HB 42/HB 137/ SS SB 5

The meeting was called to order at 2:30 by Senator Kerttula.
All House committee members were present except Mr. Fink.

Since those who wished to testify were unprepared, the meeting
was rescheduled for 2:15 Friday, February 21.

The Attorney General fielded questions from the committee
members. The question was raised concerning the possibility
of differences between interpretation of federal law and
the intention of very similar state legislation.

Mr. Gross stated that bigness would not constitute a violation
and that Alaska needs anti trust legislation despite federal
laws. Over 40 states already have such legislation. He would
hope that anti trust would be handled as another consumer
protection action.

House Judiciary Committee
February 20, 1975

The meeting was called to order at 11:15 a.m. by Chairman Gardiner. All members were present except Mr. Bradley.

Rep. Brown explained his proposed language for a new section on reckless battery. He moved that this language be incorporated into the CS. There being no objection, Amendment 3 passed.

Rep. Brown moved HB 154 out with a do pass as the CS for HB 154. He also asked that a letter of intent be drafted to accompany the bill. There being no objection, CS HB 154 was passed out of committee.

House Judiciary Committee
February 20, 1975

HJR 1 Unicameral

The meeting was called to order at 1:40 p.m. by Chairman Gardiner. All members were present.

Senator Terry Miller testified that he had an alternative to the proposed unicameral legislature which he would like to offer to the committee and which he proposes to have drafted. He proposed reapportionment so that House and Senate districts represent different peoples while still in compliance with one man, one vote. He proposed that the Senate be made up of members representing regional socio-economic groups, that they be elected at large and that they fill designated seats. The House would be made up of members from single member districts. If the bicameral system could be further reformed through rules changes, he sees no need to go to a unicameral system.

Senator Joe Orsini endorsed Senator Miller's proposal with the exception of designated seats.

Both senators then answered general committee questions.

House Judiciary Committee
February 20, 1975

HB 129/ SB 148 Smoking in Public

The joint public hearing was called to order by Representative Gardiner. All members of House Judiciary were present except Mr. Bradley.

Leo Kay of the Alaska Lung Association testified that the bill would be a protection of the rights of the majority.

Dr. George Stewart, lung specialist, testified that cigarettes are the highest source of carbon dioxide. There is legislation to protect the external environment but nothing for inside. The Anchorage Medical Society endorses HB 129.

Floyd Strain, P.E. teacher and ex-smoker favors HB 129.

Harry Lupro stated that anything that keeps people from public meetings is not to be favored. He is for ventilated rooms. The proposed bill is not enforceable -- the courts are already too full. The bill does not encourage public transportation. He suggested designated spaces for non-smokers.

Dove Kull, Alaska Home Aid Service, urged the committee to protect the rights of all citizens.

Bernie Brakel, state worker, stated that the proposed bill would be administratively difficult and costly.

Glen Gregery of the 7th Day Adventist Church favors the bill.

Max Lewis, high school teacher, favors the bill. He needs a lounge where he can work without smoke.

22

House Judiciary Committee
February 21, 1975

The meeting was called to order at 1:10 by Chairman Gardiner.
All committee members were present.

HCR 5 Drivers License Regulations

A new section in category A1 will be added to cover one time permits. The regulations will be resubmitted to the legislature. The date in HCR 5 will be changed to the resubmission date and the committee will take action on the resolution.

House Judiciary Committee
February 21, 1975

HB 137/HB 42/SS SB 5 Anti Trust

A joint meeting of the House Judiciary and Senate Commerce committees was called to order by Senator Kerttula at 2:30.

William Hopkins, Manager of Alaska Oil and Gas, introduced Mr. James O'M. Tingle of the law firm Pillsbury, Madison and Sutro in San Francisco. Mr. Tingle testified that he favors a bill on this subject, but an "appropriate" state bill. He favors adoption of the uniform state anti trust act.

Mr. Tingle made the following comments concerning SS SB 5. Sections 1 and 2 of the Sherman Act concerning restraint of trade and monopolies is included. Federal cases could be used to interpret the state legislation. He suggested the addition of "predatory intent" to the monopoly section.

Section 40 of SB 5 -- unfair competition and practices -- this is already covered in Alaska's Consumer Protection Act and is not needed in this bill.

Sections 30, 50 and 60 are from the Clayton Act and are not suitable for a state statute.

Other comments: The state should not have automatic triple damages. He was against criminal instead of civil penalties. Section 60 raises a problem with the Native Corporations. Provisions on investigatory powers should be "has reason to believe." Section 150 -- consent decrees hampers the Attorney General. Section 160 -- delete nolo contendere reference.

Bill Fritch of the Alaska Carriers Association testified that there should be exemptions for regulated public utilities and carriers.

House Judiciary Committee
February 24, 1975

The meeting was called to order at 1:05 p.m. by Chairman Gardiner with all members present.

HB 90 Adultery and Fornication

The Attorney General testified that elimination of jail and fines was not the same as the state's advocating or approving of adultery and fornication. Present statutes are not enforceable nor are they presently being enforced. He favored the bill.

Rep. Parr brought up the Right to Privacy amendment to the Alaska Constitution.

Rep. Brown moved that HB 90 be passed out of committee with a do pass. There being no objection, HB 90 was passed out.

Judicial Districting

Rep. Brown moved that the materials referred to Judiciary Committee this date on judicial districts be acted on in the form of a bill by the Judiciary Committee at the request of the Supreme Court. There was no objection.

HB 138 Income Tax penalties.

Mr. Kimlinger of the Department of Revenue introduced Mrs. Gimmer who stated that the Department currently has authority to assess penalties but no authority to collect them.

Rep. Brown moved that HB 138 be passed out of committee with a do pass. There being no objection, HB 138 was passed out.

HB 96 Mutual Savings Bank Corporators

After very brief discussion Rep. Cotton moved that HB 96 be passed out of committee with a do pass. There being no objection, HB 96 was passed out.

HJR 3 Grand Jury

Michael Rubenstein of Anchorage brought copies of a Judicial Council Report with tentatively approved recommendations. He stated that theoretically the grand jury stands between the prosecutor and the people, with the functions of indictment in felony cases, investigation and reporting, and reporting. After a grand jury has brought an indictment there is no right to preliminary hearing. The grand jury does not speak up justice because of motions to dismiss indictments.

House Judiciary Committee
February 24, 1975
page 2

The judicial council does not believe that HJR 3 would accomplish what it believes to be HJR 3's intent. They favor preliminary hearing and the preservation of the grand jury's investigative functions. They suggest a rule change rather than constitutional amendment or statutory changes.

They propose that a person should be offered the choice of preliminary hearing or grand jury indictment and, if grand jury indictment is chosen, that there still be a right to preliminary hearing afterwards.

The meeting adjourned at 2:30. The subject will be continued tomorrow.

House Judiciary Committee
February 25, 1975

The meeting was called to order at 11:20 by Chairman Gardiner.
All members were present.

HJR 3 Grand Jury

Rep. Brown suggested that a constitutional amendment guarantee a right to a preliminary hearing and that it be mandatory that grand juries be convened and given instructions concerning their investigatory powers.

Mr. Rubenstein suggested that some limits be placed on the investigatory power.

After a noon recess the committee was again called to order at 1:15.

Mr. Hickey testified that he favors HJR3 rather than Mr. Rubenstein's proposal -- option of prosecutor not defendant

HCR 5 Drivers License Regulations

The committee reviewed copies of the new regulations, approved the new language, and requested that the Department of Public Safety resubmit the regulations to the House.

HB 129 Smoking in Public

The committee members went around the table giving a synopsis of their views on this bill and proposed amendments.

House Judiciary Committee
February 26, 1975

The meeting was called to order at 11 a.m. by Chairman Gardiner.
Mr. Bradley was not present.

HB 129 Smoking in Public

Proposed amendments:

page 1, line 17 - 19 to read (2) a publicly owned and operated library, indoor theater, museum, lecture or concert hall, gymnasium, swimming pool, or other indoor publicly owned and operated place of entertainment or recreation;
Mr. Brown moved AM 1 which passed with no objections.

definition section - exclude state leased buildings from the definition of publicly owned and operated. When the state makes a lease they should recommend separate smoking areas be included. AM 2 - Mr. Walker was requested to draft language.

page 1, line 15: Mr. Brown moved that "plane" be changed to "aircraft" but withdrew his motion.

page 1, line 16: after carrier, add except that if no separate area is provided for in 310 (1) of this chapter, smoking may be permitted if all passengers are in agreement.
Mr. Brown moved AM 3 which passed with no objections.

page 2, lines 8 and 9: Delete "kept separate and are"
Mr. Specking moved AM 4 which passed with no objections.

new section - In publicly owned and operated places in 300 there shall be designated areas for smoking. AM 5 - Mr. Walker was requested to draw up language.

After a noon recess, the committee came to order at 1:40 p.m.

Mr. Walker was asked to research and prepare the following:

- a legal definition of "wherever practicable"
- a purpose clause - to guarantee pure air not segregate
 - possible exceptions for good ventilation
- change penalty from misdemeanor
- that no smoking signs be in other languages or symbols
- possible exemptions for Pioneers Homes, municipal buildings, hospital waiting rooms
- possibility that the legislature approve H & SS regulations and whether any regulations would be necessary

House Judiciary
February 26, 1975
page 2

HCR 5 Drivers License Regulations

The new regulations were approved, HCR 5 amended to include the date on which the new regulations were submitted to the legislature, and the bill passed out as amended.

HB 92/SB 80 Case Against State

Mr. Brown moved that SB 80 move out of committee with a do pass. There being no objection, it was so ordered

HB 157 Unauthorized Entry

Mr. Brown moved that HB 157 move out of committee with a do pass. There being no objection, it was so ordered.
The committee requested a letter from the Attorney General to justify the addition of motor vehicles in HB 157.

HB 151 Log Brands

Mr. Brown moved that HB 151 move out of committee with a do pass. There being no objection, it was so ordered.

House Judiciary Committee
February 27, 1975

Joint Hearing with Senate Commerce

Anti trust legislation SS SB 5, HB 42, HB 137

William J. Lamont testified at the request of the committees. He cited the following as reasons why states need anti trust laws:

- there are commercial activities beyond the interstate commerce clause
- inadequacy of federal enforcement
- federal agents advise and provide surveillance, not direct prosecution. The government helps organize industry to almost encourage monopolies
- federal agencies want state help.

He favored state statutes modeled on the federal statutes for the following reasons:

- have judicial definitions of terms
- minimum application of doctrine of federal preemption
- Sherman Act designed to supplement state legislation (no inconsistencies)
- need for uniformity among states - familiarity with laws -- (The uniform act is not widely accepted)

He made the following section by section comments on SS SB 5:
Section 10 - Section 1 of the Sherman Act.

Section 20 - Sherman Act. Against active monopolization not the existence of a monopoly as in the title of the section. A monopoly by itself isn't illegal if it results from superior business practices or chance (federal interpretation)
Deliberate price fixing to exclude competition -- a monopoly deliberately started or being exploited. (need letter of intent to state that definitions developed in federal law apply)

Section 40 - From Federal Trade Commission Act -- unnecessary, already in Consumer Protection statutes

Section 50 - Section 7 of Clayton Act -- useful and appropriate

Section 60 - Goes a little farther than Section 8 of the Clayton Act -- good. Might need a specific exemption for the Native Corporations for a limited time "activities in aid of or necessary to the federal act . . ."

Section 70 - Co-op activity -- Regulated public utilities specifically authorized to do things would not be challenged under anti trust. Problem of unitization of oil leases (may be taken care of by federal action) Statement of Intent

House Judiciary Committee
February 27, 1975
page 2

Mr. Hogey, representing the Alaska Carriers Association, stated that certain public utilities are required by law to serve certain areas (inherent monopoly). He further stated that carrier rates are generally fixed by a bureau and that they need this joint rate making power.

John Spencer, Anchorage City Attorney, stated that there was a need to exempt regulated utilities and that setting concurrent tariffs was a common practice.

House Judiciary Committee
February 28, 1975

The meeting was called to order at 1:40 by Chairman Gardiner. All members were present except Mr. Brown.

HJR 1 Unicameral

Mr. Fink moved in Section 5 that a reapportionment take place in 1979 and that the first unicameral legislature sit in 1981. Mark all the other necessary changes to the section. Amendment 1 passed.

Write in provisions for use of figures updated past 1970 census. Stu Hall will draw up language. Amendment 2 passed.

Mr. Fink moved that reapportionment be done on the basis of population, not registered voters. Make all necessary changes. Amendment 3 passed.

Page 2, line 17 - 29 insert Senate (b) language. Require 3/4 to consider emergency legislation and 2/3 to pass. Amendment 4 passed.

Mr. Gardiner moved that on page 2, line 29 the House language on ability to levy a tax be inserted into the Senate (b) language adopted by Amendment 4. Amendment 5 passed.

Page 5, lines 5 and 6 There must be a representative from each recognized political party in the state. Amendment 6 passed.

page 3, line 24, Mr. Specking moved that there must be 3/4 vote to convict in impeachment. Amendment 7 passed.

Mr. Cotton moved that it require a majority vote to bring up impeachment. Amendment 8 passed.

Mr. Specking moved that on page 5, line 14: that the redistricting plan of the advisory committee be made public simultaneously with submission. Amendment 9 passed.

Mr. Bradley moved that CS HJR 1 pass out of committee. Mr. Specking objected. On vote, the bill was passed out with a do pass.

42

House Judiciary Committee
March 3, 1975

The meeting was called to order by Chairman Gardiner at 10:35 a.m.
All members were present except Mr. Brown.

HB 114 Violent Crimes Compensation

Rep. Gruening, sponsor of the bill, testified that it would relieve the financial burden and guilt of victims of violent crimes by providing more adequate compensation.

Dorothy Benson, administrator of the Board testified that the bill would do the following:

- provide for a maximum of \$25,000 per victim
- increase attorney fee payment
- eliminate mandatory hearings
- provide an award additional to insurance
- provide additional payment for each dependent

She suggested language to make the maximum award, no matter how many additional dependents, of \$35,000.

She stated that the Board's FY 74 budget award was \$50,000, FY 75 was \$50,000 (they are requesting a supplemental of \$75,000) and that the FY 76 request is \$150,000 which was cut to \$100,000 by the governor's office. If HB 114 passes, in FY 76 they will need close to \$300,000.

House Judiciary Committee
March 3, 1975

The meeting was called to order at 1:15 p.m. by Chairman Gardiner. All members were present except Rep. Bradley and Rep. Specking.

CS SB 28 am Marriage

Rep. Brown moved that the bill pass with the HESS amendment and the following amendments to lines 14 and 20: After 18 years of age ADD "but above the age of 13 years" Mr. Fink objected. Mr. Brown withdrew his motion. Mr. Brown moved the above amendment only. Amendment 1 to lines 14 and 20 passed.

Mr. Fink moved the following amendment to line 20 after parental consent INSERT language that in essence says "due to parental absence, disagreement between the two parents, or if the parents are determined unfit. Mr. Parr moved to amend Mr. Fink's amendment by adding that the parents withhold consent for arbitrary or capricious reasons. Amendment 2 as amended by Mr. Parr passed.

Mr. Cotton moved that a section be added to state that members of the military service of the U.S. are not prevented from marriage by any sections of this act. Amendment 3 passed.

The committee asked that a CS be prepared to incorporate the above amendments before the committee moves the bill out of committee.

HB 59 Teacher Tenure

Mr. Brown moved the bill out of committee with a do pass. There being no objection, the bill was passed out of committee.

House Judiciary Committee
March 4, 1975

The meeting was called to order at 11:03 by Chairman Gardiner. All members were present except Mr. Bradley and Mr. Brown.

HB 114 Violent Crimes Compensation

Mr. Fink moved that Section 3 be deleted. Amendment 1 passed.

Mr. Fink moved that in Section 9 the maximum award, no matter how many dependents, be increased to \$20,000 and that the amount per dependent be \$2,500. Amendment 2 passed. (maximum per individual is \$10,000)

Mr. Fink moved to delete Section 10 and withdrew his motion.

Mr. Specking moved to delete section (a) of Section 10.

Mr. Cotton objected and withdrew his objection. Mr. Specking's Amendment 3 passed.

Mr. Parr moved on page 4, line 27 after subsection. DELETE the rest of section (b). Amendment 4 passed.

Mr. Fink moved that CS for HB 114 be passed out of Committee with a do pass. There being no objection, CS for HB 114 passed out of committee.

House Judiciary Committee
March 4, 1975

The meeting was called to order at 1:20 p.m. by Chairman Gardiner. All members were present except Mr. Brown.

The committee agreed that a public hearing should be scheduled on medical malpractice and that representatives of the medical, law and insurance professions be invited.

HJR 11 Special Session Veto

The following possible amendments were discussed:

page 2 line 2 insert regular or special session/ change the title to eliminate reference to special session.

Mandate a veto session to take place 30 days after the regular second session for a maximum number of days.

The committee decided to consider this bill further at a later time.

HB 27 School Bus Drivers

Mr. Fink moved the bill out of committee with the HESS amendment. There being no objection, the bill was passed out.

HB 48 Transfer of Interest in Realty

Mr. Bradley moved that in line 11 after no person ADD other than a natural person. This amendment was meant to disinclude individuals but not corporate persons. Amendment 1 passed.

Mr. Bradley moved that in 19 the following be added (language to be worked on) The Commissioner of the Department of Commerce may exempt federal agencies if he finds that they will stop activities in Alaska as a result of the bill. Amendment 2 passed but the committee requested that the language drawn up to accomplish this amendment be approved by Commissioner Motley.

Mr. Fink requested that a letter of intent be drawn up by committee staff to state that there are lending institutions in the state following the practice prohibited by this bill, to explain what a natural person is, and to explain why certain agencies may be exempted.

Mr. Fink moved the bill out of committee as CS HB 48. There being no objection, the bill was passed out of committee.

House Judiciary Committee
March 5, 1975

HB 106/SB 138 Zoning in State Parks

Ted Smith, sponsor of HB 106 testified that it was primarily to prevent incompatible business enterprises in the parks.

Mr. Fink suggested that an amendment be made to line 13 to the effect that actions are not final unless approved by the legislature.

Mr. Fink requested a letter from the Attorney General regarding whether or not land in Chugach State Park would be subject to zoning (since private land in the park has previously been designated as enclaves and not inholdings).

The bill will be held pending receipt of the letter from the AG.

HB 99 Guide Licensing

Mr. Brown testified that the Resources CS cleans up the language but does not make any substantive changes.

Mr. Fink brought up the problem in line 23 of the reference to 200 (e) Joel Bennett will study the matter to determine if 200 (e) should be changed or repealed.

HB 170 Judicial payments of subdivisions

Hearing scheduled for Monday, March 24 at 1:15 p.m.
Invite: Art Snowden, John Spencer, Municipal League, Community and Regional Affairs, Reps. Gruening and Cowper, get fiscal note.

HB 148 Conscience Clause

Hearing scheduled for Monday, March 10. Invite representatives of the unions.

HB 14 Criminal Code

Since the Senate resolution hasn't made much progress, the Chairman will draft a House resolution for committee discussion.

71

House Judiciary Committee
March 6, 1975

The meeting was called to order at 11:30 a.m. by Chairman Gardiner. All members were present except Reps. Brown and Parr.

CS CS SB 28 Marriage

The committee reviewed the proposed Judiciary CS. Mr. Fink moved and asked unanimous consent that H CS for CS for SB 28 pass out of committee with a do pass recommendation. There being no objections, it was so ordered.

HB 237/238 Divorce

Speaker Bradner, sponsor of the legislation testified that HB 237 was intended to provide for an informal forum outside the Rules of Court Procedure. He suggested the following amendments:

p 1, line 14 - within 30 days after
p 1, line 23 - delete "himself"
p 2 - delete section (e)
add a section stating that counsel may be present

He explained the purposes of HB 238 as follows: if custody is at issue, the court will be notified and will consider the possibility of appointing a lawyer for the child. It specifies the method of payment for the lawyer. Mr. Fink raised the question of why legal services would have a special exception.

The meeting adjourned at 12:10 p.m. and was reconvened at 1:20 p.m. All members were present except Mr. Parr and Mr. Brown.

Art Snowden testified that the Court system had no objections to the bills.

Don Clocksin of Alaska Legal Services stated that they supported HB 237 with the following amendments:

- p 1, line 14 - within 30 days after all necessary papers (cross complaints) had been filed
- p 1, line 20 - may, at any time,
- p 1, line 23 - delete "himself"
- p 2 - delete section (e)

Mr. Fink stated that if (e) were deleted, "himself" could be retained for those circumstances where only the judge would be qualified to do the mediation. There was no objection from anyone present.

Mr. Clocksin continued that he thought that the right to counsel in attendance at mediation was implied, but if there was a question to add language to that effect.

"Parties to the action and their counsel, if they choose . . ."

House Judiciary Committee
March 6, 1975
page 2

Mr. Clockson stated that they favor HB 238.
Mr. Fink again raised the issue of why legal services was exempted. Possible language suggested instead of "legal services" in lines 8 and 18, page 2 - "except as prohibited by federal requirement."

Alan Compton testified that the guardian ad litem in HB 238 should be an attorney. He suggested that the language on page 2, lines 2 and 3 be changed from "or in any other legal proceeding involving his welfare" to "or those matters directly affecting the child's welfare."

Mr. Fink asked if this bill would make more juvenile hearings formal. The reply from Compton and Clocksin was no even though it would probably result in more juveniles being represented by counsel.

Mr. Fink suggested that "shall" in p 1, line 28 be changed to "may"

House Judiciary Committee
March 6, 1975

The meeting was called to order by Chairman Gardiner at 7:05 p.m. All members were present except Reps. Fink and Specking.

HB 129 Smoking

Am 1: page 1, line 17: "a publicly owned and operated library, indoor theatre, museum, lecture or concert hall, gymnasium, swimming pool, or other indoor publicly owned and operated place of entertainment or recreation"
AM 1 was previously adopted.

Am 2: define "publicly owned and operated" to exclude any facilities leased by the state of a private enterprise, but include properties held, used, or controlled by the state without reference to ownership. Whenever practicable, the state shall require lessees and sublessees to provide separate smoking areas.
Am 2 was previously adopted.

Am 3: another exception: the passenger carriers found in sec. 300 (1) when all passengers consent
Am 3 was previously adopted

Am 4: page 2, line 8: delete "kept separate and are"
Amendment 4 was previously adopted.

Am 5: Mr. Cotton moved and asked unanimous consent that a new section be added to "provide that in any building covered by 300 (2) or (3) or (6) reasonable smoking areas must be provided. Mr. Brown objected. Mr. Brown moved to amend Am 5 to add "unless prohibited for the protection and preservation of the building or its contents." Am 5 am passed.

Am 6: page 1, line 12: delete present language and insert "Smoking tobacco in any form may constitute a nuisance and be dangerous to the public health, and is prohibited in the following areas, unless otherwise exempted by this chapter:" Am 6 passed.

Am 7: change section title and page 1, line 15: delete present language and insert: "in any motor vehicle, aircraft, train, watercraft or other transportation mechanism, which carries passengers for hire;" Am 7 passed.

Am 8: line 4, page 2 "all patients residing or hospitalized in that room are in . . ." Amendment 8 passed.

Mr. Parr moved page 1, line 20 and 22, delete reference to municipal buildings. This proposed amendment failed on vote.

House Judiciary Committee
March 6, 1975
page 2

Am 9: page 2, line 18: delete all line 18 and insert: "a sign conveying the message that smoking is prohibited by law except in -designated areas. The format of such signs shall be approved by the department." Am 9 passed.

Am 10: page 2, line 20: change "shall" to "may"
Am 10 passed.

Am 11: page 2, line 23: after "chapter" delete the rest of the line and insert the word "civil" before the word "fine" in line 24. Page 2, sec 340(b) same. Am 11 passed

Am 12: page 2 line 28: delete sentence beginning "Each day. . ." Page 2, line 27 change fine to \$10 to \$300.
Am 12 passed

Am 13: page 3: define "department to mean Department of Health and Social Services. Am 13 passed

Am 14: add to exceptions section "the department has exempted the building or room on the basis that it is sufficiently well-ventilated by natural or mechanical means." Am 14 passed

The committee requested that a clean CS be drafted for their further consideration. The meeting was adjourned at 9:10 p.m.

House Judiciary Committee
March 10, 1975

The meeting was called to order at 1:20 p.m. by Chairman Gardiner. All members were present except Mr. Cotton and Mr. Brown.

HB 129 Smoking

The following amendments were acted on:

In Section 300 (1) delete "aircraft"
Transfer language in definition Section to section 320.
In Section 350 (b) delete the language that makes each day in violation an additional violation.

Mr. Parr moved the rough CS HB 129 with the above amendments out of committee with individual recommendations. There being no objection, it was so ordered.

HB 148 Conscience Clause

Elder Lickey of the Seventh Day Adventist Church stated that there are approximately 1,000 Adventists in Alaska, including children. .5% of all public employees in the state (maximum) are Adventists.

He stated that the AFL CIO in the state of Washington supports this bill and that the APEA will not oppose it.

wage increase: An Adventist would not receive the increase because it had been negotiated by the union but because the employer wanted to give it to him.

strike: An Adventist would stay out of the issue as much as possible. If the majority of workers were on strike, he too would strike. He would do whatever necessary to create the least controversy.

freeloader: He would pay the same amount as a union member.

unconstitutional: This has not yet been determined by the courts.

The meeting broke at 2:10 and was resumed after the session at 2:50 p.m.

Mr. Lickey answered committee questions. Belief in not belonging to a union is not a requirement for membership in the church -- it is not a fundamental principle.

Janet Bradley of the Human Rights Commission testified that as yet, the Commission has no official position. However, the Equal Employment Opportunity Commission guidelines support the position in the bill.

Pastor Gingery testified in favor of the bill.

The committee is waiting for an opinion from the AG's office on the constitutionality of the bill.

22

House Judiciary Committee
March 11, 1975

The meeting was called to order at 1:20 p.m. by Chairman Gardiner. All members were present.

HB 209 Income tax penalty

Fred Boetsch, Deputy Commissioner of the Department of Revenue testified that the Federal Internal Revenue Code has provisions for punishing those who give false withholding information but at present the state can only prove fraud after a person has either filed a false or no tax return. This bill would give the state authority to prosecute those who give false information on W-4 forms.

Mr. Parr moved that HB 209 be reported out of committee with a do pass recommendation. There being no objection, it was so ordered.

SB 138 Zoning state parks

Chugach and Kachemak parks exclude "valid entries" so that zoning for enclaves in these two parks only comes under the borough rather than the park. To exclude the valid entry provision would require a bill, an exemption in the Municipal Code, a change in the enclave status, and possibly boundary changes in the parks.

Mr. Brown moved that in line 12 "and state recreation areas" be added after "state parks". There being no objection, the amendment was adopted.

Mr. Brown moved that in line 12 "established under this chapter" be deleted and replaced by "established by law." There being no objection, the amendment was adopted. The committee also requested that the Revisor of Statutes be informed that all state parks are not in the same statute.

Mr. Fink moved that on line 13 to end the language be changed to state "Zoning under (a) of this section is final when approved by concurrent resolution of the legislature at the next regular session after the regulations are adopted." There being no objection, the amendment was adopted.

House Judiciary Committee
March 12, 1975
HB 187 - Rape

The meeting was called to order at 1:25 p.m. by Chairman Gardiner. All members were present.

Av Gross testified that HB 187 would allow the court to determine the relevance of a woman's past sexual conduct in a rape trial. The proposed CS lists those instances when evidence is relevant but does not have the standard judicial procedures contained in HB 187. He suggested combining the bills and emphasized that judicial discretion was important. The committee asked if a closed hearing with the judge, but not on the record in any way was constitutional. The Attorney General stated that he would look into this question and that he would prepare a new proposed CS.

Mike Bradner, sponsor of HB 187 stated that he had been informed that not all of the California statutes on the subject of rape had been included in his bill. He urged the committee to add to the bill and stated that he was also concerned about preserving the defendant's rights.

Rep. Ed Naughton stated that it had been brought to his attention that oral sex is not covered in the rape statutes.

Dave Walker informed the committee that Legislative Affairs is preparing a bill for Senator Chance which incorporates all forced sexual assaults where there is lack of consent into a new sexual assault statute. He suggested that the problem with forced oral sex be included in this bill.

Rep. Parr stated that possibly the new CS being prepared by the AG should include all forced sexual assaults which will be in Senator Chance's bill.

Mr. Brown requested that the language in HB 14 be checked for possible use in broadening the CS HB 187 to include all forced sexual assaults. He questioned adding this section to Title 11 or 12.

The committee agreed to wait for a CS from the AG's office.

HB 99/35 Guide Licensing

Rep. Specking testified that there are persons with guide licenses who don't guide actively. HB 35 requires that a guide be active two out of the last three years. Resources amended it to state three of the last five years.

Mr. Parr asked if active is the same as qualified. How much is required for active?

House Judiciary Committee
March 13, 1975

The meeting was called to order at 1:25 p.m. by Vice Chairman Bradley. Mr. Gardiner and Mr. Specking were absent.

HB 139 Rental Adjustment

Rep. Gruening stated that the bill deletes the waiver section which, in the past, has been abused. This bill would not affect past waivers, but could affect the Teamsters lease now under contention.

Kathy Jacobson of the Department of Natural Resources stated that the Department favors the bill. The Teamsters problem has given publicity to the possible waiver and they anticipate that more people will attempt to receive a waiver.

Mr. Fink stated that FHA won't finance housing developments if there is a possibility that the land will be reassessed every five years.

Bill Fackler, Deputy Commissioner of Natural Resources, testified that there are presently 2 - 3 thousand state leases exclusive of those dealing with extracting resources.

Mr. Parr moved on page 1, line 11: After "lease" add , except an open-to-entry lease" The amendment passed

Mr. Brown moved HB 139 am out of committee. There being no objection, it was so ordered.

HB 35 Guide Licensing

The committee agreed to await further testimony Mr. Parr would obtain in Fairbanks this weekend.

HB 99 Guide Licensing

Mr. Gardiner explained that the CS changes the departments in sections 2 and 3 to the correct departments.

Mr. Bradley moved CS HB 99 out of committee. There being no objection, it was so ordered.

SB 138 Zoning in State Parks

Mr. Cotton moved SB 138 out as amended previously. Mr. Fink objected.

The committee discussed adding language in line 10 to give the Department "exclusive" authority.

The committee agreed to send the bill to Community and Regional Affairs and then back to Judiciary. Mr. Fink moved that the bill be signed out with the amendments previously adopted. There being no objection, it was so moved.

House Judiciary Committee
March 13, 1975

The meeting was called to order at 7:15 p.m. by Chairman Gardiner. All members were present except Mr. Fink.

HB 248 Public Administrator

Art Snowden testified that a Supreme Court change in procedure abolished presiding judges of district courts. There is now only one presiding judge in each district located in the superior court. This is merely a housekeeping bill.

HB 248 was moved out of committee do pass.

HB 282 Public Administrator

Art Snowden testified that this bill contains the same deletion of presiding judges of districts courts. He stated that there is a bill presently being drawn up by the Governor to create a medical examiner to replace the coroner/public administrator. This bill would be effective only if the medical examiner bill passes.

Susan Burke of the Court System stated that a drafting error in line 14 should be corrected by the deletion of the words "and as coroner"

The committee discussed the possibility of holding HB 282 until the medical examiner bill is referred to committee.

Mr. Snowden explained the change in line 17: The bill makes it possible for the court to appoint several different attorneys on a case by case basis. There will be no annual salary for one person.

Mr. Specking asked for a definition of "reasonable" in line 17 and suggested that the word should be removed. Mr. Snowden explained that "reasonable" salary would be determined by the court, not the attorney.

Mr. Brown moved HB 282 out of committee with the amendment to line 14 suggested by Ms. Burke: delete: "and as coroner" There being no objection, HB 282 was moved out of committee.

HB 283 Acting district court judges

Mr. Snowden testified that the Supreme Court had requested this bill to assure the highest qualifications possible for acting district court judges.

Mr. Specking and Mr. Brown pointed out that the presiding judge of the superior court already has the authority to determine qualifications when he makes an appointment. Mr. Specking asked what would be done in an emergency situation and stated that he felt the judge should have the option of determining qualifications in each case.

56

House Judiciary Committee
March 13, 1975
page 2

Mr. Snowden stated that he felt it was bad state policy to leave this possible loophole. He assured the committee that there was no shortage of qualified people.

Mr. Brown moved HB 283 out of committee. Mr. Specking objected. On vote, the committee passed HB 283 out of committee with individual recommendations.

CS HB 48 Transfer interests in realty

The CS was explained by Chairman Gardiner to those committee members who were not at the last meeting on the subject. He stated that the bill had been signed out of committee with the stipulation that the new language would be considered by Commissioner Motley. Commissioner Motley has apparently declined to comment since he has not returned the committee's phone calls or written a reply in two weeks. CS HB 48 left the committee

HB 31 Abandoned Vessels

Mr. Specking gave the committee a brief overview of the bill's subject. The committee will research the matter and will schedule HB 31 for a future hearing.

HB 191 Transportation Tariffs

The committee determined to hold this bill for future action after research as there seems to be some controversy.

HB 192 Public Utilities Tariffs

Since all the material received was in favor of this bill and the committee could see no controversy, Mr. Brown moved HB 192 out of committee do pass. There being no objection, it was so ordered.

The meeting was adjourned at 8:35 p.m.

House Judiciary Committee
March 14, 1975

Judicial Districting

Bob Hicks, Director of the Alaska Judicial Council, testified in favor of the 7 district proposal. He stated that the two functions of districts are court administration and retention elections. He listed the following problems with the present districting system: judges are required to travel, some criminals are being taken across district lines for trial, judges are on the ballots in bush areas where they never serve and bush judges are on the ballots in Fairbanks and Anchorage.

He explained that in November 1973 the Supreme Court created, by order, the Bethel service area and appointed a presiding judge of the service area. In April, 1974 the Supreme Court created the Barrow service area and appointed a presiding judge. HB 411 last session attempted to create a fifth district. These comprise essentially the 7 district proposal with some boundary modifications.

He favored seven districts because they are now being administered in a similar way. It would require no additional judges. In the retention election process it would allow judges to run in the jurisdiction where they serve. He urged that the legislature, not the courts, should determine the number of judicial districts.

He made the following comments regarding the drafting of the proposed bills: HB 249 - suggested that we not define regions by 1959 boundaries in election districts. HB 239 - boundaries should indicate source and date of boundary.

He urged the committee to do something this year.

Art Snowden of the court system testified in favor of the modified four districts plan. He favored giving Bethel and Barrow retention election power. He stated that effective administration could be best accomplished with as few boundaries as possible. The problem he sees with the proposed seven districts is a political conflict/influence with/from the regional corporations. He asked why stop with seven? Susan Burke added that in the four district plan, judges would live full time in their districts. It solves the problem with transportation and would allow people to vote in retention elections for those judges who serve them. Mr. Snowden raised the problem of political influence in the small Second District. He summed up his opposition by stating that seven districts would be difficult to administer, perhaps lend itself to political influence, and create one judge districts which he is against.

Judge Stewart testified in favor of the three district plan because of simplicity of administration, because he sees no need for a resident superior court judge in Nome, and because small districts could start a pattern of political influence.

Personally he questioned the value of retention elections on a state level and suggested that the Commission on Judicial Qualifications be strengthened to have the power to remove a judge for cause.

Don Clocksin of Alaska Legal Services testified in favor of the seven district plan. ALS wants to go one step further to require placement of judges in each district on a permanent basis. He stated that Legal Services attorneys handle the vast majority of the affected area. He favored the legislature making the determination of number of districts rather than the courts. He questioned whether the main purpose of the court system was efficiency or public access and urged that the best possible service to the people would insure their access. He stated that retention elections should be the role of the people being judged. He suggested that they be kept or eliminated, but that the people should honestly be told just how much influence they really have in retention elections. He further mentioned the lack of cohesiveness in the regional corporations as precluding their undue political influence.

Rep. Bradley asked why not make Anchorage a separate district to eliminate their too strong influence in retention elections for judges in the rest of their district.

Phil Smith of RURAL CAP testified that the Judicial Council had held public hearings before submitting their report and that the will of the people is to have seven districts. He stated that the boundaries of the regional corporations are now being used by most state agencies for districting purposes.

Mr. Gardiner asked Mr. Hicks about representation for Dillingham and the chain. No transportation now exists by air to Bethel district so these two areas were included in the Anchorage district for ease of transportation. Should air service between Dillingham and Bethel be initiated, they would be included in the Bethel district.

Mr. Gardiner questioned the need for district 2 - Valdez. Mr. Hicks replied that the people there didn't particularly want a district but considering the number of anticipated cases, it was determined to have one in Valdez.

Another meeting would be scheduled on the subject.

House Judiciary Committee
March 18, 1975

HB 98 Medical Malpractice

The meeting was called to order at 1:15 p.m. by Chairman Gardiner. All members were present except Mr. Cotton and Mr. Bradley.

Dr. Gary Hedges, a surgeon from Juneau, testified as to the existence of a problem. He stated that the recent case concerning anesthesiologists in Anchorage was a case in point. The Medical Society had arranged this past weekend for some insurance, but it is not adequate. The new arrangement is for claims made only and not occurrence plan insurance. It will cover the doctor on suits filed during the insurance period and not after for an action during the insurance period. He stated that this problem didn't just start and explained his personal problem in obtaining insurance at any cost in 1968. He stated that it is expected that Lloyds of London will stop writing malpractice insurance soon, that the majority of doctors are going to lose whatever insurance they now have, and that in the past most doctors have been unable to purchase enough insurance. The new policy is with a company that is not admitted to sell insurance in Alaska. If they go bankrupt, the doctors will have no recourse. The new policy does not include punitive damages.

Dr. Rodman Wilson of Anchorage, President of the Alaska State Medical Association, stated that anything is better than the present circumstances. He testified that good doctors are sued as often and sometimes more often than bad. He submitted a proposed substitute for HB 89 in the form of recommendations of the Society. He said that the state licensed the doctors so maybe the state has some responsibility. Further, the state usually ends up taking care of those people who don't get insurance payments anyway. He suggested putting a ceiling on all damages.

The meeting recessed at 2:15 and was re-convened at 3:40.

A woman doctor from Anchorage stated that the proposal of the Society would give the Board the legal clout to do its own internal policing. It would include a grievance committee to educate the public and head off possible problems. It would also allow public access through a forum.

An Anesthesiologist from Anchorage stated that some doctors are paying 20% of their gross salaries for insurance. 14 - 16% of malpractice insurance actually gets to the injured party.

Dr. Wilson added that there are approximately 275 private physicians in Alaska. HB 98 wouldn't cost anything but the proposed substitute would.

The meeting was adjourned at 4:40. Another will be held Friday.

60

House Judiciary Committee
March 19, 1975

The joint meeting with House Community and Regional Affairs was called to order at 9:10 a.m. by Chairman Cotton. All members of Judiciary were present except Rep. Specking and Rep. Bradley.

HB 265/266 Community Legal Assistance

Don Clocksin of Legal Services testified that the bills are the result of the Bush Justice Conference recommendations, through the committee to impliment, through the governor. He explained that there is increasing pressure on rural areas and that they need additional technical and legal assistance and expertise in order to make the decisions which control their own lives. Although the Department of Community and Regional Affairs provides assistance to local governments, technical legal assistance is still needed to manage some municipal affairs.

Mr. Brown suggested that federal funds be sought for this fund also and that the regional corporations should not be specifically excluded in the bill.

Mike Harper, Deputy Commissioner of Community and Regional Affairs, testified that this program was developed too late to be included in the budget. He stated that the Department is considering creating a position of roving city manager to assist municipalities but that there is the potential for conflict between the department and the AG's office and between the interests of the state and the municipality.

Mr. Fink asked if a determination of eligibility would be made even if the municipality currently had the power to tax but was not using it. Mr. Harper stated that eligibility would depend on a community's money on hand.

The meeting was adjourned at 10:00 a.m.

House Judiciary Committee
March 19, 1975

SB 28 Marriage

The meeting was called to order by Chairman Gardiner at 1:25 p.m. All members were present except Rep. Specking.

The committee proposed adding a new (1) to page 2 to state : that the parents have given their consent, and to renumber (2) and (3). On page 1, line 26, delete 13 and add has reached the age of 14.

Mr. Parr moved the bill out of committee with a do pass with the above amendments.

HB 177 Security deposits

Rep. McKinnon, sponsor of the bill, testified that it arose as a result of problems in Anchorage.

Mr. Fink stated that in these days of housing shortages, the tenant will sign anything to get an apartment. If this bill passes, landlords will raise rents.

Don Clocksin suggested that on line 13 the language "or his representative" should be deleted since a landlord's representative is already covered in the definition section of the bill for landlord. He stated that many landlords already take an inventory, that security deposits are the second largest share of landlord-tenant complaints, and that the bill would eliminate litigation. He proposed three further amendments.

Mr. Brown moved that a draft CS be prepared to incorporate all four suggested amendments by Mr. Clocksin, and that the CS be held for further consideration. Mr. Fink objected. The motion passed on vote.

Mr. Fink and Mr. Brown were appointed a subcommittee to study medical malpractice.

House Judiciary Committee
March 20, 1965

The meeting was called to order at 1:25 p.m. by Chairman Gardiner. All members were present except Mr. Brown and Mr. Specking.

CS HB 177 Security deposits

The proposed CS was approved and moved out of committee do pass by Mr. Bradley. There being no objection, it was so ordered.

HB 176 Comparative Negligence

Fred Estaugh of the American Insurance Association testified that the AIA is against the pure form as proposed in HB 176. They prefer the 49% type similar to Hawaii's statute.

Alan Compton testified that the Board of Governors of the Alaska Bar Association has endorsed the concept of comparative negligence, but not a particular form.

Present law: if the plaintiff was negligent to any degree, recovery is prohibited

Pure form: even if the plaintiff is 90% negligent, he may recover the remaining 10%

50% form: if equal fault, each recovers from other

49% form: if equal fault, no recovery for either must be less than 50% negligent to recover (plaintiff's negligence does not exceed combined negligence of defendants)

Possible addition to bill: with multiple defendants, each pays their percentage of negligence of damages

Rep. Cowper, sponsor of HB 176, stated that he would be satisfied with the 49% form. He felt the pure form would totally discourage litigation, would encourage settling out of court, and would get the injured party his money when he needed it. He did not favor the addition of apportionment of the damages

House Judiciary Committee
March 20, 1975

The meeting was called to order at 7:20 p.m. by Chairman Gardiner. All members were present except Mr. Fink and Mr. Specking.

HB 265/266 Community Legal Assistance

Mr. Brown moved out both bills with a do pass recommendation. Mr. Bradley objected and withdrew his objection. There being no further objection, HB 265 and HB 266 were passed out of committee do pass.

HCR 39 Criminal Code Revision

Mr. Parr moved the bill out do pass. The group objected. Mr. Brown moved that on page 1, line 29, law enforcement officers and members of the lay public be included and "and the like" deleted. There was an objection and Mr. Brown withdrew his amendment.

Mr. Gardiner moved that on page 1, line 25, insert "broadly" after should be and on line 27 put a period after laws and delete the rest of the sentence to line 29 "and be it" The amendment passed.

Mr. Parr moved that on page 2, line 3 "the work of the commission" should be deleted and replaced with "the commission's work." The amendment passed.

Mr. Brown moved HCR 39 am out do pass. There being no objection, the bill was passed out of committee.

HB 237 Divorce/mediation

Mr. Brown moved the following amendments:
page 1, line 14, 15 delete all and insert "Sec. 09.55.115. MEDIATION. (a) At any time within 30 days after a complaint or cross complaint is filed, a party to the action may submit a request to the court"
page 1, line 20, delete all and insert: "the court may at any time order the parties to submit to mediation if there is"
page 1, line 28, delete all and insert: "of any minor children of the marriage, shall attend. Counsel for the parties may attend."
page 2, line 5, delete all of sec (e).
page 1, line 23, delete "himself"
Mr. Brown's amendments passed.
Mr. Brown moved CS HB 237 out of committee do pass. There being no objection, the bill was passed out of committee.

64
House Judiciary Committee
March 20, 1975
page 2

HB 238 Child's representation in divorce

Mr. Brown moved on page 2, line 22: correct the spelling of administration. The amendment passed.

Mr. Brown moved on page 1, line 17; page 3, line 2, 7, 15 change a guardian to any guardian. The amendment passed.

Mr. Parr moved that on page 1, line 28: delete all and insert: "Sec. 09.65.130. REPRESENTATION OF CHILD. (a) The court may" The amendment passed.

Mr. Brown moved on page 2, line 18: put a period after child, delete however, and change no to No. Mr. Cotton objected. Mr. Gardiner moved that the sentence beginning No repayment on line 18 should be moved to line 26. The amendment was adopted.

CS HB 238 was moved out of committee with a do pass.

The meeting was adjourned at 9 p.m.

House Judiciary Committee
March 21, 1975

The meeting was called to order at 1:30 p.m. by Vice Chairman Bradley. All members were present except Mr. Gardiner.

HB 98 Medical Malpractice

Commissioner Motley of the Department of Commerce testified that a draft substitute for the bill was being prepared and would be offered by the Governor within a week. Representatives of the Division of Insurance testified that premiums now being charged for claims made policies were about the same as occurrences policies in the past, but they should be cheaper. A pool of the 275 private physicians in Alaska is not a sufficient spread of risk to create a state insurance. He affirmed that the availability of even claims made insurance is deteriorating. He suggested the possibility of forcing other carriers in the state to share malpractice risks if the rates are adequate. This would be an interim solution and would use the other companies as a re-insuring device. Even if settlement amounts were limited, premiums would not necessarily decrease.

Seven Juneau doctors testified that adequate insurance is only a portion of the solution. They favor the proposal from the Medical Society. Several mentioned that since premiums are so high for those doctors delivering babies and since they are now only being offered claims made insurance, there is a real possibility that Juneau doctors will have to stop delivering children. Several of the doctors also discussed the Pima Arizona Plan which includes a board which screens malpractice claims but makes no awards.

House Judiciary Committee
March 24, 1975

The meeting was called to order at 1:30 p.m. by Chairman Gardiner. All members were present except Mr. Brown, Mr. Bradley and Mr. Specking.

HB 170 Judicial Payments

Clark Gruening, sponsor of the bill stated that the State now provides most judicial services but that they charge back cities for employee salaries.

Art Snowden testified that municipalities are supposed to reimburse the state for judicial services provided by the state but this not now being enforced. The selective enforcement (big cities only) is not fair. The Supreme Court has mandated that the state will take over providing all judicial services and that the municipal employees now providing some of the services will become state employees. The state is presently charging back the municipalities for services but they do not charge corporations, regional corporations or individuals, etc. If the state were forced to enforce the present statute it would result in loss of judicial services in the bush.

John Spender stated that the provision of judicial services is free to everyone but cities. The fines should be reimbursed to municipalities also since city police arrest state not merely city people who commit crimes.

Mr. Fink moved HB 170 out of committee with individual recommendations. There being no objection, it was so ordered.

House Judiciary Committee
March 25, 1975

The meeting was called to order at 1:25 p.m. by Chairman Gardiner. All members were present except Mr. Specking.

HB 2 Alaska Art

Helen Fischer, sponsor of the bill, testified that it would cover other than native Alaska artists as a companion bill to the Silver Hand. This bill specifies controls and provides penalties for misuse. She stated that the Department of Commerce does not anticipate much additional cost to administer the program. She suggested that the last paragraph of the bill be deleted.

Mr. Parr moved on page 4, line 3: after "processors" delete to end of bill. The amendment passed.

Kathy Schenker of ANAC testified that if the stickers were improperly used they might legitimize replicas of authentic native art and confuse the public. She suggested that the artists themselves apply to use the stickers, not the merchants. Mrs. Fischer concurred. She questioned the availability of funds to administer the program.

The committee considered the possibility of another bill to amend 45.66.040 to amend the Silver Hand statutes so that artists and not merchants affix the Silver Hand stickers.

Mr. Clocksin asked whether the bill was designed to protect all Alaska art -- even mass produced products -- or creative Alaska art. He stated that the public would be confused in differentiating this sticker from the Silver Hand. He stated that even with Mr. Parr's amendment, out of state work would have to be prohibited in the definition section.

HB 191 Transportation tariffs

Don Clocksin testified that the bill was a proposal of the Bush Justice conference. Presently proposed changes are submitted to the Transportation Commission, processed, and then notice given the public. He charged that the notice given was so inadequate as to allow almost no public input. The bill would require 30 days notice to the public.

Wes Coyner of the Alaska Carriers Assoc. testified that there are literally hundreds of proposed rate changes received by the Commission each week. He stated that the ATC is against the bill. The Committee requested that the commission be notified again of the next scheduled meeting.

Alan Compton testified that it presently takes two weeks to get the notice out to the public. By requiring that the public have 30 days notice the process is merely extended two weeks.

On the phone the ATC stated that they are opposed to the bill because of the many changes they receive each week. They did send a letter to the Commissioner of Commerce so stating.

House Judiciary Committee
March 26, 1975

The meeting was called to order at 1:20 p.m. by Chairman Gardiner. All members were present.

Mr. Ralph Salerno, retired New York detective, and expert on organized crime, answered questions from committee members.

He favored a conspiracy statute to enable the police to move early to prevent a crime before it actually takes place.

In the case of grants of immunity, he stated that in conspiracy cases a grant of immunity de facto protects co-conspirators. A grant of immunity should be limited to a personal privilege. The wording should be carefully drafted to limit the grant to an honest answer in response to a question asked.

He defined legalized as having several meanings: state owned and operated, decriminalization, or state controlled or regulated.

He defined gambling as games of chance, horse races, casino (cards), machines, sporting events. He is for some and against others. Decriminalization invites criminals to the state. Granting licenses is dangerous because of front men. Some state owned and operated gambling he favors.

He differentiated types of prostitution as between consenting adults for payments, through a pimp, street walkers, drugs, robbery.

If pery mutual gambling is legalized, he favors legal off track betting.

He stated that government owned and operated casinos didn't appear possible.

If regulated prostitution were legalized he would favor it only if all the state agencies involved (Commerce, Health and Social Services, and Public Protection) agreed to very harsh penalties for any illegal activities in that area.

House Judiciary Committee
March 27, 1975

The meeting was called to order at 1:20 p.m. by Chairman Gardiner.
All members were present except Mr. Brown and Mr. Parr.

CS SB 62 am Conflict of Interest

MR. Jim Hanley of the Attorney General's office went through
the bill to explain the Senate Judiciary CS changes.

The attached technical amendments were adopted.

page 10, line 29: after "planning" add "or zoning" was adopted.

page 11, line 12: after "corporation;" delete ";" and add
", but" was adopted.

Mr. Fink moved on page 9, delete lines 13, 14, and 15.
The amendment was not adopted.

Mr. Specking moved House CS CS SB 62 am out of committee.
There being no objection, it was so ordered.

A M E N D M E N T S

TO: CSSB 62 amended

BY THE JUDICIARY COMMITTEE

On page 1, line 27, strike out "local elective", and insert: "elective municipal"

On page 2, line 14, after "within", insert a comma.

On page 6, line 16, after "within", insert a comma (,).

On page 6, line 23, after "within", insert a comma (,).

On page 8, line 13, after "200", insert "(1)".

On page 8, line 18, after "200", insert "(2)".

On page 9, line 19, after "voters", insert: "voting on the question".

On page 9, line 20, strike out "the municipality", and insert: "its municipal officers".

On page 9, line 20, after "chapter.", insert:

"The question of exemption from the requirements of this chapter may be submitted by the city council or borough assembly by ordinance or by initiative ordinance."

On page 10, line 9, after "within", insert a comma (,).

On page 10, line 26, after "includes", insert: "a"

71

House Judiciary Committee

March 28, 1975

The meeting was called to order at 1:35 p.m. by Chairman Gardiner. All members were present except Rep. Parr, Specking, and Bradley.

Anne Carponetti explained the differences between the SS SB 5 and the Commerce CS SS SB 5.

The CS deleted Sect. 40 of the SS -- similar to what is already covered in the Consumer Protection Law. Sect. 40 of the CS pertains to mergers after the effective date of the Act. (b) was clarified to make divestiture a last resort remedy. (c) was redrafted to cover fishermen as fishermen, not as cannery owners. (d) was added to exempt the regulated activities of certain industries. (e) was added to exempt those activities expressly required by the Native Claims Settlement Act.

Sect. 120 of the CS eliminates violations of Sect 30 as criminal. Sect. 150 of the CS (b) deletes the authority of the court to modify consent judgments. Sect. 160 deletes nolo contendere as prima facie evidence in consent judgment. Sect. 210 of the CS (c) (2) added that the Attorney General could obtain documents outside the state.

Don Clocksin suggested the following:

page 6, line 23 delete "party" and insert "person". Mr. Brown moved the amendment which was adopted without objection.

page 7, Sect 170 suggested the adding of assurances that the statute of limitations is not running when the determination of the members in a class in a class action suit has not yet been reached. Fred Boness was asked to prepare language to this effect and to research how this would apply to the federal laws.

Page 4, line 13: Mr. Brown moved after "state," add "unless such actions or arrangements occur or are used in a manner clearly beyond the scope of such statutes;" Mr. Brown withdrew his amendment. The committee requested that alternate language be drawn up.

page 4 (e) line 25 add "or permitted" add Public Law Statute number. Add This exemption shall terminate on December 31, 1991. Mr. Brown moved the termination date and that part of the amendment was adopted.

page 4, line 18 "catching, collecting or delivering to processors for value. Mr. Brown moved the above language which was adopted with no objections.

House Judiciary Committee
April 1, 1975

The meeting was called to order at 1:20 by Chairman Gardiner. All members were present except Mr. Brown.

HB 321 Rent Control

Rep. Cowper, sponsor of the bill, explained that presently the Department of Commerce is responsible for carrying out emergency control regulations, but the Department has no employees in Fairbanks to carry out this obligation. The Attorney General's office, Division of Consumer Protection, has two investigators already in Fairbanks.

Commissioner Motley stated that both he and the Attorney General have no strong feelings on which departmental mechanism should be used. There is presently a bill in the legislature giving Commerce an appropriation to write, promulgate and enforce regulations on rent control and to provide two enforcement officers. The Finance Committee has cut this bill to \$25,000.

Mr. Fink stated that the Attorney General's Office generally enforces the law while the other departments have assumed the regulatory function. Mr. Specking agreed and stated that the Governor should declare the emergency, Commerce should write the regs and the Attorney General's Office could enforce them.

Don Clocksin stated that it appeared to be cheaper if the Consumer Protection officers in Fairbanks enforced the law. He urged the committee to do something immediately. He supported the deletion of the 3% vacancy rate provision. He stated that he favored the legislature spelling out regulations but that immediate action was needed now to ease the emergency situation which exists.

Mr. Bradley moved that the Judiciary committee draw up a resolution asking the Governor to establish emergency controls in Fairbanks and Valdez. The proposal was considered along with the following possible amendments -- that rents be frozen pending implimentation of rent control regulations; that the legislature state that it finds that a state of housing emergency does exist. No action was taken on the proposed resolution.

Terry O'Connell from Consumer Protection stated that her division has no objection to assuming the function as in HB 321, but that they would need additional staff unless it was determined that the present Fairbanks staff could take on this added responsibility. They get inquiries from tenants already.

Mr. Parr moved HB 321 out do pass. Mr. Fink objected. Mr. Specking moved on lines 12 and 25, delete Attorney General and replace Governor. The motion passed. Mr. Parr moved HB 321 am out of committee do pass. Mr. Fink objected. On vote, the motion carried.

12

House Judiciary Committee
April 1, 1975
page 2

HB 197 Military Fish and Game licenses

Mr. Fink explained that the bill would give a military person a non resident license at a resident rate. If we issue this license, all military personnel will need a licesne to hunt and fish on bases. Now, under federal regulations, they don't need any license to hunt and fish on base. He stated that the bill would make it easier for the military to recruit and would be a morale builder. He suggested a January 1, 1976 effective date.

The following amendments were adopted to the proposed CS:

that military be defined as a permanent change of station on active duty

effective date of January 1, 1976

Mr. Fink moved the CS am (new CS) out of committee. Mr. Gardiner objected. On vote the motion carried.

74

House Judiciary Committee
April 2, 1975

At 2 p.m. the committee met with the members of the Judicial Council for an exchange of information and suggestions. The Council has completed reports on Bail in Anchorage, Sentencing, Grand Jury and is working on reports on The District Court System, Plea Bargaining, Bush Justice, Evaluation of Judges.

The Council recommended the following:
The present time frame in which the Council must screen and nominate applicants sometimes does not leave enough time to the person selected to clean up his affairs before assuming the position. The Council would like to be able to send names to the Governor earlier so that the appointment could be made by the Governor earlier.

The Council does not have specific statutory authority to evaluate judges' qualifications and convey this information and recommendation to the public. They feel it is a legitimate function of the Council and would like specific authorization.

The Council, after public hearings, has recommended the proposal for seven judicial districts.

House Judiciary Committee
April 3, 1975

HB 213, HJR 15 University of Alaska

The meeting was called to order at 1:25 p.m. by Chairman Gardiner. All members were present except Mr. Specking and Mr. Brown.

Written testimony from the University of Alaska was accepted and is attached.

Rep. Naughton, sponsor of the bills, explained that their purpose was to require the University to report to the legislature on how they had expended their budget allocation. The legislature would use this information in future funding decisions. He expected the information to contain such things as number enrolled, numbers of credit hours, faculty workload, faculty cost per member, course offerings and cost per course, utilization of facilities and cost per unit of measurement, and support services such as libraries. The Constitution states that the University is to be governed by a Board of Regents. It is not the intent of this bill to usurp this authority. Because there is no flow of information from the University to the legislature on a voluntary basis, the bill would provide a statutory requirement.

Rich Guthrie of Legislative Finance stated that the budget connects the legislature and the University and is the only legislative basis for policy judgments. He briefly summarized the history of the University budget as follows: Until 4 years ago the University received one lump sum budget. Through poor planning or inefficient management they got into financial trouble. A new business manager realized the situation and requested a supplemental appropriation from the Legislature. The House Finance Committee granted the supplemental with the stipulation that there would be more legislative review of the University budget. The Interim Committee on Higher Education and the Finance Committee recommended that the University receive 6 appropriations broken down into allocations. To transfer funds from one appropriation to another would require approval of Budget and Audit. Transfers from allocations could be approved internally. This is essentially the procedure which would be required by the Executive Budget Act.. Sections 190 and 250 of the bill require a reporting of how the past monies were spent. Section 290 would bring the University under the state's uniform budget planning requirements. At present, once the University receives an appropriation, the legislature has now control over how the money is spent.

Mr. Brown moved Sections 1 and 2 of HB 213 be kept, delete sections 3 and 4, and keep section 5 - - CS HB 213 out. Mr. Cotton objected and withdrew his objection. CS HB 213 was voted out of committee.

76

House Judiciary Committee
April 3, 1975
page 2

HJR 15 -Mr. Parr moved HJR out of committee with individual recommendations. There being no objection, it was so ordered.

HB 318 Imposed sex

Mr. Brown, sponsor of the bill, explained that it was introduced as the result of a sexual assault case in Kodiak for which there was no statute.

The committee agreed to delete page 1, line 23 to bottom of page. Line 22: change (3) to (5). Page 2, line 1: change (2) to (3) and line 4: change (3) to (4). Line 6: change (c) to (b)

Office of the President

Juneau, Alaska
April 2, 1975

Memorandum to: Honorable Terry Gardiner, Chairman
House Judiciary Committee

From: Don M. DeBoe, Executive Vice-President

Subject: Comments on HB 213 and HJR 15

We were informed at 1:00 p.m. today that hearings scheduled on the above bill and Resolution had to be deferred. Your Aide suggested that we might submit a written statement.

Under date of March 14, Vice-President Rae, responding to a request from Representative Naughton, noted general concurrence with the provisions of the bill. However, Dr. Rae had not conferred with our Legal Counsel relative to the implications of the amendments proposed to AS 14.40.290.

Note attached is a copy of an opinion from our University Counsel, Dr. Tom Gruening. He concurs, as do we in the Office of the President, with the amendments to 14.40.190 and 14.40.250 which specifically provide for reporting to the legislature on the administration and disposition of restricted as well as appropriated funds. We believe that this provision is entirely reasonable. We do not see, however, why a constitutional amendment as provided for in HJR 15 would be necessary.

We concur with the opinion of our Counsel that the amendments proposed to Sec. AS 14.40.290 would raise serious constitutional questions in view of the constitutional mandate to the Regents to "govern" the University. We believe that application of all requirements of AS 37.07 to the University, particularly AS 37.07.030(4) and 37.07.080(a)(c)(d) and (e), would infringe upon and perhaps usurp the constitutional responsibility and the policy prerogatives of the Board of Regents.

We would emphasize the desire of the University to respond meaningfully, and hopefully in a timely manner, to legislative needs for information in general and particularly to needs related to the budget process. We believe our controls are adequate but do acknowledge some difficulty with timely response.

In this regard, we believe that the Legislative Budget and Audit Committee might well want to convene some Interim Sessions involving legislative finance Chairmen and analysts, Department of Administration representatives, Office of the Governor representatives, and University administrators with a view toward clarifying and simplifying reporting and budget policy and processes.

M E M O R A N D U M

TO: Dr. Don M. Dafoe, Executive Vice President
FROM: Tom Gruening, University Counsel
SUBJECT: House Bill #213
DATE: March 27, 1975

This is in response to your request for an analysis of the implications of House Bill #213. The bill would amend four sections of the Alaska Statutes.

It would amend 14.40.190 to include language expressly encompassing appropriated and restricted funds as being included in the written report to the Legislature. In my opinion this amendment simply clarifies existing law and has no implications.

A.S. 14.40.250 is amended to conform with the proposed amendment to Section 190 clarifying the scope of the written report to the Legislature. This section also simply clarifies existing law and has no implications.

A.S. 14.40.290 is amended by adding a new subsection subjecting the University to the Executive Budget Act, and A.S. 37.07.120 (1) is correspondingly amended to include the University of Alaska within the definition of agency contained in the Executive Budget Act.

Inclusion of the University within the terms of the Executive Budget Act raises serious constitutional questions. The relationship between the constitutional autonomy of the Board of Regents in relation to similar attempts by other branches of state government has been considered at length in a Memorandum of Opinion from Grace Schaible, the University's retained counsel, to William R. Wood, then President of the University of Alaska, dated January 9, 1973. I have excerpted the pertinent portions of that opinion rather than repeat them here. The excerpt is set out in Exhibit A which is attached hereto. The basic thrust of the constitutional argument is that under Alaska Constitution Art. VII, Sec. 3, the Board of Regents shall govern the University and any attempt by the Legislature to intervene in University management decisions respecting planning or expenditure of funds would effectively emasculate the constitutional duty of the Board of Regents to govern.

A second constitutional ground is that under Alaska Constitution, Article VII, Section 2, real and personal property is subjected to the requirement that it shall be administered and disposed of according to law. Since money is not mentioned it is not subject to regulation by the Legislature as to its administration and disposition. (Thus A.S. 14.40.280 is unconstitutional on its face as it purports to regulate the expenditure or management of money of the University of Alaska. This probably explains why no attempt has ever been made to enforce it.)

The two sections of the Alaska Constitution mentioned above would, in my opinion, render unconstitutional the portions of the Executive Budget Act listed below insofar as they purport to authorize the management or control of the University's expenditures, policies, planning or operations or otherwise interfere with or restrict the governance of the University by the Board of Regents:

A.S. 37.07.010 (2), (3)

A.S. 37.07.030 (4)

A.S. 37.07.040 (5)

A.S. 37.07.050 (a) (2) except insofar as needed to determine the University's budget.

A.S. 37.07.050 (d) except insofar as the division purports to describe rather than set policy, priorities, etc.

A.S. 37.07.070

A.S. 37.07.080 (a), (c), (d), and (e).

It should be noted that there is no constitutional or statutory objection to the requiring that information be provided for purposes of budget planning, priority setting, etc., by the Legislature so long as such requirements do not interfere with the Board of Regents' governance of the University.

mh

Exhibit A

Memorandum of Opinion from Grace Schaible to Willima R. Wood,
dated January 9, 1973.

It may be well at this point to review the broader aspects of the problem in view of the Constitutional provisions relating to the University of Alaska and Board of Regents. There are two provisions involved as follows:

"Section 2, Article VII. State University. The University of Alaska is hereby established as the State University and constituted a body corporate. It shall have title to all real and personal property now or hereafter set aside for or conveyed to it. This property shall be administered and disposed of according to law."

and Section 3 of Article VII as follows:

"Section 3, Board of Regents of University. The University of Alaska shall be governed by a Board of Regents. The Regents shall be appointed by the Governor, subject to confirmation by a majority of the members of the legislature in joint session. The Board shall, in accordance with law, formulate policy and appoint the President of the University. He shall be the executive officer of the Board."

These two sections of the Constitution are unique in that it is the only place that a division of State government is singled out and also provided a special corporate status. As we are all aware, both secondary educational groups and the Fish and Wildlife people tried to obtain like status at the constitutional convention, but were unsuccessful. Alaska is not unique in having a constitutionally established University and Board of Regents; however, only a few institutions of public higher education in the entire United States enjoy this very privileged legal status. As one treatise writer has indicated:

"These fortunate few possess a sphere of authority within which neither the legislative nor the executive division of State government may interfere. They are, in substance,

coordinate with the legislative, executive, and judicial branches and thus represent a fourth arm of State government". (Blackwell, College Law, page 242).

As has been pointed in Alexander and Solomon's College and University Law 1972 edition, there are nine states which guarantee Constitutional autonomy for universities. Although Alaska is not expressly included among these nine which are Michigan, Minnesota, California, Colorado, Georgia, Idaho, Oklahoma, Nevada and Arizona, it is recommended the University contact the authors and advise of the omission. In three of these states there has developed a considerable body of law regarding the autonomous status of the university, namely Michigan, Minnesota and California. We believe that when the Alaska Constitutional provisions relating to the University and Board of Regents are judicially interpreted it is very probable that Alaska's constitutional provisions will be considered as establishing an "autonomous" university. The Michigan Constitution provides:

"The Board of Regents shall have the general supervision of the University, and the direction and control of all expenditures of funds."

Although Alaska's constitutional provision is drafted less explicitly, Article VII, Sec. 2 and 3, supra, establishes the University as a "body corporate" and directs that "the University of Alaska shall be governed" by the Board. This specific power to govern the University strongly implies and indeed mandates the "control of all expenditures of funds" must be in the governing board, with the legislative control being the overall sum and not the specific direction of where and how said funds are to be spent.

The broad grant of powers above quoted has given the Board of Regents of Michigan complete control of all university income regardless of source. The Michigan Supreme Court in 1895 resolved the issue of a legislative enactment requiring the Board of Regents to discontinue a homeopathic school in Ann Arbor and establish a new school in Detroit and spelled out the legislature-university relationship in an unmistakable fashion:

"The Board of Regents and the legislature derive their power from the same Supreme authority, namely the Constitution...they are separate and distinct Constitutional bodies, with the power of the regents defined. By no rule of construction can it be held that either can encroach upon or exercise the powers conferred upon the other."

...this interpretation was based on the broad constitutional powers given to the Board of Regents under the Michigan Constitution. We believe the Alaska Supreme Court, in light of these precedents combined with the intent of the delegates to our 1956 constitutional convention expressed in the minutes of those proceedings will likewise find similar powers in the Board of Regents of the University of Alaska.

The citizens of Michigan in the Constitution of 1908 granted privileges similar to that granted to Michigan State College (now Michigan State University) and provided that State Board of Agriculture was given "general supervision of the college, and the direction and control of all agricultural college funds".

The Constitutional status of the University of Minnesota is likewise closely aligned to that of Alaska. The Board of Regents of the University of Minnesota was incorporated by the Territorial Assembly in 1851 with a mandate "to govern" the university and the 1858 Constitution of the State of Minnesota expressly "perpetuated unto said university", "all the rights, immunities, franchises and endowments heretofor granted or conferred". It was not until 1925, however, that the first legislative test was made of the autonomous powers of the University of Minnesota. In that year the legislature enacted the laws regarding the organization of the State government which centralized the State Administrative functions under the Governor. The Commission on Administration and Finance operating under the Governor's office pursuant to this act claimed the authority to supervise and control the expenditure of moneys for the University of Minnesota. Suit brought on behalf of the University against the Commission resulted in a decision of the Supreme Court which stated in part:

"...the right to control university finances is the power to dictate university policy and direct every legislative activity....The legislature cannot transfer any of these constitutionally confirmed powers from the regents to any other board, commission or officer whatever....The purpose of the constitution remains clear. It was to put the management of the greatest state educational institution beyond the danger of vacillating policy, ill-informed or careless meddling and partisan ambition that would be possible in the case of management by either legislature or executive, chosen at frequent intervals and for functions and because of qualities and activities vastly different from those which qualify for the management of an institution of higher learning." See State v. Chase, 175 Minn. 259 220 N.W. 951 (1928).

In subsequent suits involving an enactment of the legislature who changed the method of selection of regents, the Supreme Court of

Minnesota in describing the university's relationship to the executive, legislative and judicial branches of government commented:

"The people by their Constitution chose to perpetuate the university which had been created by their Territorial Legislature in a Board of Regents, and the powers they gave are not subject to legislative or executive control; nor can the courts at the suit of a taxpayer interfere with the board while governing the university in the exercise of its granted powers. This does not mean that the people created a corporation or institution which is above the law. The board must keep within the limits of its grant."

The California Constitution of 1879 provided for the independence of the Board of Regents as follows:

"The University of California shall constitute a public trust, and its organization and government shall be perpetually continued in the form and character prescribed by the Organic Act creating the same..., subject only to such legislative control as may be necessary to insure compliance with the terms of this endowment and the proper investment and security of its funds."

This constitutional language has been uniformly interpreted by the Supreme Court in California to provide immunity from any legislative act changing the form of government of the college. In 1913, the Supreme Court of California made a clear statement of the University's independence in a case involving a conflict between vaccination requirements of the legislature and those of the University of California. (*Williams v. Wheeler*, 23 Cal. App. 619, 138 P. 937). The Board of Regents of the University of California had required all enrolling students to be vaccinated whereas the legislature provided for exceptions for those conscientiously opposed or for those for whom vaccination would be harmful to their health. A student not having been vaccinated and conscientiously opposed to vaccination was denied entrance to the university and sued for admission. The question of legislative versus university predominance in making of admission and health policies was placed squarely before the court. The court held that the exceptions provided for in the vaccination law were not founded upon consideration of the general health and did not constitute an exercise of the general police protection of the legislature. More specifically with regard to the Constitutional powers of the university, the Court said:

"...it was the intention of the framers of the Constitution to invest the Board of Regents with a larger degree of independence and discretion in respect to these matters than is usually held to exist in such inferior boards and commissions as are solely subjects of legislative creation and control. This would seem to be a necessary conclusion from the fact of the evaluation of the university to the place and dignity of a constitutional department of the body politic...."

In Idaho the Constitution adopted in 1889 provided with reference to the administration of the University of Idaho:

"The Regents shall have the general supervision of the university and control and direction of all funds of and appropriations to, the university, under such regulations as may be prescribed by law."

In its 1921 decision in State v. State Board of Education, 33 Idaho 415 196 P. 201, Supreme Court of Idaho officially placed the University of Idaho in the magic circle of autonomous universities. The Supreme Court held that the Constitutional provision meant that while functioning within the scope of its authority, the Board of Regents is not subject to the control or supervision of any other branch, board, or department of the State government. The portion of the Constitution limiting the Board of Regents' authority ("under such regulations as may be prescribed by law") refers to methods and rules for the conduct of business and accounting functions and does not interfere with the Constitutional discretion of the Board. When an appropriation of public funds is made to the university and the university Board of Regents accepts the funds, the legislature may impose such conditions and limitations on the use of the funds as it deems necessary. However, the court stated, where the Board sells university property, there is no obligation on the part of the Regents to pay the proceeds from the sale of the property into the State treasury.

The Colorado Constitution vested in the Board of Regents "the general supervision of the State university" and "the exclusive control and direction of all funds of, and appropriations, to the university". This broad grant of power is quite similar to that given to the governing boards of other constitutionally independent universities. However, the courts of Colorado have not, as yet, conceded that it was the intention of the people to grant full autonomy to their State university. Furthermore, in another section of the State Constitution, the management of the university is declared to be "subject to the control of the State, under the provisions of the Constitution, and such laws and regulations as the general assembly may provide."

though the Constitutional grants of powers to the governing bodies were rather broad. In Utah, for example, the State Supreme Court held in 1956:

"It is inconceivable that the framers of the Constitution ...intended to place the university above any controls available to the people of this State as to the property, management and government of the university.... The university is a public corporation, not above the powers of the legislature to control, and is subject to the laws of the State from time to time enacted relating to its purposes in government."

Although all the constitutional provisions establishing university autonomy in the foregoing States are not uniform where autonomy has been found to exist by the courts, it has been of constitutional origin such as is contained in the Alaska Constitution. It has also been observed in establishing constitutional autonomy,

"a great deal depends on the attitude of the court and how it, within the context of either implied or explicit constitutional provisions, is willing to view the relationship between the State and the university. The lack of autonomy of some State universities may be attributed to the attitudes of the courts or even to inaction on the part of university officials." (Alexander and Solomon College and University Law, 1972).

Summary and Conclusion

In light of the detailed research outlined above and with knowledge of the debate and circumstances at the constitutional convention in singling out the University as the only division of State government afforded special status, besides the traditional three branches, we are of the opinion that serious constitutional questions have been raised by the method of legislative appropriation proposed by the Governor for fiscal year 1974 and actually used by the legislature for 1973, which constitutes effective internal control of the University. If the constitutional language that the University as a body corporate "shall be governed" by a Board of Regents is to be given the meaning intended by the constitutional convention, the University should not be subordinated to the Executive, Legislative and Judicial branches of government or relegated to the status of the legislatively-created department or agency.

We cannot see how the Board of Regents can legally consent to administration of University affairs, either directly or indirectly, by any branch of the State government without an express constitutional change. The precedents established in other jurisdictions such as Michigan, Minnesota, California and Idaho are clearly in point and we believe the Supreme Court of Alaska in a proper case would be strongly inclined to follow such precedents and hold that the Alaska Constitution created an autonomous University to be governed in all respects by a Board of Regents without the spectre of any type of partisan, geographical or political influence.

House Judiciary Committee
April 3, 1975

The meeting was called to order at 7:20 p.m. by Chairman Gardiner, and was ruled a continuance of the afternoon meeting.

HB 191 Transportation Tariff

Commissioner Motley testified that the ATC would like to give 45 days notice, but this creates problems in administration. It would be theoretically possible to have two different rates in effect at the same time. He felt that this problem could be worked out, possibly by giving the federal notice earlier than required.

Mr. Specking suggested making the language similar to that of the ICC. He questioned whether the commission or the shipper was required to notify the public.

Mr. Bradley moved HB 191 out of committee and asked unanimous consent. Mr. Parr objected. Mr. Bradley withdrew his motion. Mr. Parr requested that the ATC be notified for one final time and requested to present justification as to why they oppose the 45 days notice.

HJR 11 Veto, special session

The following amendments were adopted:

page 1, line 7: in the title -- after "bills" insert a period and delete the rest of the title.

page 2, line 2: delete the underlined language in lines 2 and 3 and insert: "than the fifth day of the next regular or special session of that legislature."

CS HJR 11 was moved out of committee.

HJR 4 Governor's term

Mr. Gardiner turned the chair over to Mr. Bradley. Mr. Gardiner, sponsor of the bill, testified that the adverse effects of an election in the middle of a governor's possible term must be weighed against the public accountability that the election provides. He said that work in an election year is just as important as any other time and should not be sacrificed to political ambition. He suggested that language be put in the bill to state that a governor having a 4 year term previous to election to a six year term would be allowed to serve the full six year term. This would hold true not only for transitional periods but could also be incorporated to cover a lt. governor who serves more than 4 years of a governor's term -- who would then not be eligible to run, but who serves less than four years -- would be eligible for a six year term of his own.

It was decided that proposed amendments would be drawn up.

House Judiciary Committee
April 3, 1975
page 2

HB 31 Derelict vessels

The committee questioned the 24 hour stipulation on page 3, line 20 but agreed that it was reasonable since that owner had 20 days in which to claim his vessel. Abandoned was defined as a vessel having no clues of ownership. The committee agreed that the amendment proposed by the resources committee was necessary. Mr. Bradley moved HB 31 as amended out of committee. There being no objection, it was so ordered.

House Judiciary Committee
April 7, 1975

The meeting was called to order at 1:22 p.m. by Chairman Gardiner. All members were present except Mr. Bradley.

Mr. Boetsch of Revenue testified that HB 211 was in effect a housekeeping bill that put all the remedies for different types of taxes into one section. The bill adds informal conference as a possible remedy but the option of a formal hearing remains. He stated that the Multi State Tax Commission can do audits on Alaska's behalf, acting as the state's agent. Mr. Parr raised the question of the Alaska citizen's right to privacy regarding his tax records and requested strict limitations on the Multi State Tax Commission. A 1972 Attorney General's opinion in the supplement (23.20.190) deals with the right to privacy. Mr. Messenger in the AG's office was requested to review the opinion and report to the committee.

Mr. Boetsch further stated that HB 211 would make the penalty for all delinquent taxes at 8%. The federal IRS is going to 9% in June. Other penalties listed in the bill are comparable to the IRS.

Regarding section 230 and the lack of control the state would have on information after it leaves Alaska, Mr. Boetsch stated that the clause "for the purpose of enforcing a tax" had been added to the bill to limit access. He stated that other states have similar procedures regarding confidentiality and that if they did not, Alaska would not have made reciprocal agreements with them. Mr. Brown stated that he would like to see a standard put in the bill to control the actions of the Commissioner of Revenue regarding confidential information.

HB 176 Comparative Negligence

Mr. Gardiner stated that the basic policy decision the committee must make concerns what form of the bill they wish -- pure, 50%, 49%. The committee considered the possibility of putting the material on joint tort feasons into a seperate bill but it was decided that since this relates so directly to multiple defendants in a comparative negligence case, that it should be included in this bill. It was agreed that degrees of fault would be considered, thus allocating percentages of negligence to the defendants. The committee agreed to reject pure negligence was potentially just as discriminatory as contributory negligence now is and opted for the 50% form. Mr. Brown moved CS HB 176 out of committee. There being no objection, it was so ordered.

House Judiciary Committee
April 8, 1975

The meeting was called to order at 1:20 by Chairman Gardiner. Mr. Specking and Mr. Brown were absent.

HB 202 Board of Regents

Sue Green testified that the Administration supports the expansion of the Board to eleven members in order to get more viewpoints. They support the change in term to five years as long as each Regent could serve two full terms and would not be penalized for serving part of another's unexpired term.

The present requirements are for nine regents, eight year terms, and no limit on number of terms.

Rep. Naughton, sponsor of the bill, testified that it is time to increase the size of the board and that a five year term is long enough to make a determination if the Regent will function well and is motivated.

Robert E. McFarland, President of the Board of Regents, testified that the board has been free of political control. He opposed the five year term since it could potentially give a governor the authority to appoint a majority of the board. He opposed increasing the size of the board since it would not assure geographic representation and suggested that we perhaps designate that regents must come from specific areas. He stated that the Regents are just becoming of value in their fifth year of service. They have had time to learn the mechanics of the job. He could favor two six year terms. He said that at present the president of the Board is allowed two two year terms as president. The student regent serves a two year term. Regents may be removed by impeachment only.

Brian Brundin, present regent, stated that adding to the size of the board won't make it more responsive, and that shortening the terms will decrease effectiveness. He did not favor adding stipulations for local representation. He said that the Board is a buffer between the University and the people and between the University and the administration and legislature.

Mr. Parr questioned the language on lines 23 and 24 limiting the term of the president. Mr. Naughton stated that the present two, two year terms was agreeable to him. He further stated that the two term limit would insure fresh ideas and accelerate responsiveness.

The committee determined to hold the bill for further study.

House Judiciary Committee
April 8, 1975
page 2

HB 276 Real Estate Appraisers

The Department of Commerce testified in favor of the bill as long as there is an exemption included to cover employees working for someone else who are not receiving a fee for the appraisal (Highways, utilities). Mr. Bradley stated that he was opposed to having two standards.

Mr. Parr requested that the language in lines 16 and 17 and lines 24 and 25 be tightened to be less vague. Further questions were raised concerning the elimination of eligibility of non resident appraisers, subpoena powers, felony conviction precludes licensing.

Fred Ferrara of the Alaska Valuation Service and the American Institute of Real Estate Appraisers testified that at present all that is required of an appraiser is a real estate license. Professional organizations have proficiency designations but no requirements. He had no comment on the question of non resident applicants. He says that Alaska appraisers now bring in outside people as consultants. He rejected the proposed exemption for state employees.

A real estate appraiser from Ketchikan stated that most municipalities now have their own appraisers so it is not necessary to bring in non residents. He stated that prior felony conviction for a crime not related to appraising should not preclude receiving a license.

The committee determined to hold the bill for further study.

House Judiciary Committee
April 9, 1975

The meeting was called to order at 1:15 by Chairman Gardiner.
All members were present.

HB 178 Third Party Beneficiaries

Mr. Parr, sponsor of the bill, testified that it broadens injury coverage and adds property coverage. The bill incorporates the language in the new Uniform Commercial Code. The bill was passed out of committee, do pass.

HB 390 Conflict of Interest

The bill was introduced to allow municipal officers to practice before boards and commissions, as long as they are not members of the commission.

The following amendments were made to the bill:

line 14, page 1: after "member of a" insert: "municipal body"
line 16, page 1: after "function of the" insert: "municipal body"
line 24, page 1: after "chairman or" insert: member of a municipal body or"
CS HB 390 was passed out of committee, do pass.

HB 175 Department of Labor

Joe McKinnon, sponsor of the bill, testified that it was a housekeeping measure. At present the Department of Labor issues cease and desist orders on the basis of an AG opinion that they have authority to do so. This bill gives them statutory authority to do so.
The three year requirement is already mandatory under other statutes so merely makes the statutes consistent.
Mr. Brown moved HB 175 out of committee, do pass. There being no objection, it was so ordered.

HB 312 King crab processing

Rep. Naughton, sponsor of the bill, testified that there currently is a problem getting processing plants closed when in violation and re-opened when the problem has been corrected. The Quality Control Board needs the ability to take immediate action. The bill puts the board on a fiscal year basis and will involve no state monies. The Board recommends passage of the bill.
Mr. Brown moved HB 312 out of committee, do pass. There being no objection, it was so ordered.

House Judiciary Committee
April 9, 1975
page 2

HB 202 Board of Regents

The following amendments were adopted:

page 1, line 23 delete the sentence beginning "No regent
may serve . . .

page 2, line 2 after "appointed" delete the period and
insert: "and may be reappointed for an additional
five year term."

HB 202 am was passed out of committee.

HB 401 Public monies

Mr. Brown moved on line 10, after "employee" instert:
"wilfully makes or authorizes an otherwise unauthorized" payment"
and on line 12 after "purpose" insert "or does so with negligent
disregard." Mr. Brown withdrew the amendment.

Rep. Malone, sponsor of the bill, testified that a few agencies
have expended funds for unauthorized purposes and have expended
unappropriated funds. This bill would impose criminal penalties
for such purposeful actions.

Mr. Brown moved on line 10: line to read: employee who
makes or certifies or directs the making or certifying of
a payment under Chapter 5 or Chapter 10 of this Title"
line 12 to read or does so with negligent disregard.

This amendment would make the bill cover the Department of
Administration which makes the actual payment, and the
Divisions which certify vouchers for payment.
The amendment passed.

The committee added an effective date of July 1, 1975 so that
the new commissioners who took over mid fiscal year would not
be held responsible for the actions before they took over.

Mr. Brown moved CS HB 401 out of committee do pass. There
being no objection, it was so ordered.

SB 5 Anti Trust

The attached amendments were approved and House Judiciary
CS for CS SS SB 5 am was passed out of committee.

89

A M E N D M E N T

TO: CS SSSB 5 am

BY THE JUDICIARY COMMITTEE

Page 5, lines 20 - 24: Delete all material and insert:

(1) for damages sustained by him, and if the judgment is for the plaintiff and the trier of fact finds that the defendant's conduct was wilfull, the plaintiff shall be awarded threefold the amount of damages sustained by him, plus the costs of the suit, including reasonable attorney fees; and

Page 7, line 24: Delete "has reasonable cause to believe" and insert:

"determines, upon complaint or otherwise"

Page 8, line 5: Delete "has reasonable cause to believe" and insert:

"determines"

85
House Judiciary Committee
April 9, 1975
page 3

HB 384 Evaluation of Judges

Since the committee had previously heard testimony on this bill from the Judicial Council, HB 384 was passed out of committee, do pass.

HB 241 Fishing gear

Rep. Malone, sponsor of the bill, testified that this bill would correct the situation where the owner of a license was determined to be required to have his hand on the nets at all times when they were being used. A court interpretation of the bill required the licensee to personally participate in all work. This was not the legislative intent in passing the original bill, so HB 241 would give clear legislative intent.

Mr. Brown moved CS HB 241 (incorporating the Resources amendment) out of committee do pass. There being no objection, it was so ordered.

House Judiciary Committee
April 10, 1975

HB 370-371 Fish and Game Prosecutor

Mr. Weberg, from the Department of Public Safety, testified that fish and game is now working with various district attorneys and, depending on their case loads and interest, violations receive various degrees of attention. He hoped that the Prosecutor would coordinate prosecutions and would handle the major violations. Presently the statute of limitations often runs out before a case is brought to trial. He stated that fishermen are now taking a more active interest in wanting strong enforcement of violations. They need someone who has a background in fish and game and who is familiar with the terminology, interested and who will provide state-wide consistency.

Mr. Specking stated that he wish to include guiding also. Mr. Weberg had no objection. Mr. Specking moved that references to guiding be inserted where appropriate. There being no objection, it was so ordered. This would also require a title change.

Mr. Gardiner requested that on page 2, section (5) that the report also include recommendations for statute changes to the fish, game, and guiding laws. He also requested the addition of a new (6) with similar language as (5) which would provide that fish and game regulation changes be made to the Fish and Game Board and that guiding regulation changes be made to the Guide Board. There being no objection, it was so ordered.

Page 2, line 12: include language to the effect that his powers include, but are not limited to:

The committee requested that a committee substitute be drawn up for committee consideration.

HCR 2 Election Districts

The Legislative Council made the suggestions incorporated in the bill and requested legislative approval of their suggestion in the form of this resolution.

Stu Hall testified that election districts are now being used for many other purposes. The original election districts laid out in the Constitution have been changed as a result of the one man, one vote decision, but many statutes still refer to the old district boundaries. He suggested the need for a single set of districts for election purposes and that there is a need to eliminate the references to the old districts.

Mr. Parr moved that HCR 2 be reported out of committee. There being no objection, it was so ordered.

House Judiciary Committee

April 10, 1975

page 2

HB 159 Edible Meat

Nels Anderson, sponsor of the bill, testified in favor of the Resources Committee Substitute. The Attorney General favors the bill as a necessary prosecution tool.

The following amendments were adopted:

page 1, line 9 of the CS: add and (b) are after (a)

page 2, line 22 of CS: delete all language.

page 2, line 7: "being accompanied" means having most of the meat in actual possession with the horns or antlers unless the person is engaged in the act of transporting most of the meat from the same animal in portions at different times but in a continuous manner without unnecessary interruption, from the place of tkaing to its destination for human consumption.

Mr. Bradley moved the Judiciary CS out do pass. There being no objection, it was so ordered.

HB 383 Medical Examiner

Art Snowden testified that now there is a coroner/public administrator. The Attorney General, Department of Health and Social Services, Department of Public Safety, District Attorney and the Court System are in favor of the bill. There is a need for specially qualified persons to conduct autopsies. The state now pays any doctor to perform necessary autopsies rather than doctors who are qualified in pathology. \$120,000 from the Court budget and some salary savings could be applied to the Medical Examiner budget.

The committee decided to study the bill further and consider asking for a Finance referral.

House Judiciary Committee
April 11, 1975

HB 222 Prostitution

The meeting was called to order at 1:22 by Chairman Gardiner. All members were present.

Nancy Michand of Juneau testified that the bill personally offended her.

Mary Horton of Juneau testified that legalization wouldn't necessarily control prostitution and that the bill would be an invitation to organized crime, and drugs. She stated that the bill would affectively destroy the state of Alaska.

Earl Stenehjjer of Anchorage testified that the bill was not in the best interests of the state. He favored increased fines and enforcement of present laws. He suggested the need to define what a local government is in the bill.

Delcey Kinney of Juneau stated that the bill could control only some of the activities, and that there was no way of effective enforcement. She stated that the bill would be a tool of organized crime.

Milton Hunt of Juneau, Lutheran minister, testified that the Anchorage Lutheran clergymen requested that he represent them in opposing the bill because they believe it will increase crime.

Willard Bowman testified that at the public hearings held last year in Anchorage, the public was divided about 50-50 on the question. He stated that organized crime can't operate when control is left in local hands. He stated that enforcement of illegal activities under the bill will probably be no better than they are now.

Neil Thomas of the Human Rights Commission testified that the owners of houses of prostitution in Anchorage feel that they are being discriminated against because they can't pass out business cards, get credit, or advertize. The street walkers are giving the "professional" houses a bad name.

Jimmy Huntington stated that in the 1940's there were lines in Fairbanks and that prostitution was effectively contained in specific places. He wants the bush excepted from the bill.

Marline Lesh stated that she had no particular problems with the bill. She was for local involvement.

Ramona Kelly testified that in areas of Europe where prostitution is legal there are fewer sexual crimes.

House Judiciary Committee
April 12, 1975

The meeting was called to order at 9:10 a.m. by Chairman Gardiner. All members were present except Mr. Eliason.

HB 187 Rape

The committee considered the committee substitute proposed as a combination of the original bill and the suggestions of the Attorney General. The following changes were made to the proposed committee substitute:

page 2, line 23 would be rewritten to state that the defendant shall make a written motion offering to prove sexual conduct of the complaining witness which is relevant under this section in attacking the credibility of the complaining witness.

page 3, line 17 delete "alleged" and line 18 after "crime" insert "alleged"

page 2, line 11, (4) delete and delete "or" in line 10

The committee requested that a committee substitute be prepared and ready to replace SB 261 am which is now in House HESS. Mr. Gardiner would request either a waiver of their referral or prompt action in their committee.

HB 295 Teacher Retirement

The committee adopted the committee substitute proposed by the sponsor and recommended that the bill receive a further referral to Finance. A fiscal note will be requested.

HB 191 Transportation Tariff

The committee determined to add a new Section to cover air carriers and pass the bill out as a CS.

HJR 4 Governor's Term

Mr. Brown moved that the committee substitute which had been prepared as a result of an earlier meeting be reported out of committee with individual recommendations. There being no objection, it was so ordered.

HB 211 Tax and revenue

Mr. Messenger of the Attorney General's Office testified in response to the committee's earlier questions on the right to privacy. He cited two earlier AG opinions, one stating that legislative audit would not be allowed to inspect confidential information. The opinion weighed the need for government access against the citizen's right to privacy. The decision was made on the basis of the expectation of the individual as to who would have access to his information, and whether the inquiring agency absolutely needed this information to achieve their objective. If there was an

House Judiciary Committee
April 12, 1975
page 2

an alternate solution open to the agency, that must be used. If the agency is to have access to confidential information they must have published the security procedures they will follow in the handling of that information. Another opinion stated that access must be limited so that the information is used for tax purposes only.

Mr. Brown moved on page 2, line 25: after "state" change the period to a comma and add "and if the department has determined that the other jurisdiction provides adequate safeguards for the confidentiality of such returns and reports and that the returns and reports be used for tax purposes only" The motion carried.

Mr. Brown moved on page 3, line 15 add "wilful" violation line 16 change \$1,000 to \$5,000 and line 17 change 6 months to 2 years.

The committee agreed to have a committee substitute prepared which would incorporate the above amendments and pass it out of committee do pass.

HB 370 Fish and Game Prosecutor

The committee reviewed the proposed committee substitute and agreed to include the word "guiding" where appropriate as originally decided. Added language to the effect that the fish and game prosecutor will be responsible for enforcement of the guiding statute would be needed in a new section. The Committee agreed that a new CS be prepared and be reported out do pass.

HB 371 Fish and Game Prosecutor funds

The amount on the fiscal note for HB 370 is \$118,600 while the amount appropriated by HB 371 would be \$75,000. It is the committee's understanding that someone in the Attorney General's office is already providing the fish and game prosecutions and that perhaps this would allow for the discrepancy. The bill was reported out of committee with a do pass recommendation and the committee requested that a note accompany it and the fiscal note to Finance.

91

House Judiciary Committee
April 12, 1975
page 3

HB 276 Real Estate Appraisers

It was suggested that all the specific requirements in the bill be eliminated so as to allow the board to provide for specifics in regulations. The committee agreed to make the commission the Board of Real Estate Appraisers. On page 2, line 27 the committee agreed to add "except those employees who are engaged in appraising for public acquisition." 08.89.060 would be eliminated the the remaining sections renumbered. Page 1, line 15, put a period after "years" and delete the rest of the sentence. The original regs would need legislative approval while subsequent regs would be considered approved unless disapproved by a resolution. Mr. Brown suggested that on page 2, line 26, reference to the United States be deleted. Mr. Specking wanted to include a grandfather clause in the statute so the committee agreed on page 2 line 21 to add an exemption that no test would be required for one year after the effective date of the regulations. The committee also agreed that changes should be made in page 1 to have three members be real estate appraisers and two members lay persons. The bill will be redrafted as a committee substitute and be presented again for committee consideration.

HB 242 Dress code

Mr. Specking stated that the bill was initially prompted because of the ferry regulations, however the State Affairs committee now favors legislative review of regulations having to do with appearance of state employees. Previously these rules were distributed by memo. This bill would require that they be in the form of formal regulations. Mr. Gardiner stated that he had requested a formal opinion of the Attorney General on the ferry dress standards but had received none as yet.

The following amendment was adopted: line 17 "15 and 20" should be "10 and 15"

Mr. Brown moved HB 242 am out of committee do pass. There being no objection, it was so ordered.

SB 230 am Antlerless Moose

Mr. Brown stated that Fish and Game hadn't been able to solve the problem so it was necessary that the legislature step in temporarily to save the moose. Mr. Swanson stated that Fish and Game had been making improper management decisions for 10 years concerning moose and doesn't now seem able to correct the problem. He stated that the bill is not a perfect solution but that Fish and Game needs legislative direction now.

House Judiciary Committee
April 12, 1975
page 4

Mr. Parr suggested that all references to "antlerless" be deleted. Mr. Bradley stated that some moose are needed for subsistence. Mr. Brown deemed the suggestion politically unfeasible. And Mr. Specking stated that the Department has not always been responsive to reduced seasons and bag limit suggestions.

Mr. Gardiner moved that lines 12 to 19 be deleted since this bill was a temporary measure only. The motion failed.

Mr. Brown moved SB 230 am out of committee. It was so ordered.

House Judiciary Committee
April 14, 1975

HB 52 Public Adjustor

Mr. Bradner, sponsor of the bill, testified that the public presently does not complain about insurance problems because they do not know where to go. The bill would create an insurance ombudsman who would function within the Division of Insurance. He would remain independent and would have authority to pursue routine complaints and identify abusive companies. The Division does not favor an independent Adjustor but would like additional monies so that the Division could handle complaints. Mr. Bradner felt that because of the very existence of the Adjustor, many problems would never develop. A pamphlet advertising that the Adjustor will handle complaints is being provided for in another bill.

page 2, line 4, delete the word "ombudsman" and replace with "will assist" Mr. Parr moved the amendment which passed.

Mr. Brown moved on page 1, line 10 that "director" be changed to "governor". There being no objection, it was so ordered.

Ted Smith explained that an appointee of the governor working independently within a Division would have a difficult time. He suggested that the Adjustor be explicitly made a member of the partially exempt service. Mr. Brown moved that an addition to the bill to this effect be added. There being no objection, it was so ordered.

Mr. Brown moved that a CS be drawn up incorporating the above amendments. It was so ordered.

HB 385 Early Judicial appointment

The Judicial Council, which suggested the bill, submitted proposed language to take care of the problem of possible lame duck appointments. Mr. Brown moved that on page 1, line 22 and page 2, line 9 add "no more than sixty days early" be added. The amendment passed and Mr. Brown moved HB 385 am out of committee do pass. There being no objection, it was so ordered.

94

House Judiciary Committee
April 15, 1975

The meeting was called to order at 1:20 p.m. by Chairman Gardiner. All members were present except Mr. Cotton.

SB 290 Rent Control

Bill Miles of the Department of Commerce, testified that approximately 200 persons attended the April 8 hearing in Fairbanks on rent control. He felt that the testimony at the hearing was about evenly divided. Two written statements were submitted which Mr. Miles will forward to the committee. He felt that the majority opinion was that if anything was to be done, now was the time to do it.

Regarding SB 290, the Department of Commerce requests that the committee delay action. The Department hopes to work out a less broad solution to the present situation than presented in the bill. He felt that the bill would slow down planned emergency action because the stipulations of the bill require normal judicial procedures. He felt that the governor would make a decision within two weeks as to whether an emergency situation exists. Mr. Specking suggested that the committee check with the governor on Friday, to allow him time to get the results of the Valdez hearing. Mr. Bradley and Mr. Brown suggested that the committee prepare the bill and get it to Rules, just in case it was determined needed.

Mr. Miles stated that the broad base approach will probably not work. He suggested a case by case approach.

Mr. Parr raised the question of whether the bill required blanket controls or could the controls be selective?

Don Clocksin testified in favor of the bill. He stated that the two objections raised at the Fairbanks hearing were that rent control would discourage new construction and prevent landlords from passing on reasonable increased costs. He stated that the bill was concerned with rent control, not a freeze. He stated that a freeze definitely would not work. He testified that the bill provided, in effect, the regulations with which to work. This is the first step in a series of requirements (regulations, hearings on regs, emergency proclaimed) before the Governor may declare an emergency. He said that the bill basically provides a stronger enforcement mechanism. He felt that the long term answer to the present problem was construction, but that rent control as a short term solution was needed immediately.

Mr. Parr moved on page 2, line 5, after "taxes" add "actual maintenance costs." The amendment passed.

Mr. Bradley moved on page 3, line 18, change \$1,000 to \$2,500. Mr. Specking objected. The amendment passed.

House Judiciary Committee
April 15, 1975
page 2

page 5, sections (1) and (2) were determined to be confusing and the committee requested that new language be drafted.
line 9 - delete "or the amount directed to be refunded"
add "or not less than" "three times the amount the department directed by refunded" line 12 should be part of (d)

page 4, lines 10 - 19 Does the department have a vested interest in the suit. If the department sues, this bars the tenant from suit.

The committee requested that the new language be drawn up and that after further consideration, SB 290 would be attached to HB 321.

House Judiciary Committee
April 16, 1975

The meeting was called to order at 2:10 p.m. by Chairman Gardiner. All members were present except Mr. Eliason and Mr. Specking.

HB 383 Medical Examiner

Commissioner Burton testified that there is a long standing need for a Medical Examiner. He characterized present death investigations as "sloppy" since there are no statutory ground rules and no procedures provided by regulation. Autopsies are not always being ordered, and if they are, they are not always done by doctors qualified to perform them. He stated that there is a need for a state wide plan. He favored putting the bill under Public Safety since pathology in most states comes under the law enforcement agency.

Mr. Parr asked who determined if an autopsy was needed. Mr. Burton replied that it could be a trooper, a nurse, doctor, or anyone else who requested the court to order one. But the decision is now up to the court and in some cases when troopers have requested that an autopsy be performed, the court has not complied.

Mr. Hanley of the AG's office pointed out on page 3 that the requirements for an autopsy and those for a death certificate are not the same. The only coroner function that would be assumed by the Medical Examiner is that of investigating deaths.

The Department of Public Safety fiscal officer stated that the fiscal note was made assuming five positions. The committee objected and requested the Commissioner to return with a bare bones fiscal projection.

The committee agreed to delete on page 3, line 27 since it wasn't necessary but was only a further clarification. The committee requested that a proposed CS be drawn up changing the function from Health and Social Services to Public Safety. This CS would be considered further and would then be signed out of committee with the recommendation that it be referred to Finance. The committee will wait to hear back from Commissioner Burton.

SB 261 Rape

The CS for HB 187, already prepared, was offered as a CS SB 261 and signed out do pass.

House Judiciary Committee
April 17, 1975

The meeting was called to order at 7:10 p.m. by Chairman Gardiner.
All members were present except Mr. Specking.

SB 290 Rent Control

The committee met in work session and adopted the following amendments:

page 3, line 6 after "costs" insert ,

page 4, lines 21 and 22 delete "who receives rent from a tenant"
lines 23, 24, 25, 26, 27, 28: Delete all beginning
with "that prescribes . . . to . . . account of the overcharge"
and insert: an aggrieved tenant within one year from the date of
the occurrence of the violation, ~~may~~ bring an action against the
landlord for his damages, as provided in this section."

page 5, lines 2 and 3 delete "The amount of the overcharge" and
insert "the damages"

page 5, line 6 delete "who receives rent from a tenant"
page 5, line 7 after "department" insert , and delete "prescribing
maximum rent with respect to the residential housing
accommodations for which rent is received from the tenant,"
page 5, line 9 insert "aggrieved" before "tenant"
page 5, line 10 change 30 days to 90 days
page 5, line 15 insert , unless the action brought by the
department has been dismissed without prejudice."

page 5, line 16 change "and" to "or"
page 5, line 17 delete "the" before "recovery and delete "either by the
tenant or the department under this section of damages"
page 5, line 18 insert after "action "under this section"
page 5, line 19 delete "overcharge," before "the bringing of the
action in which the judgment was rendered" and insert "violation."

page 5, line 15 insert "when judgment is rendered in favor of
the department, there shall be paid to the tenant from the sum
recovered one-third of the recovery, exclusive of costs
and other disbursements." Delete this language from lines 20 - 24.

page 5, line 24 delete "who receives rent from a tenant"
line 25 delete "containing a directive" and insert "directing"

page 6, line 5 delete "or the amount directed to be refunded"
page 6, line 7 insert "When judgement is rendered in favor of the
department in the action, there shall be paid to the tenant from
the sum recovered one-third of the recovery, exclusive of the
costs and other disbursements." and delete this language from
lines 19-23.

page 6, line 7 delete "paying the rent also may" and insert "may also"
line 8 after "section" insert "and recover the same damages"

House Judiciary Committee
April 17, 1975
page 2

after "violation" in line 12, page 6 insert "unless the action brought by the Department has been dismissed without prejudice."

page 6, line 13 delete "either by the department or the tenant, as the case may be,"
delete lines 14 and 15 "under this section for damages"
delete line 16 and 17 "before the bringing of the action in which the judgment was rendered."

page 6, line 16 - 19 Delete the language "When an action is brought by the tenant, the damages which shall be awarded to the tenant shall be the same as if the action were brought by the department."

Insert page 6, line 12 "When an action is brought by the tenant, the landlord is liable as in subsection (d)."

page 6, line 23 insert "The department, upon application by the landlord, shall issue a certificate of eviction if it finds that the reasons given by the landlord are reasonable and consistent with the purpose of this chapter." Delete "when" and insert "After"

page 6, line 25 - 29 delete "and a tenant voluntarily . . . under law"

page 7, lines 1 and 2 delete to "occupied by it, or" and insert "evicts the tenant, and"

page 7, line 2 delete "it" and insert "the residential housing accommodation"

page 7, line 7 insert after "property" "and any increased rent"

page 7, lines 10 and 11: delete "with intent to cause the tenant to vacate" and insert "intentionally"

77

House Judiciary Committee
April 18, 1975

The meeting was called to order by Chairman Gardiner at 1:25 p.m. All members were present except Mr. Eliason and Mr. Bradley

HB 140 Official maps

Kevin Waring of the Department of Community and Regional Affairs testified that section (c) of the bill was to prevent construction by private individuals in planned rights of way. In section (b) the 18 month period was chosen because of most municipality's budget cycles.

Mr. Specking objected to the 18 month period because during such time the property owner was prevented from doing anything with his property on the premise that the municipality may do something with it at the end of 18 months.

Mr. Brown objected to section (c) because he said that the taking of property without compensation is unconstitutional. Mr. Waring stated that other states have similar provisions which prohibit building during the 18 month period without a permit. If such building takes place, the municipality is not obligated to reimburse the property owner for the building. Mr. Barrier of Legislative Affairs stated that similar statutes have been held to be constitutional in other states.

Rep Ostrosky, sponsor of the bill, testified that it had been introduced at the request of the City of Anchorage Planning and Zoning Department.

Mr. Specking moved in section (c) to put a period after "purposes" and delete the rest of the section. The amendment passed.

Mr. Waring stated that there is enabling legislation already in Title 29 concerning official maps. This bill provides uniform guidelines for municipalities to follow in publishing official maps.

The committee discussed the possibility of issuing notice to those whose property is designated for a public purpose on an official map. They also discussed the possibility of notification by registered mail or other advanced notice that the map would be going into effect soon and that a person's property would be affected. They also considered publishing the map in the local newspaper.

House Judiciary Committee
April 18, 1975

page 2

Mr. Brown moved the addition of new language to form sections (f) and (g) to state that the official map shall be published 90 days before becoming effective and that owners would be notified by registered mail. No municipality may exercise powers in this bill unless they require by ordinance, building permits. The amendment passed.

Mr. Parr moved that the 18 months be changed to 12 in sections (b) and (e). The amendment passed.

Mr. Brown moved that the five year period be changed to seven years, but that reference to a second five year period be deleted. The amendment passed.

Mr. Brown moved CS HB 140 out of committee.

SB 290 Rent Control

Mr. Turnbull went through the bill with the committee, explaining how their previous amendments had been incorporated. He deleted the definition of overcharge since the term had been changed to damages in the bill. Mr. Brown mentioned the need for a one line committee report defining adjustments.

The committee signed CS SB 290 out.

House Judiciary Committee
April 22, 1975

The meeting was called to order at 1:20 p.m. by Chairman Gardiner. All members were present.

HB 276 Real Estate Appraisers

Ken Gain, the President of the American Institute of Real Estate Appraisers stated that the Institute was pleased with the Commerce Committee substitute for the bill and that the proposed Judiciary CS would be acceptable if the qualifications and grandfather exemptions were put back into the bill. The Institute favors strong qualifications while the Society of Real Estate Appraisers favors looser ones. Both groups had agreed on the qualifications in the original bill and would therefore like these qualifications set down in statute. The Institute has no strong feelings on the Highways exemption. They deleted the section on legislative approval of the initial regulations because they felt that this would not be needed if the qualifications are spelled out in the statute.

Sharon Andrew, Director of the Division of Occupational Licensing in the Department of Commerce, stated that boards have been under fire because they have too much power as a result of too loose statutes. She favored including in statute qualifications and examination procedures. This, she felt, would make board decisions less open to challenge. She was not in favor of the Highways exemption and did favor lay members on the board -- suggesting an attorney.

Paul Dirkson, President of the Society of Real Estate Appraisers stated that he too favored inclusion of qualifications in the statute. He suggested including a specified number of miles from which a person must be from a licensed appraiser before not requiring a licensed appraisal. He favored a board of five appraisers, one lay member, and one representative from Consumer Protection.

Mr. Gain explained that "acceptable experience" usually means that an appraiser spends 30% of his time on narrative appraisals or 50% of his time on form appraisals. He stated that most assessors do not do true appraisals but use cost manuals. Some would, however, qualify. Mr. Specking suggested that this be spelled out in the statute.

The committee discussed the possibilities of having a non-resident appraiser get the co-signature of a resident, that the non-resident be required to maintain an Alaska address, or some reciprocal agreement. Mr. Gain favored the co-signer approach.

The committee agreed to hold the bill for further study.

102
House Judiciary Committee
April 22, 1975
page 2

HB 396 Non prescription druga

Don Magnuson testified that this bill would allow the present practice to continue. There are presently proposed regulations by the Board of Pharmacy which propose taking a number of non prescription drugs off the shelves of stores which are not pharmacies.

Mr. Specking stated that too many things are now available in too many places. Mr. Magnuson replied that these items have been determined "safe."

Mr. Van Dort testified that the concentration of "dangerous" substances in certain drugs was not considered by the Board of Pharmacy regulations.

Mrs. Andrews stated that the proposed regulations are now in the Attorney General's office. The Division of Occupational Licensing favors the regulations because they give the Board a more defined task -- not because all the drugs on the list are necessarily harmful.

The committee brought up the problem in the regs where listings of drugs were preceded by "such as". The Committee requested a complete listing of all drugs possibly affected.

House Judiciary Committee
April 22, 1975

The meeting was called to order at 7:13 p.m. by Chairman Gardiner. All members were present.

HB 314 Outdoor Advertising

Walt Parker, Commissioner of the Department of Highways, testified that the present statute bans signs within 660 feet -- the bill would ban signs visible within 660 feet. The bill is needed to conform to federal statutes. Without it Alaska will lose 10% of federal highway monies - \$10-12 million.

page 1, line 19: delete "secondary"

page 2, line 14: insert "primary" delete "secondary"

This amendment was to permit advertising on secondary roads which are not funded by federal money.

Mr. Williams of the Department of Highways stated that non-complying signs would be allowed to stand until July 1, 1976. After that date there would be condemnation and compensation paid to the sign owner.

Mr. Bradley moved to adopt the Commerce amendments and move the bill out. Mr. Specking objected.

Mr. Parr moved to amend the motion to delete "or secondary" from the existing laws. Mr. Gardiner objected. The amendment carried.

The bill was moved out as CS with individual recommendations.

SB 96 Salmon eggs

Commissioner Brooks stated that last year this bill died in committee. During the summer regulations were adopted permitting the sale of eggs. The Attorney General recommends that this sale be allowed in the statute. Roe are worth from \$1 to \$1.50 a pound. This is wasted if the eggs are not sold. This was why emergency regulations were adopted affecting a limited area. Roe used to be used for dog food, but now there are fewer dogs in the area. 2.4 million subsistence fish were taken last year. This was due to a large chum run.

Jimmy Huntington stated that illegal traffic in roe was minimal in the AYK area, heavier in the Nenana area. Statistics showed illegal sales accounted for 10-15% of the total in areas where Japanese had processing. He favored trying the bill.

House Judiciary Committee
April 22, 1975
page 2

page 2, line 10 add: "When the commissioner finds that the subsistence catch in the area exceeds, or is expected to exceed by 10% the subsistence catch of the 1974 season, he shall close that area to subsistence salmon roe sale by emergency order."

page 1, line 16 add "a" new section
page 2, line 22 AS 16.05 is amended by adding a new section to read
page 3, line 11 strike 3, insert 4
sections 16 1 and 2 of this Act expire
January 1, 1977

The above amendments were adopted and SB 96 passed out of committee as a CS.

SB 59 Juveniles

Diane Nelson testified that some juvenile offenders cannot be rehabilitated. Citizens should know the names of multiple offenders. The superior court approves the CS and it was drafted by Associate Justice Boochever. The CS recommends publication of only certain names at the discretion of the court, even after second conviction.

House Judiciary Committee
April 23, 1975

The meeting was called to order at 1:25 by Chairman Gardiner.
All members were present.

SB 266 Motor Vehicles

Charlie Smith of the Department of Public Safety testified that at present various agencies serve intra related motor vehicle functions. SB 266 would consolidate these functions under the Department of Public Safety and is expected to produce a fiscal savings of \$30,000 in FY 77. Initially the transfer will cost \$10,000 to reclassify employees and relocate some facilities. Employees of other departments will become employees of Public Safety.

Mr. Specking moved SB 266 out of committee do pass. There being no objection, it was so ordered.

HB 276 Real Estate Appraisers

The committee discussed the need to protect the public vs. the profession's need to protect themselves. Since there had been no public input regarding a problem, Mr. Specking moved to hold the bill until next year. Mr. Brown objected. On vote, the committee decided to hold the bill but to prepare all the latest suggestions into another proposed CS to be ready to consider at that time.

HB 418 Conflict of Interest

Mr. Walker stated that the language "general election" is defined in statute to mean only the November election. This bill would include "regular" elections (annual municipal elections) or special elections.

Mr. Eliason moved in line 14 to delete "called for that purpose" since it was possible that a special election would be called for another purpose but the subject of conflict of interest could be considered. The amendment passed.

Mr. Walker brought up a problem with HB 390 which is now on the Governor's desk. "Members of municipal bodies" was the language used to provide a further exemption. These people (this language) was not in the original bill so Mr. Walker felt that by exempting them the bill impliedly included them in the rest of the bill. There is no definition for who a member of a municipal body is. The committee requested that Mr. Walker draw up a CS for HB 148 which would include Mr. Eliason's amendment and would correct the problem in HB 390. The committee would consider the CS when prepared.

House Judiciary Committee
April 23, 1975
page 2

SB 59 Juvenile names

Pat Wellington stated that the Department of Public Safety can support the bill but would like it to go further. He stated that the courts and probation felt that the bill would hinder treatment.

Mr. Brown moved CS SB 59 out of committee. There being no objection, it was so ordered.

HB 356 Pari mutuel betting

Mr. Specking stated that he wanted the penalty section tightened.

The committee discussed the possibility of whether "Alaska bred" definition on page 5 was too restrictive. The suggestion was made to leave out "conceived in Alaska." Mr. Parr stated that he was not opposed to legalizing betting but did not think that the bill's main purpose was to promote horse breeding. Mr. Cotton said that he favored the bill because it would promote agriculture.

Mr. Gardiner moved on page 4, line 24: to delete (8) and renumber (9) to (8) and in (6) to change 1% to 2%.
The amendment passed.

page 3, line 5: (7) the committee considered whether or not they wanted a commission with police powers. If the commission is weak, who will police the industry? Mr. Specking requested an AG and Public Safety opinion on how strong they felt the commission should be. Other considerations: stronger penalties, intent section (expect commission to promote?), composition of board. These would be researched and the bill would be considered again.

107

House Judiciary Committee
April 24, 1975

HB 384 Evaluation of Judges

This bill was being held one legislative day for further consideration on the floor. Mr. Brown prepared amendments and submitted them to the committee in the form of a CS. It was agreed that the amendments would be submitted on the floor as by the Judiciary Committee.

SB 290 Rent Control

The committee reviewed the prepared CS and approved it.

HB 416 Abuse of Power

Pat Wellington of Public Safety testified that the Department was in favor of the concept but that the bill was open to possible abuse in that the officers and police departments might be subject to harassment. He suggested adding the language that if a false report is knowingly made, there is a penalty. The committee mentioned that CS SB 167, also in Judiciary, would cover this problem. Mr. Wellington agreed and said that CS SB 167 was approved by the Department.

Mr. Brown moved on line 20: after duties add: other than giving sworn testimony or evidence in a legal proceeding. The amendment passed.

Mr. Hanley of the Attorney General's Office testified that they supported HB 416.

HB 417 Intelligence Information

Mr. Wellington stated that it has been a historical function of the police to gather intelligence information. It is disseminated on a need to know basis. He knows of no abuse of this in Alaska. He felt that the bill would give the commission an almost impossible task in drawing up the regs. He agreed that there was a need to protect the public and that perhaps the Department should be required to provide further justification before gathering information on a person. He felt that in general the bill would hinder the police. There is a legitimate need to keep files on some people to protect the public in general.

Mr. Hanley stated that the Attorney General supports the bill. He felt it would provide guidelines within which the Department could collect information. He stated that the commission is very representative and that they have already adopted the AJIS regulations.

House Judiciary Committee
April 24, 1975
page 2

SB 99 Public records

The committee felt that (b) should be in title 11.
line 12: change hinder to withhold or deny or obstructs
of to a phrase using several other words.
line 11: change to the person responsible for the custody
of the records -- also in line 17

HB 246 Liquor license

Don Clocksin stated that the first section concerns notice.
Section 2 provides that if one person objects to any license
filed, the ABC Board has the option of accepting his protest.
If 35% of the adults object, an election is required in
which they can vote to go dry. This must cover all establish-
ments in the area and not be selective. Outside a village,
if a majority of the people object at a public hearing,
the Board may refuse to grant the license. Section 4 makes
a violation of the law a misdemeanor so that Troopers could
be called in to enforce.

Mr. Bradley moved the C & RA CS out of committee do pass.
There being no objection, it was so ordered.

SB 180 Salmon Hatcheries

Phil Daniels stated that the bill will require Fish and Game
to cooperate with private hatchery groups. This was the
legislative intent in allowing private hatchery groups in
the past but this apparently was not clear to the Department
because some problems developed.

Mr. Brown moved SB 180 out of committee do pass.

The committee agreed that the four bills discussed earlier
should go to legislative affairs to make sure that they
were in the correct titles.

House Judiciary Committee
April 28, 1975

The meeting was called to order at 1:25 p.m. by Chairman Gardiner. All members were present except Mr. Eliason.

SB 99 Public Records

The committee reviewed the proposed CS by the Judiciary Committee which put section 2 in title 11 and incorporated material relating to the Ombudsman. Mr. Brown moved the Judiciary CS CS SB 99 do pass. There being no objection, it was so ordered.

SB 167 False reports

Mr. Brown moved SB 167 out do pass since it had been determined that it was in the correct title.

HB 418 Conflict of Interest

The committee reviewed the proposed CS by the Judiciary Committee which cleans up the problem of "members of municipal bodies" and "special" elections.

Mr. Parr raised the question on page 1, line 26 as to whether "legislative" only applied to state level or whether it could be interpreted to include municipal level. Mr. Walker stated that it could be open to interpretation. The committee requested Mr. Walker to draw up additional language to the effect that legislative related to matters before the state government.

HB 416 Abuse of power

Since the bill was determined to be in the correct title, Mr. Brown moved HB 416 out of committee as amended. There being no objection, it was so ordered.

HB 417 Intelligence Information

Mr. Brown moved HB 417 out of committee. There being no objection, it was so ordered.

CS SCR 5 Criminal Code

Mr. Brown moved this bill out of committee as it was the same as a bill already acted on by the committee. Mr. Gardiner mentioned the possibility of getting a LEAA grant for the study to be matched by state funds.

House Judiciary Committee
April 28, 1975

page 2

HB 356 Pari-mutuel betting

In response to a request from Mr. Specking for stiffer penalties, Mr. Walker stated that the penalty should fit the crime and relate to those penalties for other crimes. Mr. Specking responded by stating that Mr. Solerno had suggested a strong approach to any illegal activities outside the area of those to be legalized. Mr. Gardiner suggested that the Commission should be strong rather than setting penalties at the felony level.

Rob Johnson of the Attorney General's Office stated that the language in the proposed CS was overly broad. Mr. Specking stated that he felt that this was a protection against organized crime and since it was current law in the State of Virginia, there probably was a good reason for the broad scope. Mr. Johnson stated that page 3, lines 1 and 2 were inconsistent with page 7, lines 12 and 13.

The committee discussed the possibility of legal off track betting. It would require a communications network and might keep people from attending the fair.

Mr. Brown suggested that standards for the committee be defined in statute.

Mr. Bradley requested that the AG study the bill and comment and that he would like the opinion of the Department of Public Safety on the bill.

The committee discussed the possibility of adding to the proposed purpose clause (encourage agriculture) language to the effect that it legalized gambling. They also considered a statement of intent that the operation would be self supporting. They questioned the formula of allocation, and requested a fiscal note. They also requested that the Department of Revenue consider the possibility of taxation. Mr. Brown suggested that Mr. Walker consider stronger penalties for second and subsequent violations.

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House Judiciary Committee
April 29, 1975

The meeting was called to order at 1:20 p.m. by Chairman Gardiner. All members were present.

HCR 28 Fishing rights in Bristol Bay

Mr. Bradley moved the bill out of committee, do pass. Mr. Parr objected and withdrew his objection. There being no further objection, the bill was passed out.

HCR 53 Retention election

Mr. Gardiner explained that the present process is not working. Some people vote for judges who do not serve them, and most people don't know enough about the judges to make an informed decision. The bill proposes interim committee study of the system and consideration of other possible systems.

Mr. Brown moved on page 2, line 15: after recommendations add: , including but not limited to possible constitutional amendments, The amendment carried.

Mr. Brown moved HCR 53 am out do pass. There being no objection, it was so ordered.

HB 383 Medical Examiner

Commissioner Burton testified that the new fiscal note indicates a cut in the number of positions and equipment -- they will try to get an additional grant. He stated that the proposed laboratory would serve other functions also. The original criminal lab included in their budget proposal was cut by the governor.

Mr. Parr remarked that there seemed to be a gap in the bill between what the language said and what the Commissioner said they planned to do to impliment it.

Susan Burke of the Court System stated that there had been a provision that a violation of the bill would constitute a misdemeanor but Jim Hanley in the AG's office deleted the language.

The committee considered the following possibilities:
add an emergency provision stating that a body could be moved to allow reasonable protection. (possible H & SS regulation on the subject)
omit the suggested amendment on page 3, line 27
add a penalty provision
add that the report need not necessarily be done in person, but based on reports of investigative officer
board, not medical examiner, should establish qualifications of assistants.

These proposals would be drawn up and Mr. Fred McGinnis would review them for conflicts with the H & SS regs.

House Judiciary Committee
April 29, 1975
page 2

HB 380 Vital Statistics

Mr. McGinnis stated that, because of fiscal considerations, the Department of Health and Social Services could not endorse the bill. He mentioned the vague language "where feasible" and said that the bill would cause controversy between the Department and the courts. He said that the present system is more practical since there are already magistrates in places where there is no Departmental office. He raised an objection that the court would still have veto power over the state registrars. He stated that, for the bill to work, the Department would need a full time registrar to travel the state establishing offices, training 37 new people, equipping offices, etc. In FY 76 this would cost \$600,000. He stated that the function seems inappropriate for the courts but that there is no money available to affect the change and Health and Social Services is not necessarily the Department to which the function should be transferred.

Susan Burke testified that the court planned to keep the magistrates' function in the bush areas where the Department had no offices. She stated that the court is attempting to phase out its non judicial functions, and that this bill would create a framework for a gradual transfer. She anticipated no change in FY 76 and cited HB 300 which transfers the function of absentee ballot disbursement from the courts -- but the courts will continue this function in the rural areas. She stated that presently in Title 18 Health and Social Services is given responsibility of collecting vital statistics, and in Title 22 the district magistrate is also given this function. "Where feasible" is the existing language. She brought up a possible separation of powers problem on page 1, line 19..

It was decided that amendments would be drafted to the effect that rural magistrates will continue to perform vital statistics functions in areas of the state where there are no departmental personnel.

Ms. Burke stated that the bill would have no fiscal impact in FY 76.

House Judiciary Committee
April 30, 1975

The meeting was called to order at 1:25 by Chairman Gardiner.
All members were present.

CS HB 350 Municipal Tax

Mr. Cotton moved that the Community and Regional Affairs
CS for HB 350 be moved out of committee do pass. There being
no objection, it was so ordered.

HB 396 non prescription drugs

Ron Sedgwick, member of the Alaska Pharmaceutical Association
and the Board of Pharmacy, stated that the bill was unnecessary.
The Board should be allowed to formulate regulations on the
subject under the present statute. He stated that the proposed
regulations would not prohibit products from being sold if
they contained a small concentration of the prohibited substance.
He stated that the Board now has no regulations, and that those
proposed would give them something to work with. He stated
that the Board can make special exceptions for rural shopkeepers
and that the listing of certain drugs does not necessarily
exclude all others.

Jan Van Dort, representing the Proprietary Association,
stated that it was merely a question of economics and that
the regulations would create the power for the pharmacists
to regulate their own competition. He stated that the federal
law is enough of a restriction. The proposed regulations do
not specify concentrations which would be allowable, and the
language "such as" might impliedly exclude all others.
He stated that passing the bill without Section I would be
useless.

The committee determined to check the Health and Social Services
regulations on the subject.

HB 118 Transporters

Mr. Specking stated that this bill would put a control on the
last unregulated type of hunting. It would require a license
of those persons who transport hunters and meat, and a report
on the amount of game and who was carried. He stated that
the penalty was equal to those contained in the guide regulations.

Problems: page 1, line 11: Guidelines (typo)
page 2, line 1 add: unless he is also licensed for that
activity under this chapter -- Passed
page 1, line 24 delete (5) Passed
draft language to require an air taxi service to file a report
when they were acting as a transporter as defined (scheduled?)
page 2, line 26 after guide add or a transporter -- Passed
page 2, line 27 under this chapter -- Passed

House Judiciary Committee
April 30, 1975
page 2

The committee determined to hold this bill for work later in the week.

HCR 57 Do it yourself divorces

Mr. Clocksin proposed that laymen in lines 15, 19, and 21 be changed to laypersons. There being no objection, the amendment carried.

Delete regarding on line 21 and replace with on how to complete a.

House Judiciary Committee
May 1, 1975

The meeting was called to order at 1:25 p.m. by Chairman Gardiner. All committee members were in attendance for this public hearing.

SS SB 350 Marijuana

Senator Terry Miller, sponsor of the bill, called the committee's attention to his letter of intent contained in the Senate Journal. He stated that it was his intention to keep the Alaska bill as close as possible to the Oregon statute. He stated that similar bills have been introduced in twenty other states and have a chance of passage. The concept has been adopted by many localities on an area wide basis only.

Mr. Pat Horton, District Attorney of Lane County, Oregon (Eugene) stated that he favored the concept of decriminalization when small amounts were involved. In October, 1973, Oregon made possession of one ounce a civil penalty. It is still illegal to possess marijuana in any amount. The maximum penalty is \$100. Mr. Horton stated that he does not feel that marijuana is harmless, but believes that it is not very harmful. He stated that the penalty should fit the crime, but it is not the policy of the State of Oregon to encourage marijuana use. Twenty-three professions are regulated by criminal conviction. He stated that the Oregon law is simply an adjustment of penalty.

Mr. Horton stated that the Oregon law has resulted in a prioritization of police work so that now they seek the pusher. He believes that the theory that you get to the pusher thru the casual user is a myth. He replied to the questions in Commissioner Burton's letter as follows: officers are able to request personal information; officers have the option of issuing a citation (if they believe that the person will appear in court) or taking a person to jail; officers are able to obtain search warrants if there is probable cause; officers are able to physically incarcerate persons; officers are able to arrest offenders if they do not show up in court. He stated that Oregon jails are no longer full of casual users, the courts are able to deal with serious crimes, politically there is no problem, and he believes that all are receiving fair treatment. Since there is no guarantee of a jury trial in a civil case, there is no 5th amendment claim. They do not use informants to make prosecutorial buys and they do not waste the state's time or money on seeking out casual users. He stated that the drug pushers are the chief opponent of laws to legalize or decriminalize marijuana.

House Judiciary Committee
May 1, 1975
page 2

Dr. Hardin Jones of UC Berkeley, stated that the major effect of this legislation would be to increase use. He referred to a "destructive epidemic" of marijuana use in this country. In his research with users and control groups he has found that long time users have affected brain function, after heavy use there is withdrawal, the effects on the brain are very complex, there are residual effects which accumulate in the brain, there is gene damage passed on to offspring, there is evidence of shrunken brains. He stated that the point of no return is reached after three years use. He stated that marijuana is infinitely more harmful than alcohol. He feels that the increase in users is up 13% in Oregon. Use is up 25% in Viet Nam. He feels that he has to tell the people the truth: " We are in the throes of a terrible epidemic." The results can be chronic personality change (amotivated), infertility (chemical castrates), and interdependent relationship between marijuana and hard drugs. He feels that the penalty for use should stay the same but that education programs should be encouraged. He stated that a threat is needed in order to educate.

Dr. Tom Ungerleider, a psychiatrist and the Director of the UCLA Drug Treatment Center, and a member of the National Commission on Marijuana and Drug Abuse stated that criminal justice is not the answer. He feels that education is also sometimes counter-productive. He suggested that the places where a person is influenced are family, and church. He stated that there is no proof that Marijuana is a threat to health and welfare of the public in general. He accused Dr. Jones of pharmicological McCarthyism. He cited cases of selective enforcement based on politics and economical considerations. He stated that marijuana does not produce physical dependence, psychological harm, or brain damage, although some persons become psychologically dependent. He stated that there is no proof of fatalities, genetic defects, psychosis -- and that marijuana is therefore not a threat to public health. He feels that the only natural progression from marijuana is to alcohol and tobacco. He stated that federal legislation to decriminalize marijuana has been introduced and that the National Commission recommended decriminalization. He favored different penalties for manufacture, sale, and use.

House Judiciary Committee
May 1, 1975
page 3

Robert Wagstaff, and Anchorage attorney, stated that over the last 4,000 years over 300 million people had smoked marijuana. He is presenting a brief to the Alaska Supreme court refuting Jones' article. He stated that arrest is the key deprivation of liberty and invasion of privacy. He was concerned, however, about making possession a civil penalty since he believed that this would include a loss of some of the rights afforded to criminal offenders: jury trial, attorney, confrontation, double jeopardy, standard of proof is probable not beyond a reasonable doubt, exclusionary rule, self incrimination. He felt that these protections should continue and proposed an amendment stating "This paragraph shall not operate to deprive a person of any right, privilege or protection enjoyed by a person in a criminal prosecution." He discussed the possibility that all cases could possibly be criminal (depending on amount) so this might guarantee constitutional rights. He stated that his amendment would not change a rule of court (requiring 2/3 vote in both houses) but was merely defining a "civil penalty."

Commissioner Burton stated that enforcement of the proposed bill would be unclear and would therefore simply not happen. He had no objection to lowering fines, eliminating jail sentences, getting rid of a criminal record, but insisted that it must remain a criminal offense. He stated that a parking ticket is a misdemeanor as is a minor consuming. They keep records on these offenses. He saw some inconsistency. He stated that the proposed Alaska law is different from the Oregon law and that if passed, would be enforced "after the litter laws." He stated that if it was enforced, constitutional safeguards would be provided just in case it might be a criminal offense in that instance. He stated that the officers would need a new procedure for enforcing the law.

House Judiciary Committee
May 2, 1975

The meeting was called to order by Chairman Gardiner at 1:30 p.m.
Mr. Parr, Eliason, and Brown were absent.

HJR 10 Inherent Rights

Clark Gruening, sponsor of the bill, testified that he favored the House State Affairs CS since the intent of the bill was not changed. He stated that 14 other states have added similar language to their constitutions. The language "consistent with the public interest" allows for economic development as does the language "to the maximum degree possible." The committee asked if "maximum degree possible" could be used as a judicial standard. Mr. Gruening replied that it was less than "humanly possible."

Mr. Cotton moved the State Affairs CS for HJR 10 out of committee. There being no objection, it was so ordered.

HB 356 Pari mutuel betting

The following changes were explained in the proposed Judiciary CS:

Commissioners shall only be residents and registered voters.
Commission shall be made up of representatives of the fair, breeders, and the public

page 3, line 9 and 10: delete (10) and renumber)

page 3, line 19 and 20: delete all

page 3, line 25: change state treasurer to Commissioner of Revenue

page 5, line 1: change to sec. 140 add (a)

page 5, line 5: add: the breach of which does not affect or could not reasonably be expected to affect the outcome of the race.

page 5, line 12: add (b) non compliance with any regulation which does affect the outcome of the contest is a felony and punishable by a fine of not more than \$5,000 or by imprisonment for not more than five years, or both.

page 5, line 14 change to sec. 150

page 5, line 17: delete "after being conceived in Alaska"

page 6, line 5: change to Sec 160

add section including commission under conflict of interest.

Mr. Bradley moved Judiciary CS for HB 356 out of committee.

House Judiciary Committee
May 3, 1975

The meeting was called to order at 10:45 a.m. by Chairman Gardiner.
All members were present.

HB 62

Rick Union, sponsor of the bill, testified in its favor. The committee agreed to adopt the resources proposed amendment and voted Judiciary CS HB 62 out of committee, do pass.

HB 118 Transporters

The previously proposed amendments were adopted.

The proposed new Sec. 9 was adopted as follows:

Sec. 9. AS 02.05.170 is amended by adding a new paragraph to read:

(f) The commission shall require air taxi operators who act as transporters under AS 08 54 240 and who transport persons between airports, landing strips or other landing areas officially listed in the United States government Flight Information Publication, Alaska Supplement, as revised, or the United States government Sectional Aeronautical Charts, as revised, to comply with the provisions of AS 08.54.146 relating to the filing of game transporter reports with the Department of Fish and Game. Air taxi operators maintaining regularly scheduled service between designated points are exempt from the reporting requirement of this subsection when operating such regularly scheduled service.

Air taxi operators who "transport" need two licenses.

The bill was seen as a policy tool and an aid to enforcement.

page 2, line 11: omit "and"

page 2, line 12: transported; (4) the date of transporting; and
(5) if known to the transporter, the locality
where the game was taken.

This amendment passed.

page 2, line 13: omit "annually" and add "within 30 days after
transporting"

The amendment passed

page 1, line 18: delete (1) and renumber. This amendment passed.

Mr. Brown moved that Judiciary CS HB 118 be moved out of committee do pass. There being no objection, it was so ordered.

HB 396 Non prescription drugs

The committee decided to hold this bill until next year.

HB 383 Medical Examiner

Mike Bierne stated that the court could order an autopsy in questionable cases. He stated that it would be nice to have a centralized office of Medical Examiner but questioned whether the state could provide the same laboratory services at the same cost as they now spend in purchasing the services. He estimated the need for a \$1/2 million lab per year)

House Judiciary Committee
May 3, 1975
page 2

Mr. Specking suggested that the Attorney General's Office be requested to come up with a more suitable to Alaska bill by next year.

Mr. Brown moved to hold the bill until next year.

House Judiciary Committee
May 5, 1975

HB 402 Disabilities of a Minor

Connie Hansen of Family and Children Services stated that the Department favors the bill as is.

Susan Gordon and Melissa Middleton of Alaska Youth Advocates proposed three amendments: page 2, line 11: insert "only" between "to" and "by", page 2, line 5 change "this requirement of consent" to "the requirement of this subsection" page 2, line 12, add "Except for the specific statutory and constitutional requirements of voting and drinking."

They explained that emancipation is now left up to the judge under common law. This bill would regulate an existing practice and would provide a definition of emancipation.

Don Clocksin of Alaska Legal Services stated that in (d) a guardian for a specific purpose should not be able to consent to emancipation without the consent of the parents. The requirement that the person must be self supporting raises the question of how a person could become trapped -- couldn't get welfare because he was a minor, and couldn't be emancipated because he is not self supporting. Mr. Clocksin objected to the requirement that the person be presently self supporting, and suggested that it would be sufficient if he was capable of self support and able to manage his own financial affairs. Mr. Specking stated that this would remove the whole thrust of responsibility. Mr. Clocksin favored deletion of (e) mandatory guardian ad litem and suggested that a permissive guardian ad litem or an attorney be appointed by the court.

Since there were several suggested amendments, the committee requested that a CS be drawn up for their further consideration.

HB 432 Child Protection

Susan Sullivan, sponsor of the bill, stated that it was required to get state statutes in compliance with federal law in order to be eligible for funding. There is a companion bill making a \$100,000 appropriation to provide child counseling, etc. (lines 20 - 23).

The committee questioned the mandatory requirement in line 27, page 1. Mrs. Hansen stated that she would like to prepare a position paper. Mr. Brown stated that he would like to change the penalty provision. The committee determined to hold the bill one day for further work.

House Judiciary Committee
May 6, 1975

The meeting was called to order at 1:30 p.m. by Chairman Gardiner. All members were present except Mr. Brown.

HB 422 Public Assistance Programs

Rod Betit, director of the Food Stamp Program stated that this is primarily a clean up bill. In the present law the crime is defined but no penalty is provided. This bill provides a penalty which fits the crime. Under present law they can only prosecute fraud felonies. This bill was submitted at the request of the department.

Mr. Parr moved on page 2, lines 1 and 28: add "wilfully" fails. The amendment passed on vote.

Harry Trager, a fraud investigator in the Department of Health and Social Services stated that the bill will assist him. The present law refers to a "reasonable" time while the bill provides for 10 days. This will eliminate the need to determine what is reasonable.

Mr. Bradley moved on page 2, line 17: add ; or
The amendment passed.

Mr. Bradley moved CS HB 422 out of committee. There being no objection, it was so ordered.

SB 60 Arbitrary Discrimination

Mr. Bowman presented proposed amendment to give communities local option. These were adopted by the committee. He stated that he had no objection to the proposed amendment by Mike Thomas but felt that it should be checked out with Legislative Affairs.

SB 132 Nursing home administrators

Larry Sullivan, Director of Medical Assistance in the Department of Health and Social Services stated that the bill was needed to comply with federal requirements in order to obtain federal medicaid funds. He stated that licensing was now being done under H & SS emergency regulations. He suggested that on line 14, page 1 of the HCS to reduce the number of professionals by one and add another member of the general public. On page 3, line 10 he suggested deleting "19" and adding "21" since this is the age requirement for federal contracts. On page 3, lines 17 - 19 there is a grandfather clause. He felt that page 1, lines 19 - 21 were not necessary. He explained that the religious exemption is for Christial Scientists.

Sharon Andrew of the Department of Commerce stated that she favored elimination of the board and placing licensing under H & SS or Commerce.

House Judiciary Committee
May 7, 1975

The meeting was called to order at 1:30 by Chairman Gardiner.
Mr. Eliason was absent.

SB 215 Navigable Waters.

Mr. Orsini, sponsor of the bill, stated that there is an implied Constitutional guarantee but now no statute, no regulations and therefore, no legislative review. He feels that legislative review is necessary to provide more control over administrative actions. At present there are no definitions.

Rod Pegees of the Attorney General's Office stated that this bill was not in conflict with the federal statutes because they would take precedence. The definition provided did not expand the constitutional definition. He suggested on line 16, delete "adopt to determine" and add "pursuant to regulations, determine." On line 12 delete "or". On line 21 "department finds otherwise" refers to access to a lake, or a fish hatchery denying access. He stated that access to is different from movement on. He felt that on line 25 "valid existing rights" wasn't necessary. If a person owns land now, the bill does not apply. On line 20 "to and along" refers to rivers. This bill applies only to state owned land.

Mr. Brown moved to delete (c) on line 25, and to prepare a committee report stating that this language is not necessary. The amendment failed.

Mr. Brown moved the above suggested amendments. These passed. Mr. Brown moved the bill out of committee as CS SB 215 by the Judiciary Committee. There being no objection, it was so ordered.

HB 444 Insurance

Jim Duncan, sponsor of the bill, stated that it was intended to make reserve requirements more realistic.

Mike Thomas, representing the American Life Insurance Association, said that the bill contained the 1972 recommendations of the state insurance commissioners. The American Life Insurance Association represents 370 companies which write 90% of the life insurance policys in the country. 34 stated have enacted the proposed bill. They need compliance in all 50 before the lower rates go into effect since they are regulated by the strictest state requirement.

John Booth, an actuary with the American Life Insurance Association, explained that insurance companies are required to have so much reserve on hand to pay claims as they become due. The Standard Valuation Law provides for the minimum reserve required and the Standard Non-Forfeiture Law provides for the minimum reserves required to pay policy holders who surrender their policies. These laws are made on the basis of two assumptions: interest earnings and mortality rates. The bill changes these assumptions. By requiring less reserve, premiums could be lowered. The present assumption with regard to interest is 3 1/2% when actually companies are getting 8%. The bill would make the rate of assumption 6%, in one case and 4% in another. There are also new mortality rates and therefore a new assumption. This bill is a nationwide attempt to make reserve requirements more realistic. The guarantee is that if only one state changes its law to require higher reserve, the companies are bound to have that reserve.

John Koch of the Division of Insurance, Department of Commerce, stated that the Administration favors the bill. He will provide a written explanation to the committee.

Mr. Booth agreed to provide a sectional analysis.

Mr. Brown made a motion to move the bill out of committee. The motion was left pending.

House Judiciary Committee
May 8, 1975

The meeting was called to order at 3:15 by Chairman Gardiner.
Mr. Parr was absent.

SB 300 Stolen Property

Senator Rodey, sponsor of the bill, explained that it would allow latitude in sentencing by dividing the crime into felony and misdemeanor. At present the penalties for this crime vary from court to court. The AG and the Senate were in favor of this bill.

Pat Wellington concurred in this explanation.
Mr. Cotton moved SB 300 out of committee do pass. There being no objection, it was so ordered.

SB 301 Insufficient Funds

Senator Rodey explained that the bill increases the amount of the check and increases the amount of the fine. This bill is designed to aid in prosecutions since it is now very difficult to obtain a felony conviction of someone who has passed a bad check of only \$50. Mr. Wellington agreed.

Mr. Brown moved SB 301 out of committee do pass. There being no objection, it was so ordered.

SB 302 Weapon/criminal

Senator Rodey stated that the bill would delete the provision that a person convicted of a misdemeanor be prohibited from carrying a concealed weapon. It is presently very difficult to obtain a conviction on this statute. He felt that the prohibition should be directed against those who commit felony crimes of violence. Those convicted of a misdemeanor could still have this prohibition as a stipulation of their probation at the discretion of the court.

Mr. Wellington stated that some misdemeanors are too slight to result in this prohibition. Mr. Brown moved on line 11: after felony add involving violence against the person, or involving the use of a dangerous weapon , (delete down to) by a court in the state. The committee remarked that this might not include burglary. Mr. Specking suggested deleting all of lines 11 and 12 to "crimes" The committee agreed to try to develop language that would refer only to violent crimes.

HB 156 Obstruction of Officer

Pat Wellington testified that he favored the concept but that the language was vague and might cause problems.

Mr. Brown moved on line 12: after duties add: in a way that

tends to result in loss or destruction of evidence of crime or in a way that tends to delay an arrest or to impede the prevention of a crime. This amendment passed.

Mr. Brown moved CS HB 156 out of committee do pass. There being no objection, it was so ordered.

House Judiciary Committee
May 9, 1975

The meeting was called to order at 4 p.m. by Chairman Gardiner.
All members were present.

SB 350 Marijuana

The amendments proposed by the AG in response to Commissioner Burton's objections (search, confiscate, id) were adopted. The Attorney General stated that under the bill it would be more difficult to initiate a case, but easier to prove one. Mr. Parr moved Judiciary CS SS SB 350 am out of committee. There being no objection, it was so ordered.

HB 432 Child Protection

Mr. Brown moved that Section 2 (e) be deleted. The amendment passed.

Mr. Brown moved on page 2, lines 7 and 8: add imprisonment for not more than one year or . . . \$5,000, or by both. The amendment passed.

Page 2, line 6: add willfully. The amendment passed.

Federal statutes require mandatory compliance. The definition in the bill is parallel to the federal definition.

CS HB 432 (Judiciary) was moved out of committee.

HB 402 Disabilities of a minor

Mr. Parr raised the question of specific exemptions for voting and drinking. Mr. Brown moved on line 29 language to the effect that: constitutional age requirements, except for those pertaining to alcohol. The amendment passed.

Mr. Brown moved on page 1, line 20: change the parent to a parent. The amendment passed.

Mr. Brown moved on page 1, line 21: subsection, as to that parent or guardian. The amendment passed.

Mr. Brown moved on page 2, line 1: included but not limited to. The amendment passed.

Judiciary CS HB 402 was passed out of committee.

SB 132 Nursing Home administrators

Research showed that a board was necessary in order to get federal funding. The committee recommended a letter of intent to the effect that it is the desire of the legislature to see a uniform act -- which would eliminate the need for a bunch of boards.

House Judiciary Committee
May 9, 1975
page 2

Page 1, delete (b) after consult
line 14: 1 administrator, 2 public representatives
lines 19 - 21 governor. delete rest
page 2, line 1 delete "at least"
page 2, line 17 delete (5) and renumber
page 3, line 4 add not applicable to Pioneers Homes
page 3 delete 100 and renumber, delete "qualified"
page 2, line 5 delete are of good character, with
page 4 delete (2) investigation

The above amendments were adopted and Judiciary CS SB 132
was moved out of committee.

SB 60 Arbitrary Discrimination

The amendments suggested by Mr. Bowman and Mr. Thomas were
adopted and the bill reported out of committee as a CS.

House Judiciary Committee
May 9, 1975

The meeting was called to order at 7:30 p.m. by Chairman Gardiner.
Mr. Specking and Mr. Eliason were absent.

SB 296 Integrated Bar Act

Alan Compton explained that this bill would repeal statutes that purport to grant the Bar certain powers. These powers now rest with the court, despite statutes to the contrary (determining qualifications of attorneys, discipline and disbarment).

Mr. Compton suggested the following amendments:

page 3, line 18 Sects 210 and 230 and for admission to the Alaska Bar,

page 2 except as provided in the Alaska Bar rules

page 2, line 2 (a) except as may be otherwise provided in the Alaska Bar Rules, the board

Mr. Brown moved this amendment which passed.

Mr. Compton suggested that the fine for violation be lowered, so as to still provide a deterrent but to not frighten off paralegals.

SB 269 Punch Card Voting

Patty Ann Polly testified that the bill would put the regulations into law. It would allow the program to pick up the area around the X if it was not in exactly the correct position. She explained the the board members on page two are appointed on the basis of the best available rather than party affiliation.

Mr. Brown moved on line 23: , and one who is registered to vote either as an independent, non partisan, or has declined to state his party affiliation when registering to vote. The amendment passed.

Mr. Brown moved on line 26: omitt computer expertise and insert sufficiently familiar with computer programming and operation, sufficient to comply with the provisions of this article.
The amendment passed.

Page 1, line 12 change precinct to area.

page 2, line 16 testing section rewritten

page 3, line 14 "at polling place" added

The above are the changes incorporated into the State Affairs CS.

Mr. Brown moved on page 3, line 15 after process, add and each voter shall be informed that such demonstration is available.
The amendment passed.

The Committee moved the Judiciary CS out of committee do pass.

House Judiciary Committee
May 9, 1975
page 2

HB 391 Contractor Names

Representative Buchholdt, sponsor of the bill, stated that it was designed to learn how the state contracts with private, profit making corporations. She deemed it a "sunshine" bill, and stated that the date the report is requested by in the bill may be too early.

The administration testified that this bill asks for information that the Department of Administration does not have (per vendor per year, subcontractors). He estimated that the state signs approximately 7,000 contracts per year that are not purchase orders. The Department would require lead time of at least a year to prepare to comply with the requests in the bill.

The committee discussed whether the terms of the contract required in the report were too much to ask and whether the contract number would be sufficient. Rep. Buchholdt stated that she wanted to know the nature of the services or goods to be provided. The committee decided that the bill needed more work.

House Judiciary Committee
May 10, 1975

The meeting was called to order at 1:35p.m. by Chairman Gardiner. Mr. Specking was absent.

This meeting was called to discuss a pay raise granted to the judiciary during the last legislative session.

Andy Warwick stated that SB 450 gave all state employees a one shot 6% retroactive raise. SB 472 covered a pay raise for the judiciary. As a member of the House Finance Committee, he personally thought that it was not the intent of the Legislature to have commissioners and judges included in SB 450. However, the bill indicates that they should be included since they are not listed in the specific exceptions. He believes that the administration was correct in giving the judges this raise since the "real" intent is the letter of the law.

Bill Mullin, Director, Division of Finance, stated that he did receive a letter from Rick Barrier questioning the raise for judges. He discussed the question with Budget and Management and Ron Lin, Deputy Director, responded to Mr. Barrier that indeed judges were included in the bill. He does not know who represented the Department at Finance Committee hearings on the bill. He assumed that the bill in the legislature would pass and geared up early in preparation for the raise. He did not think that the legislature had any intention of excluding the judges from reading the bill.

Rick Barrier, Fiscal officer for the Court System, stated that he had not seen the legislation but when received notice that the judges were to receive a raise under SB 450 he questioned the Department. He believed that they were to receive a raise only under SB 472. The committee asked why Mr. Barrier did not bring this matter to the attention of the Finance Committee. He stated that he had contacted the Department and had been assured that this raise was intended by the legislature.

Jay Hogan, Director of Legislative Finance, stated that when the Senate put in an amendment excluding elected officials they thought they were excluding judges (he doesn't know if they thought of commissioners). He recalls no inquiries on the subject.

Judge Stewart testified that he was not aware of the judicial pay bill, but knew of the 6% retroactive -- he just didn't know he would receive it. He received an additional \$800 and asked the Court office why. He talked to the Department of Administration and was assured that it was authorized. He stated that by no stretch of the imagination are judges elected. They can only be fired by popular vote.

The Committee asked why the administration submitted SB 450 with language that included judges and submitted a separate bill on the same subject.

122

House Judiciary Committee
May 10, 1975

The meeting was called to order at 3 p.m. by Chairman Gardiner.
Mr. Specking was absent.

SB 11 Artificial Insemination

Mr. Parr moved the bill out do pass. There being no objection,
it was so ordered.

SB 302 convicts/weapons

Language in the proposed CS was taken from the gun will. Lines
11 and 12 were considered vague. The committee requested that
lines 11 and on be checked out for wording change to include
those instruments commonly considered weapons.

HB 444 Insurance

The committee received the sectional analysis. Since Alaska
is not the only state to change their laws before this change
can go into effect, the committee requested input be solicited
and that the bill be held until next year.

SB 269 Punch Card voting.

The committee passed the CS out with the amendments already
adopted by the committee.

SB 296 Integrated Bar Act

Mr. Brown moved on page 3, line 26 add: or an active member
of the Alaska Bar who wilfully employs such a person knowing
such person is engaging in the practice of law or representing
himself to be entitled to so engage. The amendment passed.

Mr. Parr suggested that the rules for employment of paralegals
be set forth by the Supreme Court. An amendment was drawn
up to add a new (b) on page 3, line 29 Nothing in this section
shall prohibit the use of paralegal personnel as defined by
the rules of the Supreme Court. This amendment passed.

On page 3, line 28 the amount was changed to \$5,000. This
amendment passed.

House Judiciary Committee
May 10, 1975

page 2

Mr. Brown moved on page 1 line 28 change 9 to 7 and add that two shall be appointed by the Governor from the lay public. Add temporary language "as present terms lapse" in 050 change language to "elected or appointed." This amendment passed.

On page 3, line 18 add: For purposes of sections 210 and 230 of this chapter, and for the purpose of admission to the Alaska Bar, activities of employees of the legislative branch and the Department of Law which do not involve appearances or representations in the courts of this state shall not be deemed the practice of law. This amendment passed.

Mr. Bradley suggested that the legislature require a report of the Alaska Bar annually on admissions, disbarment and discipline. This amendment passed and an amendment would be drawn up.

The committee requested that a CS be drawn up for their further consideration.

House Judiciary Committee
May 12, 1975

The meeting was called to order at 1:20 p.m. by Chairman Gardiner.
All members were present.

CS HB 418 Conflict of Interest

Mr. Walker explained the new CS stating that it takes care of the committee's concerns about members of a municipal body. Mr. Hanley of the Attorney General's Office agreed that the proposed CS solves the problem created by the earlier legislation. Mr. Bradley moved the Judiciary CS HB 418 out of committee. There being no objection, it was so ordered.

SB 302 Convicts/weapons

Mr. Turnbull explained that the proposed language from the Attorney General's office clears up the vague problem in lines 10 and 11 and the committee's problem with section (c). The Judiciary CS was moved out of committee.

SB 113 Health Care Information

This bill fulfills a federal requirement which will enable the state to receive medicaid money -- that of a professional staff review. The bill stipulates those situations under which the person affected cannot sue and which records must be kept confidential.

Senator Ziegler testified that 030 provides adequate safeguards for someone who feels that he didn't receive a fair hearing. Only the actual minutes of the hearing are to be kept confidential.

Mr. Brown moved on page 2, line 4: change punctuation and add except as provided in this section, all
line 8: except as provided in this section, all
line 11: organization and the proceeding
line 21: hearings, except as provided in this section Testimony, documents, proceedings, records and other evidence adduced before a review organization that are otherwise inaccessible under this section, may be obtained under subpoena for discovery proceedings brought by a plaintiff who claims that information provided to a review organization was false and that the person providing the information knew or had reason to believe that the information was false.
These amendments passed in substance. The committee requested that a CS be prepared for their review.

SB 202 Malicious mischief

The repealers are covered under the bill's definition of real or personal property. They included mostly misdemeanor penalties which, according to the bill, will be dependent upon the value of the property.

House Judiciary Committee
May 12, 1975

page 2

Mr. Parr objected to repealing section on cruelty to animals. He suggested that this be left in the statutes and be reworked by the committee working on the revision of the criminal code.

Mr. Brown moved on line 27: omit 520 and amend 520 to omit references to anything but animals. The amendment passed.

Senator Bradley, sponsor of the bill, stated that the above amendment was ok with him. He said that the bill was the result of a request from the Anchorage school board. The \$250 figure was reached since this is the California figure. The bill is primarily a consolidation measure that provides for restitution for damages.

Mr. Brown moved on line 23 after harm add: to or loss of such property. The amendment passed.

Mr. Brown moved on line 19: required to order
line 20 add: such restitution does not bar any civil action for the injury suffered through such wilful or malicious action, but amounts paid pursuant to such order shall be credited against any judgement resulting from such action.
The amendment passed.

The committee raised the question of whether public property was adequately covered -- or abandoned property. Senator Ziegler assured the committee that it was.

The CS was moved out of committee.

136

House Judiciary Committee
May 15, 1975

The meeting was called to order at 10:35 by Chairman Gardiner.
All members were present.

HB 488 Campaign Disclosure

Jeff Hyatt, Executive Director of the Alaska Public Officers Commission, and Herb Montoya, Vice Chairman, testified on the bill.

Section 1: includes ballot questions and judges. excludes small municipalities. The opt out provisions for municipalities are similar to those in the new conflict of interest legislation. Mr. Eliason suggested that page 1, line 21 include any special election. Mr. Gardiner suggested that since there was no pressing need for an election, as there had been with the conflict of interest exemption, that only general elections be included. Both suggestions failed and the language in the bill was kept.

Section 2: extends to individuals and groups. The question was raised as to whether the Judicial Council, if mandated by law to publish evaluations, would have to report. Mr. Montoya felt that it would not.

Section 3: The number of commissioners was changed to five and the commission given a new name.

Section 4: gives qualifications for the fifth member. Mr. Parr moved that lines 12 - 16 be deleted. The amendment passed.

Section 5: provides for continuity on the commission with staggered terms.

Section 6: restricts commission members

Section 7: extends compensation

Section 8: how vacancies are filled

Section 9: regarding regional offices. They have been contracting with municipalities to serve as their regional office. They intend to advertize that these offices exist. page 4, line 7 and 10 and anywhere else in the bill: delete district office (they do not exist). Page 4, line 10, delete regional office so that all reports go to the central office for distribution to the regional offices.

Section 10: copies of reports will be available

Section 11 : publish manual

Section 12: copies of summary available

Section 13: report requirements (compilation of many sections in previous law). Page 5, line 13: add the aggregate amount of. This amendment passed. Page 5, line 5 and 14 and anywhere else in the bill change a year to per year. This amendment passed. Page 5, line 25 and 27 change \$100 or more to in excess of \$100 per year. Page 5, line 26 delete including all groups that support only one candidate. Page 5, line 22 after group add making a contribution or expenditure. These amendments passed. Page 8, line 5: change 48 hours to 7 days. Page 8, line 13 and 14: delete by the lieutenant governor or municipal clerk and insert: when found to have been in wilful violation of delete: if he fails to comply with. Page 8, line 18 add, if the candidate knew or had reason to know of the default or violation. Page 8, line 22: after "expend" add "more than 1,000 a year on behalf of, or in opposition to the competing candidates for each elected office. Delete: or any group, more than \$1,000 a year. For purposes of this section, an expenditure against a candidate shall be considered an expenditure on behalf of his opponent. Page 10, lines 16 - 24 deleted and replaced with the old Sec. 15.13.100: Changes in the old section 100: after "on his behalf" add in the calendar year during and delete: before the date upon. Add to the end of the section: These expenditures shall be charged against the spending limitation that applies to the office for which he subsequently files, and shall be included in the first report required under this chapter after filing for office. Page 11, line 16: delete regional or district office. Page 13, line 10: change sec. 125 to 010. Page 13, line 17 add to end: but it does include professional services volunteered by individuals for which they ordinarily would be paid a fee or wage. Page 14, line 8: after control . insert lines 11 - 14 and then insert the originally deleted language in lines 8 - 11. All of the above amendments passed.

The committee requested an interpretation of what penalties resulted from which violations.

Janice Gates of the League of Womens Voters stated that since the responsibilities of the commission had been increased by SB 62 (conflict of interest) that conflict of interest be included in this bill. She also requested geographic representation on the commission. Page 4, line 27 add: at their actual cost.

The bill was passed out of committee as a Judiciary CS.

House Judiciary Committee
May 16, 1975

The meeting was called to order at 3:30 by Chairman Gardiner.
All members were present.

HB 105 Hold Harmless

This bill eliminates a present abuse whereby large companies hold their subcontractors responsible for the larger company's negligence in contractual agreements. The Commerce CS eliminated the retroactive date.

page 1, line 26: add the language any agreement that is not principally or primarily a contract of indemnity or insurance.
page 2, line 7: change mortgage to mortgages
page 2, line 8: and financing statements. delete and insurance.
delete page 1, lines 23 and 24 (b)
delete page 2, lines 9 and 10.

The above amendments passed and the Judiciary CS for HB 105 was moved out of committee.

SB 113 Health Care information

The prepared Judiciary CS was reviewed and reported out of committee.

SB 158 Larceny

This bill reflects an increase in the dollar amount between misdemeanors and felonies to keep up with inflation. The bill was passed out of committee.

HB 391 Contractor's names

The committee agreed to ask for a summary of terms of the contract instead of "terms". On line 12 "at least annually" was deleted and replaced with "before October 1" and that the reports would commence in 1975.

Page 1, line 25 add "vendors"

The committee requested a letter of intent stating that the cost of printing and distribution should be kept to a minimum with copies available for public inspection, possibly in public libraries.

The bill was passed out of committee as a Judiciary CS.

HB 459 Fathers leave

Susan Sullivan, sponsor of the bill, stated that she intended that new fathers should have the same rights as new mothers. She expected that most people would take about two weeks only. The proposed Judiciary CS stated that this leave could be charged to medical only. She objected first because some offices might interpret this to disallow even annual leave. She suggested that medical leave be used first. She also raised the question of adoptive parents.

House Judiciary Committee
May 16, 1975

page 2

The committee agreed that after two weeks were taken, a man should be able to extend his leave for medical reasons. Line 13 in the old bill stating which leave could be used would be put into the CS and lines 11 and 12 of the proposed CS deleted.

The Judiciary CS was passed out of committee.

HB 298 Security

Miles Scholsberg, Director, Division of Banking, stated that this bill would expand the definition of securities in order to close loopholes in enforcement of securities law - to prevent fraud by providing a deterrant. Included under the definitions of securities are pyramid sales (chain letters), commodities option contracts, health clubs (charter members). Lines 21 - 25 leave the option for possible exemptions for such companies as Avon and Fuller Brush. Mr. Brown moved on page 1, line 22: add: after consultation with the Attorney General. This amendment passed. The Commerce committee amendments were adopted except in line 4 delete /.

The Judiciary CS was passed out of committee.

SB 153 Sound Recordings

Senator Chance, sponsor of the bill, stated that the language "federally copyrighted" was inserted on the floor last session and made the bill worthless. SB 153 deletes this language and defines "owner." The copyright law for recordings became effective in 1972 but was not retroactive. This bill is designed to prevent pirates and sound alike recordings. The committee passed out SB 153.

House Judiciary Committee
May 19, 1975

The meeting was called to order at 1:30 p.m. by Chairman Gardiner. All members were present except Mr. Parr.

SCR 15, 17, 19 Rape

Senator Chance briefly explained these resolutions which were then passed out of committee.

SB 182 arrest without warrant

Pat Wellington testified that if an officer does not witness a drunk driving, there is nothing on which he can make an arrest. The drunk in public and drunk on a highway statutes have been overturned by the courts. He was particularly concerned when there had been an accident but no witness.

Line 13: change reasonable to probable.
Line 14 and 15 omit: while under the influence

Several amendments were suggested to close a possible abuse the bill could create by limiting the bill to accidents in which there had been damage to life or property, or a moving violation. Mr. Brown suggested on line 16 add: and the person has been operating a vehicle which has been involved in an accident, or the person has been charged with another offense at a time during which he is alleged to have committed such violation. The amendment failed. Mr. Gardiner suggested on line 14: reasonable (immediately) prior to the arrest - as soon as practicable but in no event more . . .
The committee determined to hold the bill to work on further amendment.

SB 407 Motor Vehicle Safety

Alan Compton stated that the bill was to bring the rate and coverage up to date. The present rates were set in 1966. Mr. Brown moved the bill out of committee.

SB 140 am Commission on Administration of Justice

This bill adds members representative of juvenile groups. Mr. Brown moved the bill out of committee.

SB 358 Trust Lands

Mr. Wallace and Senator Sackett testified that the AG had drafted this bill and had his approval. The following amendment was passed: end of (b) add: Such approval shall be by resolution and filed with the department. The bill was moved out of committee.

House Judiciary Committee
May 19, 1975

The meeting was called to order at 1:30 by Chairman Gardiner. All members were present except Mr. Parr.

SB 399 Imitation Gold

Testimony was received that the jewelers were satisfied with the Senate Judiciary CS. At present it costs approximately \$3,000 to prosecute and it was felt that larger penalties might deter more of those persons attempting to sell imitation gold, ivory and jade. Mr. Cotton moved the bill out of committee.

HB 366 Deeds of Trust

Rep. Sullivan, sponsor of the bill, testified that under current law if a person is one day late in payment, foreclosure may take place with the only solution being to pay the full amount due within 90 days. The bill gives a 30 day grace period, provides a cure of paying the amount behind plus court and attorney fees, and limits this cure to being used three times.

Miles Schlosberg, Director of the Division of Finance, stated that he had first believed that the bill would discourage buyers of mortgages. He has since been satisfied that it will not. He brought the committee's attention to a letter from Mr. Kurtz which discussed a problem with page 2, lines 8 and 9.

The committee agreed that further hearings should be held on this bill. We will contact Mr. Kurtz and some bankers to testify.

SB 306 Sexual Assault

This SB is expected to be made the CS for the House Judiciary bill on deviant sex. Since the committee determined that SB 306 needed more work, they agreed to have SB 306 introduced as a HB by the Judiciary Committee.

142

House Judiciary Committee

May 22, 1975

The meeting was called to order at 1:35 by Chairman Gardiner. All members were present except Mr. Specking.

HR 3 Department of Justice

line 26 after made: add by the governor

This bill was moved out of committee as amended.

SB 182 Arrest without warrant

Jim Hanley of the AG's office testified that the bill was needed so that police could make an arrest and draw blood for OMVI testing.

line 16: add if the violation is alleged to have occurred less than eight hours before the time of such arrest. This amendment passed.

Mr. Brown moved the Judiciary CS out of committee.

SB 411 Doctors guide

Joe Hill, of the AG's office testified that this bill was needed so that the group in Anchorage wanting to compile the guide could receive federal monies. Either the statute had to be changed or the AG would have to issue an opinion that such a guide was legal under the present statute. The AG has determined that since it is the doctors who furnish the information to be contained in the guide, and since this information could cause competition, that it was advertising of a sort and therefore illegal under the present statute.

The bill was moved out of committee.

SJR 37 Outboard motor numbering

This bill was moved out of committee.

SB 384 am Revise Statutes

Randy Berry, the Revisor of Statutes explained the Section 28 as follows: The Free Conference Committee report and the statute language appear to be in conflict. The Department of Revenue has not been enforcing the statute and has been, in effect, following the report. This section makes the language in the statute consistent with the intent.

The committee reinserted the old section 30 which had been deleted by the senate as a new section 31.

Mr. Berry requested that the Senate delete the old sections 27 and 28 relating to military schools.

The committee agreed to delete section 7 and renumber.

House Judiciary Committee
May 26, 1975

The meeting was called to order at 2:15 p.m. by Chairman Gardiner. All members were present.

CS SB 257 am Municipal Fire Departments

Douglas Body, Coordinating Fire Chief, testified that there is no statutory authority for the fire departments to do some of the things they are presently doing.

The following amendments passed:

page 1, line 18, page 1, line 23: after city insert: organized village.
page 2, line 7: after trespass insert: upon property at or near the scene of a fire.
page 2, line 7: delete without liability
page 2, line 21: delete without liability
page 2, line 17: insert before inspect: upon 24 hour notice to the owner or occupant,
page 2, line 24: delete all of subsection (9) and renumber
page 3, line 2: insert after misdemeanor: , and upon conviction, is punishable by imprisonment for one year, or by a fine of not more than \$1,000, or by both.
page 2, line 3: delete all of Section 3
page 3, line 6: insert definition section "preplanning" to be drafted.

The Judiciary CS for CS SB 257 am was passed out of committee.

SB 384 Revise statutes

page 6, line 9: delete bring and insert seek, delete action and insert or an action in the nature of an action for mandamus.

The Judiciary CS for SB 384 was passed out of committee.

SB 138 Zoning State Parks

The C and RA CS for SB 138 was passed out of committee.

House Judiciary Committee
May 30, 1975

The meeting was called to order at 3:30 p.m. by Chairman Gardiner. All members were present.

SJR 30 Ammunition

This bill was intended to correct a misunderstanding created by Congress. It was passed out of committee.

SB 357 Minors on premises

The present law places all responsibility on the bar owner and in some cases requires that he hire an additional employee only to check identification. This law is subject to selective enforcement. SB 357 proposes to place some of the responsibility on the minors and to eliminate the absolute liability of owners. A bar owner could still be prosecuted if he sold to a minor, however.

page 3 of proposed Judiciary CS: line 5 - add or spouse who has attained the age of 19 years.

Mr. Brown moved the Judiciary CS as amended out of committee.

House Judiciary Committee
May 31, 1975

The meeting was called to order at 7:40 p.m. by Chairman Gardiner. Mr. Bradley, Eliason and Specking were absent.

HB 256 Dentistry

Tim Wallace, sponsor of the bill, stated that it would allow non profit corporations to hire dentists before they are licensed in the state. At present, tests are given once a year in June. This bill would allow for a temporary license until the dentist was able to take the next test. It would only apply to those dentists who are already licensed in another state or who are graduates of a dental school. Physicians are now granted temporary licenses by endorsement no matter who they work for.

Line 9: change shall to may
renumber (3) and (4) to (2) and (3)
Add a new Section 2 to delete (a) (2), since this subsection was deleted in Section 1.

Henry Pratt testified representing the Dental Society. He stated that about 65% of those who take the exam pass it. He further stated that if three or four dentists requested to take the test at a time other than June their request would be granted. He testified that temporary permits are now being issued, but few apply.

The bill was reported out of committee as amended.

SB 361 Medical Malpractice

Michael Beirne stated that this bill creates a pool of insurance companies who must share in insuring doctors in the state. It is being pushed through this session since a crisis in malpractice insurance is expected in Alaska by late summer.

page 4, line 5 change policies to each policy
page 4, line 6 change insureds to the insured
page 5, line 7 change and to or

Senator Rodey stated that is bill had received the ok of the director of the division of insurance, but that there had been little input from the industry. Insurance companies writing casualty policies for the slope would be included in the pool. It is still not known if the number of doctors in the state is sufficient for the plan to work.

Page 2, lines 24 and 25 delete
page 4, line 2 add (c) In no event shall the association deny new insurance or re insurance to a health care provider without the concurrence of the director of the division of insurance.
page 4, line 28 and 29 delete (4) and renumber.
page 4, line 16: omit a person and insert an
page 4, line 14 No policy without the concurrence of the director of the division of insurance.

House Judiciary Committee
May 31, 1975
page 2

page 1, delete material in section 010 concerning hearing and finding. Include a letter of intent stating that the legislature finds an emergency and is therefore making this mechanism mandatory.
page 5, line 11 add immediate effective date.

The Judiciary CS SB 361 was passed out of committee.

House Judiciary Committee
June 4, 1975

The meeting was called to order by Chairman Gardiner at 1:20 p.m. All members were present except Mr. Specking.

HJR 36 Disqualifications of Legislators

Rep. Naughton, sponsor of the resolution, testified that it was introduced in order to delete unworkable language in the state constitution. This would allow the people to judge whether or not the constitution means what it says.

It was determined to hold this resolution until next year.

HJR 35 Child Support Programs

Mert Charney of the Department of Health and Social Services stated that he was not here to testify as to the good or bad of the federal law, but just to explain how the department plans to implement it. He stated that the department requested \$625,000 in FY 76 and that of this, 75% would be federal funding. Neither Finance Committee budget contained any funding. The Governor has now asked for a minimum of \$400,000 to begin the program. It is required by the Social Security Act that the states implement this program. Mr. Charney stated that the IRS is given powers to investigate to much the same extent as they collect taxes.

Rep. Naughton and Gruening, members of the House Finance Committee, stated that because of Alaska's large transient population and the abnormal ratio of men to women due to the pipeline, Alaska would be chasing down default fathers for many other states. In effect, this new federal program blackmails welfare recipients. Forced enforcement would cost more in court and administration costs than the amount of federal funding to be received by the state. They both predicted that the federal funding at 75% would not continue once the program was underway in the state.

The Attorney General's office stated that if Congress does not repeal this act, there is potential for a big brother welfare state which greatly interferes with the right to privacy. The program will cost more to administer than Alaska will lose by not complying.

HJR 35 was passed out of committee.

HB 280 Vote No

Rep. Miller, sponsor of the bill, stated that it was intended to allow the people to reject all candidates, but that there were many problems with the bill in its present form. It had been suggested that in order not to potentially lose one's vote, the people should be allowed first a preference vote of the candidates and then the option to vote for none of the above. The committee suggested that the AG be asked about the disqualification

House Judiciary Committee
June 4, 1975
page 2

of candidates who had been rejected by a majority of the people on the first ballot. This bill states that they cannot run again. The bill further states that all candidates can only be rejected one time. Section 4 mandates single member districts or designated seats. The committee questioned the constitutionality of many of these provisions and suggested that we check with the Senate to see if they had received a legal opinion. Mr. Miller suggested that a Judiciary subcommittee get together with him to work on the problem areas in the bill, and that it be brought up early next year.

1976

MINUTES

1/13/1976 - 5/7/1976

House Judiciary Committee
January 13, 1976

The meeting was called to order at 1:35 by Chairman Gardiner, Members present were Gardiner, Cotten, Specking, Eliason and Bradley.

A brief discussion took place regarding which bills remaining in Committee from last year should be looked at this year along with a short recapitulation of some of the bills which passed out of Committee last session.

Mr. Eliason requested that the Committee be presented at some time with a summary of the interim hearing on rent control which was held between sessions in Juneau.

Mr. Gardiner asked that the members give further thought to bills still in Committee which they might like discussed.

The meeting was adjourned at 1:55 p.m. and the members returned to the House Chambers to hear Governor Hammond's State of the State message.

House Judiciary
January 14, 1976

The meeting was called to order at 1:20 by Chairman Gardiner. All members were present.

Under discussion was HB 531 Freedom of public information. The discussion centered around the work draft of SS HB 531 which is substantially different from the HB version. Dick Walker, the legislative affairs lawyer assigned to the Judiciary Committee was present to explain the changes which were made and why they were necessary. Much discussion took place as to more changes that should be made before the final version of SS HB 531 was actually offered for introduction.

HB
531

The purpose of the freedom of information act is that at present state agencies are making their own decisions as to what material should and should not be made available to the public. As it is necessary to achieve a good balance between freedom of information and right to privacy, this bill is being drafted.

Mr. Walker went through the work draft copy of SS HB 531 section by section and received input from the members and various other people present including Mrs. Berg, and Joe LaRocca and John Greeley of the press. Based on the information received today, Mr. Walker will draft the final version of SS HB 531 for Mr. Parr to have introduced and available for public scrutiny and testimony on Monday, January 19.

The meeting adjourned at 3:05 p.m.

House Judiciary
Thursday, January 15, 1976

The meeting was called to order by Chairman Gardiner at 1:20. Members present were Gardiner, Brown, Cotten, Bradley and Parr.

Frank Flavin, Ombudsman was present to testify as to the need for a freedom of information act. He stated that one of his problems in gaining access to files was that it was just plain hard to get past the bureaucratic mess of actually getting someone to locate the file and make copies of the necessary information. He stated that it was not necessarily a problem of cost of refusal to give the information, but most times just a problem of getting someone to do it.

HB
~~351~~
531

Mr. Gardiner raised the question that at some time it should be defined as to when a consultant's report should be made available to the public. Before or after, with or without the agency's approval. Such that just because an agency does not like the particular results of a consultant's research, it cannot be denied to the public after the state has spent the money to have it compiled.

The meeting adjourned at 1:40 and the members returned to the House Chambers to listen to Governor Hammond's Budget Message.

House Judiciary Committee
January 16, 1976

The meeting was called to order by Chairman Gardiner at 1:25. Members present were Gardiner, Cotten, Specking, Parr, Eliason and Brown.

Also present were Roy Rickey of the Commercial Fishery Entry Commission and Rod Pegues of the Attorney General's office.

The discussion centered around HB 130, concerning the Prince William Sound Fishery. The problem being that 1520 applicants had been denied application into the fishery because they had not fished in 1972, and the reason they had not fished is because the government had not opened up the season that year for seining.

HB
130

It was decided by the Committee that the best way to handle the problem at this time is to allow the situation to be rectified by regulation rather than statute, as regulations are simpler to change should a change become necessary. A statute would require an act of the legislature which is not in session during the seining season, June, July and August. The regulations recognize the problem of partowners and the closure problem of the 1972 season.

As no statute change seemed necessary, the meeting adjourned at 1:55.

The meeting was called to order by Chairman Gardiner at 1:15 p.m. Members present were Cotten, Specking, Bradley, Eliason, Parr and Gardiner.

Under discussion was SS HB 531, the Freedom of Information Act. First to testify was Alan Compton of the Alaska Bar Association. His main concerns were that files should be open to the person in question, or to the person to whom the file concerns. He also suggested that some sort of charge per page be established, as some places are charging as much as \$1.00 per page.

SS
HB
531

Second to testify was Mrs. Carolyn Burg. Her testimony in full accompanies these minutes. Basically she is all for right to privacy, against government in any form, and computers above all!

The press was asked if they were ready to testify, and they all declined at this point because they had just received the SS version of HB 531 and had not had sufficient time to examine it in comparison with the original bill.

Mr. Eliason again stressed the fact that any file on a person should be open to that person, except perhaps medical and/or psychological files.

Mr. Specking asked if the Revisor of Statutes would check to see what was redundant in SS HB 531 and have it cleaned up. Mr. Walker explained that the Revisor of Statutes cleans up and/or notices when statutes are in conflict with one another, but is not necessarily concerned with redundancies.

Mr. Parr explained that SS HB 531 is trying to draw a line between Freedom of Information and Right to Privacy. A hard line to draw.

Mr. Gardiner said that there would be further testimony taken, mainly from the Press at 7:00 p.m. on Thursday, January 22.

The meeting adjourned at 2:20 p.m.

STATEMENT BEFORE THE HOUSE
JUDICIARY COMMITTEE ON THE
FREEDOM OF INFORMATION BILL
(SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 531)
BEFORE THE HOUSE JUDICIARY
MONDAY, JANUARY 19, 1976

We are Carolyn Burg, a citizen of the United States all of our life, and a resident of Juneau, Alaska for approximately 23 years.

This is to inform this Committee that we are waiving no federal, state or individual rights under our United States Constitution, nor the Alaska State Constitution or its Organic Laws. Declaration of Independence Contract Theory. And we do not consider the present United Nations Charter nor any other instrument except the United States Constitution as being "the supreme law of the land." Article VI, U.S. Constitution

Section 3 of the Alaska Statehood Act states

"The constitution of the State of Alaska shall always be republican in form and shall not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence."

We shall speak mainly to Sec. 40.25.020 OFFICIAL RECORDS TO BE OPEN TO INSPECTION; EXCEPTIONS.

Under (a) of this work draft copy of House Bill No. 531 we take exception to "Except as otherwise specifically provided by law" if the "law" interpreted by our Legislature and Congress means going through Congress or our Legislature to get the documents we need. And we will give you an example.

In the Congressional Record for the House dated January 4, 1965, page 27 it states:

"PRODUCTION OF DOCUMENTS UNDER PRIVILEGES OF THE HOUSE

Mr. Albert: "Mr. Speaker, I offer a resolution and ask for its immediate consideration. "

The Clerk read as follows:

House Res. 12

"Whereas by the privileges of this House no evidence of a documentary character under the control and in the possession of the of Representatives can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession except by its permission. Therefore be it

Resolved, That when it appears by the order of any court in the United States or a judge thereof, or of any legal officer charged with the administration of the orders of such court or judge, that documentary evidence in the possession and under the control of the House is needful for use in any court of justice or before any judge or such legal officer for the promotion of justice, this House will take such action thereon as will promote the ends of justice consistently with the privileges and rights of this House, be it further

Resolved, That during any recess or adjournment of the Eighty-ninth Congress when a subpoena or other order for the production or disclosure of information is by the due process of any court in the United States served upon any Member, officer or employee of the House of Representatives directing appearance as a witness before the said court at any time and the production of certain and sundry papers in the possession and under the control of the House of Representatives that any such Member, officer, or employee of the House be authorized to appear before said Court at the place and time named in any such subpoena or order but ~~xxx~~ no papers or documents in the possession or under the control of the House of Representatives shall be produced in response thereto and be it further

Resolved, That when any said court determines upon the materiality and the relevancy of the papers or documents called for in the subpoena or other order then said court through any of its officers or agents shall have full permission to attend with all proper parties to the proceedings before said court and at a place under the orders and control of the House of Representatives and take copies of the said documents ~~xxxxxxxxxx~~ or papers and the ~~xxxxx~~ Clerk of the House is authorized to supply certified copies of such documents that the court has found to be material and relevant except that under no circumstances shall any minutes or transcripts of executive sessions, or any evidence of witnesses in respect thereto, be disclosed or copied, nor shall the possession

- 3 -

of said documents and papers by any Member, officer, or employee of the House be disturbed or removed from their place of file or custody under said Member, officer, or employee; and be it further

Resolved, That a copy of these resolutions be transmitted by the Clerk of the House to any of said courts whenever such writs of subpena or other orders are issued and served as aforesaid. "

"The resolution was agreed to."

"A motion to reconsider was laid on the table."

Inasmuch as Ralph Nader wrote an article that he has already been denied access to records he wanted to investigate for the consumer through Congress's control of the National Archives in Washington, D. C., this is a first-amendment restraint upon legitimate investigation of our government, and we are challenging this so-called federal Resolution or "law" by Congress to withhold information from the press and citizens who wish to investigate and bring matters before the courts.

We are also challenging the very structure and workings of our government, the fact that the President and Vice-President are not legally officers of our government under the unconstitutional 25th Amendment to the United States Constitution, therefore under our sovereign right as trustees of the sovereign law-making body of which we are a viable part, we challenge any retention of records by the Legislative Branch over the sovereign law-making branch, the People. We are assuming our rightful place at the head of the government and taking control.

The 25th Amendment is unconstitutional and in conflict with Article II which says the President and Vice-President "be elected." Furthermore, in the second clause of Article II, Section 1 it says "...but no senator or representative or other person in high trust or confidence in the United States (in spirit) shall be appointed

an elector"... (This is approximately the wording) Congress and the President appointed themselves electors and the 25th Amendment is unconstitutional on its face! We are sorry to say this was ratified in Alaska and we are challenging it.

As we see it, our present government has ^{been} placed in the hands of corporations and we do not agree with our sovereignty being given over to non-governmental interests. The 25th Amendment to the United States Constitution is a fraudulent conveyance and we are aggrieved. Comp St. c 104, Secs 2, 3, 24, Rev. St. c. 95 Secs 19, 20 providing that the party aggrieved by a fraudulent conveyance has the right to recover a penalty therefor, should be construed to include a surety for the grantor, he being an aggrieved party from the date of his suretyship, etc. Beach v. Boynton, 26 Vt. 725, 726, 731; Application of Burns, 108 NYS 2d 62, 65, 200 Misc. 355. 1st, 4th 5th, 6th, 7th, 9th, 10th Amendment to the United States Constitution, in fact the Entire United States Constitution; Articles of Confederation, The Entire Alaska State Constitution Although

Article II of the Articles of Confederation states:

"Each state retains its sovereignty, freedom, and independence, and every Power, Jurisdiction and right, which is not by this confederation expressly delegated to the United States, in Congress assembled."

Article III states:

"The said states hereby severally enter into a firm league of friendship with each other, for their common defence, the security of their Liberties, and their mutual and general welfare, binding themselves to assist each other, against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever."

On page 2 of the work draft of this suggested "bill" we would redefine those records defined as confidential by federal or state law. Because the federal government through Congress is already disallowing access to documentary records necessary for the sovereign citizen to examine because of Congress' disobedience of the organic law.

Under (d) 7, page 3 archival materials contributed by a private person such as a former President or Legislator, if there is probable cause that he committed a crime, should be allowed to be given to a court, through a court order (without Congress's approval or the approval of any Legislature.) Private attorneys investigating matters for his client should be allowed full access to this material with the understanding that it be used lawfully in court. ~~THE RIGHT OF PRIVACY OF A PERSON WITH PROBABLE CAUSE THAT HE COMMITTED A CRIME IS AND SHOULD BE SUBJECT TO COURT~~ approval

Under (d) 12, page 3. No policeman, FBI agent or any ~~one~~
person in the Executive Branch should be allowed access to bank
records or any other records of a citizen without a proper court
~~if it is in doing nothing~~
order. ¹Burrows v. Superior Court, 13 C. 3d 238, Cal. Rptr., p. 238

(L.A. No. 30308 In Bank, Dec. 27, 1974) 4th Amendment, U.S. Const.
Art 1, Sec. 22, Alaska State Constitution Right to Privacy

"...Only those laws are inhibited which injuriously affect vested rights. The same rule which forbids interference with vested rights likewise prevents the disturbance of vested defenses. However, no one has a vested right to a defense based on mere informalities, especially when such informalities consist of matters which originally could have been dispensed with by the legislature; though the legislature has no power, by a subsequent curative statute to remedy a jurisdictional defect, or one which obviously goes to the substance of a vested right. In other words, 'a party has no vested right in a defense based upon a mere informality not affecting his substantial equities,' and 'there is no such thing as a vested right to do wrong.' ~~XXXXXXXXXXXX~~
Bullard v. Holman, 184 Ga. 788, 193 S.E. 586, 113 ALR 763; ~~XXXX~~
Danforth v. Groton Water Co., 178 Mass. 472, 59 N.E. 1033, 1034,
86 Am St. Rep. 495 (Justice Holmes); Prichard v. Norton, 106 U.S.
124, 1 S Ct. 102, 27 L ed 104 (Mathews, J.)

We would like a hearing on this in a court of competent jurisdiction, with a ruling thereon. Judicial notice should be taken of all matters and authorities mentioned herein. We are presently preparing other matters for the court, and wish these matters to be included.

Respectfully submitted,

Carolyn Burg
Carolyn Burg

cc: Solicitor General, kWashington, D. C.

We also refer to HB 2003 on "copywrngts" and ask for concern for attorneys needing information from libraries on xerox copies. A reasonable amount should be \$10 a page for any xeroxing

House Judiciary Committee
January 20, 1976

The meeting was called to order by Chairman Gardiner at 10:50 a.m. Members present were Brown, Cotten, Eliason, Parr and Gardiner.

Under discussion was HJR 43 regarding Traps by Mr. Swanson. Mr. Swanson stated that his position was that trapping is a renewable resource and a means of subsistence for many in Alaska. Alaska has very specific regulations regarding trapping and it is his feeling that trapping should be regulated by the state, not by Washington D.C.

HJR
43

Mr. Brown suggested that an exemption be asked for, for not only Alaska, which is unconstitutional, but for any state with extensive regulations regarding trapping.

Testimony was received from Mr. A.W. Bud Boddy of the Territorial Sportsman and Alaska Wildlife Organization and Mr. Ray Meketa of the Juneau Gun Club and Juneau Rifle and Piston Club. They offered the attached resolution by the National Wildlife Foundation and amendments to HJR 43 as shown. It is their belief that asking congress for an exemption for Alaska will work more against us than for us, and that we would be better put to support congress in their efforts to stop legislation of the sort that would regulate trapping and gun control in the states.

Mr. Brown offered an amendment asking for exemptions for Alaska and other states which have sufficient trapping regulations.

Mr. Gardiner suggested that trapping in Alaska is a part of subsistence living, which is not necessarily true in other states. Mr. Brown then withdrew his amendment and offered a more substantial one which included exemptions for Alaska and mentioned that trapping is of a subsistence nature. The amendment is being incorporated in the form of a CS by Legislative Affairs. The CS passed out of committee.

The meeting was adjourned at 11:30.

154.1

Proposed Resolution No. 8B
Revision Submitted by: NWF Staff
Date: February, 1974

MANAGEMENT OF FURBEARERS

1 WHEREAS, this Nation historically has had a valuable furbearer resource and,
2 in early America, trapping was an economic asset and socially acceptable; and

3 WHEREAS, trapping is used to harvest surpluses of wild mammals for their
4 pelts and food values; and

5 WHEREAS, trapping is practiced as a tool of scientific wildlife management
6 for the purpose of reducing the numbers of creatures which may be endangering
7 public health and safety or are causing severe economic hardship or to protect
8 private property such as poultry and domestic livestock;

9 NOW, THEREFORE, BE IT RESOLVED that the National Wildlife Federation hereby
10 expresses its support for the principle of trapping when surpluses of furbearers
11 exist or is practiced as a tool of scientific wildlife management or the taking
12 of specific animals doing damage to private property as determined by trained
13 professional wildlife managers and regulated by authorized governmental agencies;
14 and

15 BE IT FURTHER RESOLVED that this organization feels it is essential that the
16 trapping industry develop and adopt methods of trapping which are the most humane
17 possible in accordance with modern technology.

NWF STAFF COMMENTARY: Protectionist elements are using press and radio-TV media to depict trapping as a cruel and inhumane practice which, like hunting, should be prohibited or, in emergencies, performed by governmental agencies. Further, these elements unfairly categorize wildlife management entirely as "killing". Efforts are being made to enact legislation on national, state, and local levels to prohibit or, in lieu of this, to bar use of steel leghold traps. Last year, the NWF Staff proposed a resolution directed toward inhumane methods of trapping, but it was tabled. While recognizing trapping as a legitimate and necessary activity within the concept of wildlife management, we still feel that NWF should go on record as favoring the most humane of methods.

NWF STAFF RECOMMENDATION: Resolution 8B be adopted.

1 IN THE HOUSE

BY SWANSON

2 HOUSE JOINT RESOLUTION NO. 43

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 Relating to proposed federal

6 legislation prohibiting the use of traps

7 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 WHEREAS trapping in Alaska provides a vital and necessary addition to
9 the state's economy, generally, and in many cases is absolutely essential to
10 the maintenance of a subsistence way of life for low-income residents; and

11 WHEREAS trapping is a harvest of renewable resources; and

12 WHEREAS its acceptability has long been acknowledged by those familiar
13 with living in Alaska; and

14 WHEREAS methods which may be applicable in other states would not be
15 feasible in Alaska due to the remoteness of its geographic area and the
16 problems of access ;and

WHEREAS the regulation of trapping should be left exclusively to
the States;

BE IT RESOLVED that the Alaska State Legislature vigorously opposes
any restrictions or regulations that may be imposed by any federal legislation
relating to the use of traps and that it supports efforts by the Alaska
Congressional Delegation and other members of the Congress to defeat such
proposed legislation.

23 COPIES of this resolution shall be sent to the Honorable Gerald R. Ford,
24 President of the United States; the Honorable Rogers C. B. Morton, Secretary,
25 Department of Commerce; the Honorable Thomas S. Kleppe, Secretary, Department
26 of the Interior; and to the Honorable Ted Stevens and the Honorable Mike
27 Gravel, U. S. Senators, and the Honorable Don Young, U. S. Representative,
28 members of the Alaska delegation in Congress.
29

House Judiciary Committee
January 20, 1976

The meeting was called to order by Chairman Gardiner at 1:20. Present were Gardiner, Cotten, Eliason, Parr, Bradley and Specking.

Under discussion was Mr. Miller's HB 606 dealing with appointments to fill vacancies in the U.S. Senators seats. Mr. Miller pointed out that the vacancy should be filled by a person of the same political party as the deceased. Mr. Miller felt that the appointment has to be made by the Governor and has outlined in HB 606 a method by which names should be submitted to the Governor, should the Governor happen to not be of the same party as the deceased.

HB
606

Most of the disagreement stemmed from the method of submitting names to the Governor. Be it from the President of the Senate and the Speaker of the House, the Caucuses, the Central Committees, the District Committees or what have you. Only Mr. Specking was in disagreement that the replacement should be of the same party.

The situation of a special election was discussed, and whether an appointment should be made until the next general election, at which time the appointee would have to be duly elected.

Mr. Gardiner suggested that the members meditate on the matter, and a draft proposal be drawn up suggesting methods of submitting names, and it will be researched as to whether in the fact the Governor has to make the appointment, or if a special election will do.

The meeting was adjourned at 2:30.

House Judiciary Committee
January 21, 1976

The meeting was called to order by Chairman Gardiner at 1:15. All members were present.

Under discussion was the Governor's package of bills concerning medical malpractice in the State of Alaska, namely HJR 48, HB 574 and HB 575.

HJR
48

First to testify were Commissioner Motley and Mr. Block of the Division of Insurance. They went through the Governor's Commission on Malpractice's report point by point. Basically recommendations 1-13 are modifications to the legal system to keep down costs and make the system more efficient. The liabilities will be divided into two groups, those within a three year limit and those beyond the three year limit. This makes it more creditable to the insurance companies underwriting the insurance because they can thereby quantify statistics and determine rates. An adjudication board would be established to decide the justifiability of cases, but this will take a constitutional amendment to allow the legislature to do such. Recommendations 23-27 and preventative measures to hopefully keep down malpractice charges in the future. These are basically requiring doctors to completely inform patients of risks and results before undertaking procedures, enlarging the powers of the licensing boards to allow them to restrict doctors rather than cancel licenses, and require a moral commitment. The Commission recommends that all health care providers be mandatorily included in the coverage, a point which caused much objection.

HB
574

HB
575

Next to testify was Dr. Robert Whaley of Anchorage representing the Alaska Medical Society. He would like to see outlandish medical awards limited by statute. He feels that compulsory membership is undesirable, and would like to see lawyer's fees regulated. Basically he endorsed the report of the Commission, but would like to see a modest, inexpensive investigation of all alleged complaints.

John Hopkins of Blue Cross stated that Blue Cross is against general JUA but supports the 27 point proposal of the Commission as a workable solution. He states that a general JUA would seriously jeopardize the reserves of Blue Cross to the extent that they would no longer qualify to operate in the State of Alaska.

Dr. Kinn of Fairbanks read some letters of the component medical society of Alaska. Basically these letters expressed endorsement of the Commission's report with most objection stemming from mandatory inclusion as some doctor groups can still get insurance at lower rates that the pool would offer. The problem being that in a few years when those policies are up for renewal and are not renewed, those doctors will be looking for insurance again. He stated that consumer representatives are concerned with non-professional health care providers who would still be uninsured.

Dr. Gary Hedges of Juneau, President of the Alaska State Medical Association briefly stated that three doctors have already left Juneau because of lack of medical insurance and that more will be leaving this year. Juneau is in serious need of a pediatrician, and none can be enticed here because of the insurance problem.

Henry Pratt testified on behalf of the dental society and stated that they are opposed to mandatorily forcing dentists into the malpractice situation. At this point in time, dentists do not have the problem which doctors do and they do not feel they want to have to pay the higher mandatory cost of malpractice insurance suggested by the Commission's report.

Vic Dirkson testified for BMH and commended the Commission on its report with the exception of mandatory inclusion set out in recommendations 14 and 22.

Joe Jacobson stated we should keep in mind that these are the governor's bills and not the doctors' bills. He would like to see retroactive coverage and national standards implemented.

The meeting adjourned at 3:38 with more to come on Friday.

At a recent Board of Director's meeting in Anchorage, the Alaska Nurses' Association (AaNA) declared its opposition to the malpractice legislation as proposed by the Governor's Commission on Medical Malpractice Insurance in October 1975. The AaNA did endorse the position that all nurses should carry individual malpractice insurance for their protection and the protection of the public.

Letters and reports strongly opposing the proposed legislation came to the Board as a result of educational meetings held by nurses throughout the state in November and December.

While AaNA is sympathetic with the plight of some physicians in securing adequate malpractice insurance at reasonable fees, there are many features of the proposed bill that nurses found unacceptable. The most objectionable feature of the bill is tying of nurses' licensure to mandatory malpractice insurance. ~~Restricting the nurse's ability to be covered by malpractice insurance only through health care institutions limits the nurse's job mobility, professional autonomy and is a form of institutional licensure to which the nursing profession is opposed.~~

- ERROR
1. Elimination of the jury trial in malpractice cases.
 2. Unknown cost to the health professional and the tax payer for the late claims provisions of the bill.
 3. Monopolistic nature of the Health Care Provider Indemnity Corporation which would limit the nurses' freedom of choice to obtain their own insurance.
 4. Increasing the state bureaucracy.
 5. Unknown cost to nurses who now obtain adequate and low cost insurance.

Many nurses favored the idea of the expert panel as a pre-trial service in malpractice suits, but felt that the majority of panel members should be from the profession named in the suit.

The AaNA endorses the professional nurse's responsibility to participate in continuing education and peer review as a means to improve and maintain the quality of health care.

1/21
157.1

January 14, 1976

Commissioner Langhorne A. Motley
Chairman, Governor's Medical Malpractice
Insurance Commission
Department of Commerce and Economic
Development
Pouch D
Juneau, Alaska 99811

Dear Commissioner Motley:

The Alaska Nurses Association's board of directors has reviewed the Report of the Governor's Commission on Medical Malpractice Insurance and the recommended legislation prepared.

The board of directors received many expressions of concern about the proposed legislation from members in the Association's local districts throughout the state. After considering the opinions and rationale expressed, the board of directors at its recent meeting took the following position in regard to malpractice insurance for nurses and the proposed legislation:

"The Alaska Nurses Association endorses the position that all nurses carry individual malpractice insurance for their protection and the protection of the public."

"The Alaska Nurses Association finds that the proposed legislation on malpractice insurance as recommended by the Governor's Commission on Medical Malpractice Insurance on 31 October 1975 is unacceptable to nurses."

Enclosed for your further information is a copy of the press release prepared by the board of directors of the Alaska Nurses Association following the meeting at which the above statements were formulated.

We appreciate your consideration of the concerns expressed by the Alaska Nurses Association.

Sincerely yours,

(Mrs.) Betty H. Kester
Executive Director

Encl.

cc: Richard L. Block, Div. of Insurance
President, AaNA; Barbara T. Walker, & Legislation Committee

DEC 11 1975

11/21
157.3

1001 Noble St.
Fairbanks, Alaska 99701
December 7, 1975

Rodman Wilson, M.D.
President
Alaska State Medical Association
1135 W. Eighth Ave.
Anchorage, Alaska 99501

Dear Dr. Wilson:

At the October 9, 1975 meeting of the Fairbanks Medical Association members voted unanimously to endorse all proposals made by the Medical Malpractice Commission appointed by Governor Hammond.

It is certainly our hope that the State Legislature will provide a prompt solution to this problem when they meet in January.

I believe that now all physicians in Fairbanks are aware of the magnitude of the problem and the threat that it poses to the continued high quality of medical care. Thus it is gratifying to us to see that physicians all over the state are uniting in their support of the Commission's report.

Sincerely yours,

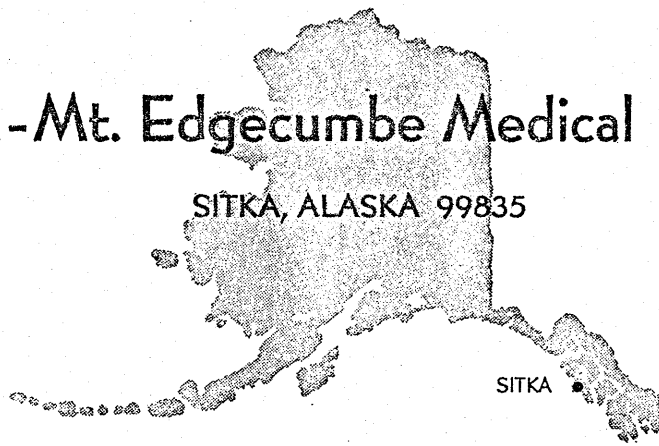
Richard C. Hess, M.D.

Richard C. Hess, M.D.
Secretary-Treasurer
Fairbanks Medical Association

157.4

Sitka-Mt. Edgecumbe Medical Society

SITKA, ALASKA 99835



December 22, 1975

Rodman Wilson, M.D.
Alaska State Medical Association
1135 W. Eighth Avenue
Anchorage, Alaska 99501

Dear Dr. Wilson;

On Wednesday, December 18, the Sitka-Mt. Edgecumbe Medical Society gave unanimous endorsement to all the recommendations of the Governor's Commission on Medical Malpractice.

Yours truly,

A handwritten signature in cursive script, which appears to read "Edward D. Spencer".

Edward D. Spencer, M.D.
Secretary-Treasurer
Sitka-Mt. Edgecumbe Medical Society

EDS/das



ALASKA STATE

MEDICAL ASSOCIATION

1135 W. Eighth Avenue • Anchorage, Alaska 99501 • (907) 277-6891

December 22, 1975

Rodman Wilson, Chairman
Alaska State Medical Association
Malpractice Committee
3300 Providence Drive
Anchorage, Alaska 99504

Dear Dr. Wilson:

At the Anchorage Medical Society meeting of December 16, 1975 the membership present discussed and voted on various aspects of tactics to be employed in trying to achieve effective Legislation in regards to the Medical Malpractice Liability Insurance problem at the present Legislative Session.

The Anchorage Medical Society passed unanimously a resolution to advise the Alaska State Medical Association to hire Mr. Joe Josephson to lobby in Juneau on behalf of the State and Local Medical Society positions' on the Medical Malpractice Liability problem. It was understood that the financing of the lobbyist would be by the Alaska State Medical Association.

A motion was also passed overwhelmingly that the Anchorage Medical Society supports the efforts to be made in lobbying as outlined by the Alaska State Medical Association's Medical Malpractice Committee: To continue to support the entire package of 26 points of the Governor's Commission, if passed in its entirety, and if the package is not passed in its entirety to return to support the original bill as drawn up and outlined by the Anchorage and State Medical Association in the summer of 1975.

The Anchorage Medical Society also has reservations, as expressed by our membership, concerning the adjudication board, but realizes that if the entire package of Legislation as presented by the Governor's Commission is passed, the adjudication bill would be a definite positive part of this bill.

Sincerely,

Paul Steer, M. D.,
Secretary-Treasurer
Anchorage Medical Society

PS:m1m

Kenai Peninsula Medical Society

BOX 1390, KENAI, ALASKA 99511

K-DA. 4. Dec 1976
Mr. Hansen
mij. # 57771

January 5, 1976

Gary Hedges, M.D., President
Alaska State Medical Association
1135 Eighth Avenue
Anchorage, AK 99501

RE: KPMS Recommendation Regarding Malpractice
Legislation

Dear Dr. Hedges:

Kenai •

The Kenai Peninsula Medical Society is in full support of Malpractice Insurance Legislation as recommended by the Governor's Commission on Malpractice Insurance, however, the majority of members have some reservation about this being compulsory for physicians to purchase in order to be licensed in Alaska and they have reservations about the means of being assessed insurance premiums.

It was recommended in earlier legislation that premiums be established on the basis of gross income and this is felt unfair to family physicians who practice solo or in small groups in outlying communities because these physicians normally have high overhead expenses and at the same time relatively small exposure to malpractice suits compared to other specialists practicing in cities.

Sincerely,

Peter O. Hansen, M.D.

Peter O. Hansen, M.D., Secretary

POH/aam

JAN 9 1975

copy to Dr. Wilson



Ketchikan Medical Society

3100 TONGASS AVENUE - KETCHIKAN, ALASKA 99901

December 30, 1975

Rodman Wilson, M.D.
Alaska State Medical Association
1135 West Eighth Avenue
Anchorage, Alaska 99501

Dear Dr. Wilson:

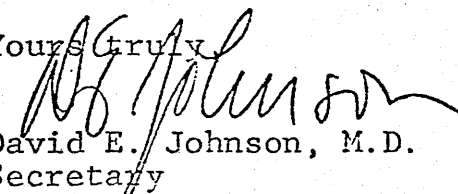
At a special meeting of the Ketchikan Medical Association executive committee on December 15, the meeting of the medical society on December 16 and a subsequent meeting that evening with our legislators, Ketchikan Medical Society carefully considered the Governor's Commission report on medical malpractice. We wholeheartedly support the concepts of constructive action spelled out, and enthusiastically endorse most of the specific recommendations.

We are concerned that the suggested constitutional amendment might be more than the legislators would be willing to attempt. We would favor de-emphasizing that point, and omitting it if necessary in seeing the rest of the legislation passed. In addition, we believe that abolition of ad damnum, a shortening of the statute of limitations for children, and some sort of limitations on awards and contingency fees should be recommended.

We have communicated our concern regarding the current state of affairs, and our interest in the legislature's doing something for the people of Alaska to our local legislators. Representatives Freeman and Gardiner and Senator Ziegler have assured us that they will be seeking our input at the session progresses, and we have assured them that we will be working through the medical association lobby and providing whatever other assistance they need from our profession in passing a necessary package of legislation.

Thank you for your continuing leadership in this most pressing and difficult situation.

Yours truly,


David E. Johnson, M.D.
Secretary

BARTLETT MEMORIAL HOSPITAL

P. O. BOX 3-3000 • JUNEAU, ALASKA
MILE 3 — GLACIER HIGHWAY

• TELEPHONE (907) 586-2611

October 14, 1975

Rodman Wilson, M.D. ✓
Robert Whaley, M.D.
William Kinn, M.D.
Gary Hedges, M.D.
Langhorne A. Motley

Gentlemen:

The membership of the Juneau Medical Society has reviewed the Report of Governor's Medical Malpractice Insurance Commission. We have elected to endorse the report, but with significant reservations. While recognizing several commendable provisions contained in the report which would doubtless prove beneficial if implemented by the Legislature, we feel that the recommendations of the report fall short in some crucial areas. It provides no guarantee that adequate malpractice insurance coverage could be made available. Even if it does become available under the provisions of the report, we feel that the lack of a ceiling on awards along with retention of the legal contingency fee system may render premiums unaffordable by many physicians.

Since it appears that the Commission is unable or unwilling to incorporate more effective provisions in these important areas, we nonetheless endorse submission of the report to the Legislature in hopes that those provisions which do have merit may become law. We do feel strongly, however, that even adoption of the report as it stands by the Legislature will not provide a total solution to the present crisis.

Sincerely,

Willard Andrews

Willard Andrews, President
Juneau Medical Society

WA/sb



JAN 14 1976
Dr. Wedges
orig - #5179
X-and sent 9d.

OFFICE OF THE PRESIDENT

January 10, 1976

Mr. Langhorne Motley
Commissioner
Pouch D.
Juneau, Alaska 99811

Dear Commissioner Motley:

The Alaska Dental Society wishes to reaffirm its position in relation to the Malpractice Insurance Commission's proposed legislation.

We object to mandatory inclusion in a joint under-writing association and adhere closely to the points and reasoning brought out in a report to the legislature made by Dr. H.S. Denenberg.

Sincerely;

Robert R. H. Sutherlin DDS

R.H. Sutherlin
President
Alaska Dental Society

cc: All legislators
All Health Care Associations
Governor
Director of Insurance

JAN 9 1976

7-5111-15 191
big to the doctor



Ketchikan Medical Society

X-and sent
9/2

3100 TONGASS AVENUE - KETCHIKAN, ALASKA 99901

December 30, 1975

Rodman Wilson, M.D.
Alaska State Medical Association
1135 West Eighth Avenue
Anchorage, Alaska 99501

Dear Dr. Wilson:

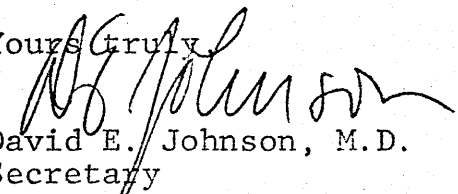
At a special meeting of the Ketchikan Medical Association executive committee on December 15, the meeting of the medical society on December 16 and a subsequent meeting that evening with our legislators, Ketchikan Medical Society carefully considered the Governor's Commission report on medical malpractice. We wholeheartedly support the concepts of constructive action spelled out, and enthusiastically endorse most of the specific recommendations.

We are concerned that the suggested constitutional amendment might be more than the legislators would be willing to attempt. We would favor de-emphasizing that point, and omitting it if necessary in seeing the rest of the legislation passed. In addition, we believe that abolition of ad damnum, a shortening of the statute of limitations for children, and some sort of limitations on awards and contingency fees should be recommended.

We have communicated our concern regarding the current state of affairs, and our interest in the legislature's doing something for the people of Alaska to our local legislators. Prerepresentatives Freeman and Gardiner and Senator Ziegler have assured us that they will be seeking our input at the session progresses, and we have assured them that we will be working through the medical association lobby and providing whatever other assistance they need from our profession in passing a necessary package of legislation.

Thank you for your continuing leadership in this most pressing and difficult situation.

Yours Truly


David E. Johnson, M.D.
Secretary

House Judiciary Committee
January 22, 1976

The meeting was called to order by Chairman Gardiner at 1:20. Members present were Cotten, Specking, Bradley, Parr and Gardiner.

Under discussion was House Bill 444 regarding Life Insurance practices in the State of Alaska.

HB
444

Present to testify were Mike Thomas representing the American Life Insurance Association and Daphne Bartlett of Occidental Life Insurance Co. of Los Angeles. Ms. Bartlett was asking for adoption of HB 444 as it would create uniform regulations between states which is important for her company which does business in several states. Included in these standardizations would be a higher interest rate and a lower cash value. These would allow the insurance companies to lose less on early termination policies, which is now costing them money. It would allow them to charge lower rates to those policy-holders who do not terminate early, and would release more of their surplus funds for investment elsewhere where they could earn more money.

Committee members asked Ms. Bartlett many questions to clear up their naivete on insurance matters, but much confusion prevailed and not a whole lot was learned.

The meeting was adjourned at 3:00.

House Judiciary Committee
January 22, 1976 7:00 p.m.

The meeting was called to order by Chairman Gardiner at 7:02 p.m.
Members present were Cotten, Bradley, Parr and Gardiner.

Under discussion was SS HB 531 Freedom of Public Information, with testimony to be taken mainly from the press. First to testify was Joe La Rocca of Anchorage, covering the legislature. He had several pertinent comments to make regarding the bill as it stands now. He said that in general it would serve to benefit the public more than the press, as the press has other more organized means of gathering information. He stated that of 250 complaints against the Federal Act, only 20 were from the press.

SS HB
531

Some of his problems with the bill as it is:

Pg. 1, line 27 "nor to representatives of newspapers" is redundant as they are already covered under language "any person".

Pg. 2, line 6: define "Every public officer" so it is clear whether it has to be head of department, or if clerks are public officers.

line 4: after "in writing" add "at this time" so that requestor does not suffer unreasonable delays.

line 8: need uniform fee schedule established by regulation as some agencies set arbitrarily high fees. Fees have been one of the six major deterrents to the Federal Act.

lines 10 22 is not necessary because all this is allowed by language of "any person" on page one.

line 25: "federal" is not necessary as we are dealing with state agencies.

line 27 and 28: If personnel records are closed and an applicant misrepresents himself on a job application, how is one to know what he has represented and what his former records indicate is or is not true.

Pg. 3, line 15: Social service records, same problems apply as in personnel records above. How can one find out what a person has said, so you know what you might need to disprove?

line 28: see attachment following, Joe LaRocca submits the federal wording for section (12)

Pg. 4, line 20: regarding (e) a provision should be implemented so that if a person is denied access to a file and subsequently files suit to obtain access and that access is granted, the agency which originally failed to release that information should be responsible for court and attorney costs required to gain access.

It should also be added that when a custodian refuses information, it should be in writing who has denied the requestor his request and what his appeal rights are.

He would also like to see added a section requiring annual reports by agency, channelled through the A.G.'s office so that the Legislature can monitor the effect of the act. It should include descriptions and number of determinations which were denied, including reason for denial.

Agencies should be required to instruct their personnel as to how the act is to be implemented. A decision should be reached as to whether or not marriage licenses are closed to public scrutiny as Anchorage says no and Fairbanks says yes. If particulars are to be closed, at least numbers should be available for statistical purposes.

Next to testify was John Greeley of the Associated Press. He also felt that personnel records should be open to future possible employers. He was also concerned with (7) on page 3. He felt that a person could under this section donate information to the archives which would be public and thereby have them become closed until such date as they stipulate in their donation. He also stated possible conflicts between AS 09.25.110 - 120 and AS 37.07.060 as in the past the AP has requested information on the budget under title 9 and had that request refused by the governor under title 37.

Mr. Parker read a miscellaneous letter stating that all information should be open to the public, and if refused a \$1,000.00 fine and imprisonment should be inflicted. Anything can be photocopied. All meetings should be open, no exceptions!

Tom Turnbull and Dick Bradley of the A.G.'s office, representing the Dept. of Law, not the administration. Their major concern is that under this bill everything is open except some specific areas which are closed. Their concern is have we chose all the right specific areas? They requested that we wait for a survey of state departments to see what their problems might be. Perhaps we have picked some wrong areas. Mr. Gardiner asked that they come back within a week with their survey and information. They also asked that it be defined as to whether prosecutors are a part of the law enforcement agency, page 3 (12).

Mr. Parr explained that there is no attempt to make anything confidential only to keep some things from the general public. No attempt to close files to those working with them.

The meeting was adjourned at 9:07 p.m.

(12) intelligence and investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would

- (A) interfere with enforcement proceedings.
- (B) deprive a person of a right to a fair trial or an impartial adjudication
- (C) constitute an unwarranted invasion of personal privacy
- (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal security intelligence investigation, confidential information furnished only by the confidential source
- (E) disclose investigative techniques and procedures, or
- (F) endanger the life or physical safety of law enforcement personnel.

Joe LaRocca

House Judiciary Committee
January 23, 1976

The meeting was called to order by Chairman Gardiner at 1:25. Members present were Cotten, Specking, Bradley, Parr and Gardiner.

Under discussion was more of the Medical Malpractice Commission's report. First to testify was Art Snowden, Administrative Director of Courts. He stated that the Court system does not want a medical adjudicatory board within the court system. He objects because of statute and language.

HB
574

Med.
Mal.

Second to testify was Dr. Wilson of Anchorage. He expressed that the Alaska State Medical Assn. is very disappointed that the court has rejected an expert advisory panel. He stated that medical malpractice suits are not as numerous nor as expensive as elsewhere. That Alaska does not have the problem that other states have. He also stated that as only 1/20,000 Alaskans sue a Doctor each year, is it better to pursue favoring the 1/20,000 or the other 19,999? Of the one billion dollars which is taken in on malpractice premiums, a large amount is wasted; it is not returned to the public but misused within the system in lawyers fees, court costs etc. This is partially what is making malpractice so expensive. The doctors in the Alaska State Medical Assn. are objecting to large costs for no quality insurance with no permanence. He gave an analogy whereby insurance companies were like the police forcing prostitutes to pay in order to continue in business. Doctors = Prostitutes, Insurance Companies = Police, and premiums = payola. He stated that some doctors are not practicing up to their technical competence because they are so fearful of being sued.

Third to testify was Dr. Roy Box of Juneau, member of Alaska Optometric Assn. The position of the Ak. Optometric Assn. is the same as that of the dentists. They oppose mandatory inclusion in the coverage, as they can currently get much lower rates because of the kind of services they offer the public.

The meeting was adjourned at 2:30.

The meeting was called to order by Chairman Gardiner at 1:22 p.m.
Members present were Eliason, Bradley, Parr, Gardiner, Cotten and Brown.

First item of discussion was HB 541 regarding visitation rights of prisoners. Mr. Charles Adams, Director of the Division of Corrections explained that one of the reasons the bill was requested was because many natives in the state grow up with other than their immediate family. Therefore if and when they find themselves in prison, they are not allowed to visit with what they consider their family. He said that there was a problem with allowing visitation with "anyone" but that it is all right as long as department regulations can cover investigation and refusal of certain situations. There were only seven requests this past Christmas, and no problems resulting from any of them.

HB
541

Mr. Cotten moved the bill out as CS with the HESS amendment incorporated.

Mr. Eliason objected and withdrew his objection.

Mr. Bradley requested that Mr. Adams furnish Mr. Eliason, Mr. Gardiner and Mr. Parker with a list of how many crimes have been committed by persons on visitation furlough. And further requested that Mr. Parker not place HB 541 on the calendar until such list has been acquired.

Second item of discussion was HB 598 regarding Tort claims against the state involving motor vehicles. John Messenger of the A.G.'s office was first to testify. He said that because of the large number of claims and sizeable awards, there is a huge potential liability which causes insurance companies to charge inhibitive premiums; thereby making it nearly impossible to insure the state against such claims. He stated that the State is not responsible for situations arising out of negligent design, including signs, curves etc. because they are "discretionary functions" and therefore exempt. In order for negligent maintenance to be a factor of responsibility, it is necessary to meet the four items under (B) of this bill.

HB
598

Mr. Brown pointed out that the State should be as responsible as any individual and without limitations.

Also testifying was John George of the Office of Risk Management. He stated that between 1967-1974 there were 2 to 6 suits a year against the state. In 1975 there were 4 suits each awarded \$500,000.00. The insurance company paid out but will not do so again. There have been 32 suits instigated since last February, most of which happened four years ago. The state fears the courts may award larger amounts in the future. Also contributing to the costs are the legal expenses involved in defending the state. If an insurance company cannot be found to insure the state, it will have to come out of the general fund. This bill is trying to discourage people from suing the state.

Mr. Brown stated that one problem he has was that an effective date should affect accidents and occurrences after the effective date; not action brought after the effective date.

The meeting was adjourned at 3:00 p.m.

House Judiciary Committee
January 27, 1976

The meeting was called to order by Chairman Gardiner at 1:20 p.m. All members were present.

Topic of discussion was the insurance aspects of malpractice problem, more specifically the JUA and MIC. Testifying was Dick Block, Director of the Division of Insurance. He started by saying that in order for an insurance company to write a policy, it has to be able estimate costs; they must therefore be controllable; a fixed and known sum. Insurance companies can no longer predict costs because juries are giving unknown large awards causing unlimited exposure making risk uncontrollable to insurance companies.

HB
574

The problem with occurrence form insurance is that it covers everything during the time the policy is in effect, even if action is brought 20 - 25 years later. This long period of time is known as a Tail and is what is adding to the uncontrollability of the insurance company's responsibility and causing higher premiums.

In 1974 the stock market "decline" caused large paper losses for insurance companies. They therefore decided to quit writing lower profit policies. The first to go were malpractice policies for high risk professions. This was explained as due to the statute requirements for ratios of surplus to premiums. Argonaut Insurance Co. of N.Y. cancelled all malpractice policies effective immediately and woke up rest of country. The insurance companies said that malpractice coverage had to be made controllable. The Governor's Commission on Malpractice tried to do this by limiting the Tail and forming a Late Claims fund. 50% of claims are made the first year. Later claims are usually larger, more expensive and undeterminable at time of policy issuance, so by eliminating claims past three years, costs should be more controllable.

The Commission is recommending that all doctors be mandatorily obligated to join in this program so that the pooling effect of high and low risk doctors can average out the costs. If the state only has the high risk doctors to draw from, the system will not have a large enough base to work.

The Commission also recommended formation of an advisory panel to judge with respect to medical damages only, not legal matters. It is hoped that a panel of expert medical persons can thereby cut some of the high cost of long and complicated legal processes.

The Commission recommended formation of MIC (Medical Indemnity Corporation) which would function in the capacity of bargaining for insurance with private companies using monies collected from mandatory inclusion in the program. Each years rates will include last year's profit or loss. If a private carrier decides to back out or cannot be found, the JUA (Joint Underwriters Assn.) is there to sell insurance to MIC and we will never have the problem we have today again. JUA will have funds available from assessment of insurance companies doing business in Alaska.

The Late Claims Fund will be funded by all health-care providers. Rather than paying out large lump sums, it will make installment payments as long as needed.

Mr. Bradley suggested that perhaps the state should underwrite MIC rather than insurance companies. Another viable alternative if the state is willing to put up the money.

Mr. Cotten asked why some states don't seem to have a malpractice problem. Mr. Block explained that if suits are few and small, if the state has a large base (being lots of doctors to draw from), then malpractice insurance is still profitable for insurance companies and less of a problem for most doctors.

Mr. Gardiner asked why separate out the late claims fund and make the state pick up the risky portion. Mr. Block explained that without separating out the late claims portion, it was still an uncontrolled situation and insurance companies would not be interested.

Tape #5

The meeting was adjourned at 3:30 p.m.

House Judiciary Committee
January 28, 1976

The meeting was called to order by Chairman Gardiner at 11:05 p.m.
Members present were Brown, Cotten, Eliason, Bradley, Parr and Gardiner.

HOUSE BILL NO. 606 Vacancies in U.S. Senate seats

HB
606

The basic problem with the bill as it stands and as Mr. Walker was directed to draft a substitute is that the Legislature is not always in session, and by directing nominations through the Legislature, it would require a special session during those times when the Legislature was not in session.

After much discussion it was finally agreed upon that the best step to take was to have the four district conventions as filed with the Lt. Governor as to jurisdiction, each submit no more than 2 names to the Governor so that he has from 1 - 8 names to choose from.

Mr. Walker was instructed to draft a CS based on the above ideas.

The meeting was adjourned at 11:39 p.m.

House Judiciary Committee
January 28, 1976

The meeting was called to order by Chairman Gardiner at 1:20 p.m. All members were present.

MEDICAL MALPRACTICE

John Hedlen, Lawyer

Dr. Hedlen - Member of Governor's Commission on Malpractice.

HB
574

Dr. Hedlen stated that by nature, medical malpractice was difficult to insure, and that the cost of the system is inordinately expensive. That only \$0.15 out of each \$1.00 taken in in premiums gets back to the patient. This is threatening the quality of medical care available.

One of the problems is that you cannot sell insurance until you can judge the losses, for which you need statistics. Malpractice is expensive to take to trial, and the discovery period of many years is expensive, not counting inflation.

Claims made policies are not a solution because they only cover a doctor during the year the policy is in effect. It does not cover later claims made against situations occurring during that period. A doctor has to keep buying insurance on a year-to-year basis with no guarantee that it will be available or what it might cost. Once you are in such a system, you cannot get out.

Dr. Hedlen supports HB 574 and the idea of MIC and JUA. He also feels that medical expert panels will greatly reduce the costs of malpractice suits because a great majority will be either dismissed or awarded on the basis of the panels decision. Thereby cutting the cost of litigation. This would be a neutral expert panel, a friend of the court.

As to adjudication without jury trials. Jury trials are expensive for several reasons: selection of jury and kind of presentation necessary for jury trial. Mandatory arbitration denies right to jury trial. A medical adjudication board cannot be cross-examined, therefore trial by jury is in form only. Mandatory arbitration with jury trial later will only increase cost by adding another step in litigation.

Jamie Love - Member of Governor's Commission on Malpractice.

There was a breakdown in the system which makes it impossible for doctors to get insurance, therefore government must get involved. Another problem is the system of allocating premiums to patients is inefficient.

He suggests that rates be established according to Gross Receipts, not according to area of medicine practiced.

Reinsurance should remain open to three options: state, JUA and private market.

The meeting was adjourned at 3:15 p.m.

House Judiciary Committee
January 29, 1976

The meeting was called to order by Chairman Gardiner at 1:25. All members were present.

HOUSE BILL NO. 203 Salary Commission

HB
203

Commissioner Andy Warwick presented a draft of the Governor's proposal for a five member pay commission. Draft included everyone not under collective bargaining. Boards proposed would be sent to legislature and if not disapproved would become effective in 45 days.

Art Petersen: On affect of referendum on Chap. 205 and constitutionality of cutting judges wages. Said it could be done if across board.

The meeting adjourned at 2:02 p.m.

House Judiciary Committee
January 30, 1976

The meeting was called to order by Chairman Gardiner at 1:20 p.m. All members were present.

HB 574 MEDICAL MALPRACTICE

HB
574

It was explained that the expert advisory panel was to report on medical facts, and that the adjudication board was to replace the jury.

- Questions: 1 Are we eliminating someone's right to a jury trial?
- 2 Are we adding just another layer if can later appeal to a jury trial?
- 3 Does board belong under Judicial, Executive or Administrative branch?

Originally panel was envisioned to gather evidence which would go to adjudication board and thereby eliminate a layer and bring some cases to earlier conclusions.

Mr. Specking moved that only physicians, surgeons and hospitals be mandatorily included in MIC. No objection. Anne Carpeneti was instructed to draw up such language in draft form for the next meeting.

Mr. Brown moved that all health-care providers licensed in Alaska must have adequate (\$200,000 - 600,000) insurance. Can be individual or covered under place of employment as hospital or clinic. No objection. Anne Carpeneti was instructed to draw up such language in draft form for the next meeting. She was also instructed to draft language so that if at a later date the Director of Insurance finds by hearing that a segment of health-care providers is having problems getting adequate insurance he shall mandate all persons in that segment to purchase from MIC. Cannot be on individual basis.

Mr. Parr would like to see expert panel appointed by judge after suit filed. Still incur discovery costs.

The meeting was adjourned at 3:30 p.m.

House Judiciary Committee
February 2, 1976

The meeting was called to order by Chairman Gardiner at 1:30 p.m. All members were present.

SB 507 amended RISK MANAGEMENT

SB
507
am

Mr. Block, Director of the Division of Insurance stated that the Administration supports the idea of Risk management. The risk manager should be able to implement ideas that will alleviate problems in the physical environment. MIC should have risk management program rather than each hospital having its own.

HB 574 MEDICAL MALPRACTICE

HB
574

As per directions on January 30, Anne Carpeneti was here with a work draft for a CS on HB 574. Included in this draft were changes making only physicians and hospitals mandatorily included in MIC - others to be included if the Director of Insurance decided after hearings that there is a problem of getting insurance, then providers in that class will be mandatorily directed to buy insurance from MIC.

Mr. Eliason would like to know why all health-care providers, not just those having an insurance problem, are required to carry malpractice insurance when architects and lawyers etc. are not.

Mr. Parr would like to see wording included such that someone covered adequately by hospital or clinic insurance is not forced to carry individual insurance also. Mr. Block said he would like to think about this and report back on what happens when MIC through hospitals and clinics insures some nurses, but not all.

Mr. Brown would like the language on waiver from original bill to take care of Mr. Parr's suggestion above.

On page 9 of draft 2, is a description of advisory panel makeup. Appointed by judge, giving parties opportunity to object. Comes into play after suit filed and discovery costs have been accumulated. Not really saving money or allowing others chance to file smaller claims, because still have problems and costs incurred by lawyers.

The meeting adjourned at 3:00 p.m. until 7:00 p.m.

House Judiciary Committee
February 2, 1976

The meeting was called to order by Chairman Gardiner at 7:00 p.m. All members were present.

HB 574 MEDICAL MALPRACTICE

HB
574

Mr. Brown moved to delete section 15 as the advisory panel only provides information that the plaintiff has to get anyway. Objection noted, and the motion failed.

Mr. Brown moved that on draft #2, page 10, line 7, (1) should address omissions as well and medical services rendered. Anne Carpeneti was directed to include such in the next draft.

Draft # 1. Provides for one fund, a health care liability fund, no late claims and no JUA necessary. Premiums are paid in, the state transfers a loan if necessary. Next assessment is increased or decreased accordingly. This money is transferred by the Department of Revenue on a 7.5% loan for four years. To be paid back out of the next few year's premiums. These premiums are determined by board decision, based on Alaska experience and relative to Gross income of Doctor. This board consists of three insurance persons, not state employees or political appointees, but those knowledgable in the insurance field. MIC would still be the managing corporation. It is not in business to make money, but to provide malpractice insurance to doctors.

Anne Carpeneti was instructed to add a "pledging full faith and credit" phrase.

Mr. Block stated that the Committee should consider how contingent suits will reflect the state's bonding ability. May be insignificant, but should be checked out.

Anne Carpeneti was instructed to redraft the portion dealing with appropriating money as it is a revolving fund. Also check to see that it is clear that administrative costs come out of premium collection.

As the Committee seemed to be in favor of the approach, Anne was to continue working on the draft and have it ready as soon as possible.

The meeting was adjourned at 8:45 p.m.

House Judiciary Committee
February 3, 1976

The meeting was called to order by Chairman Gardiner at 1:30 p.m. All members were present.

HB 574 MEDICAL MALPRACTICE

HB
574

Mr. Bradley moved that page 14, lines 28 - 29 be deleted. Objection noted, and the motion failed.

Mr. Gardiner moved that (c) be deleted on page 15. Motion passed.

Anne Carpeneti was instructed that on page 15, (b) it should be made clear that the jury has to decide whether it should be paid in a lump sum or monthly payments, or perhaps monthly payments until a certain sum is reached.

Allen Compton of the Alaska Bar Association stated that page 18, line 17 dealing with the Good Samaritan concept, does not do what the doctors and Commission wanted it to do. He suggested that Anne Carpeneti decide just what they did want done and redraft this portion.

Anne Carpeneti was directed to clean-up section 18 to agree with section 16.

It was mentioned that in section 19, dealing with contractual suits, these promises should be in writing.

The meeting was adjourned at 3:30 p.m.

House Judiciary Committee February 4, 1976

The meeting was called to order at 1:30 p.m. by Chairman Gardiner, all members were present.

HB 531 "Freedom of Public Information Act" was discussed and the following people testified and the following amendments were made:

4B
531

Mr. Jenkins, the Director of the Division of Audit, Department of Revenue testified. Page 2, line 22 - Any tax or information returns required to be filed in accordance with the provisions of Title 48 of the Alaska Statutes, he would like the wording re-worked.

Discussion was brought up as to whether it was indicating all tax returns included or just income tax returns as confidential.

Specking moved to adopt the mentioned amendment. All in favor of page 2 line 22. Passed.

Mr. Miles S. Schlosberg, Director of the Division of Banking, Securities, Small Loans and Land Sales, Department of Commerce testified. He stated that the Department was basically in favor of the bill.

There are some problems with the way the bill is written with regard to the investigative portion of small loans, land sales, and lending.

He would like some legislative history to clarify Page 3, subsection 10, the words "financial" and "trade secrets", he would also like a definition of the word "trade secrets."

Definitions will be worked out by Mr. Schlosberg and Rick, covering "trade secrets", "financial" and "commercial." Amendments for land sales, and small loans to be included in a separate section.

Page 2, line 29, put a comma after student, the motion passed all in favor.

Discussed things that had been done to the bill already: Page 1, line 24, after all, public was stricken.

Page 1, line 29, section dealing with the news media was stricken.

Page 2, line 4, public official changed to every person, after lawful was added.

Page 2, line 13, reasonably accesible was added.

Gardiner made a motion that Page 2, lines 8 - 18 be rewritten by Mr. Walker, 09.25.120 modify to reconform. Motion passed.

Brown proposed an amendment on page 4 (12) line 2, add: except that names of victims of violent crimes may be withheld except when the ...

Wording above including sexual assult and rape. Motion passed for Mr. Walker to work up some wording in regards the above.

Page 4, line 22, work up language on waiving the filing cost.

Meeting adjourned at 3:25 p.m.

House Judiciary Committee, February 5, 1976

The meeting was called to order at 1:25 p.m. by Chairman Gardiner, all members were present.

CSHB 606 "Appointments to vacancies in office of United States senator."

NS
606

Discussion was held on page 1, line 28 if the wording should be committee, or convention.

Mike Miller likes having it on a district level rather than a central committee.

A motion was passed to have it written as "convention" not as committee.

HB 531 "Freedom of Public Information Act."

HB
531

Received the attached letter from Miles Schlosberg, Director of the Division of Banking, Department of Commerce, regarding suggested amendments.

A discussion was carried on regarding the proposed amendments.

Parr made a motion to adopt the first two sections of amendments. Passed.

Brown made a motion to include examples of financial data (etc.) in the committee report. Passed.

Specking made a motion to include the information given to us by Mr. Schlosberg regarding definitions in 4 sections.

Brown objected and would like to amend the amendment to include person or his designee at the end.

The amended motion passed.

Page 6, line 28 not to delete any ideas that Rep. Parker brought forth.

Page 6, line 24, most people want (quasi judicial) omitted. The following people object:

Department of Highways, Human Rights Commission, Workman's Compensation Board and the Violent Crimes Compensation Board.

A motion to strike "quasi judicial" and define. One yes, the rest nay, no pass.

Meeting adjourned at 2:40 p.m.

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF BANKING, SECURITIES, SMALL LOANS & CORPORATIONS

173-1
JAY S. HAMMOND, Governor

POUCH D—JUNEAU 99801

February 5, 1976

Honorable Representative Terry Gardiner
Chairman
House Judiciary Committee
Pouch V
State Capitol
Juneau, Alaska 99811

Dear Terry:

Re: HB 531 - Freedom of Public Information

Thank you for affording me the opportunity to document my comments from the hearing of February 4. I am dictating this letter in Rick Svobodny's presence. It represents the matters which Rick and I have discussed.

Section 5 of the bill should be dropped to a later number, and in its place a new section 5 should be added as follows:

Section 5: To AS 06.20 (The Alaska Small Loans Act) is added a new section: AS 06.20.345 as follows:

Intelligence and investigatory files maintained by the Department are confidential and may be revealed only with the consent of the Department.

Section 6: A new section is added to AS 34.55 (Interstate Land Sales Act) as follows:

AS 34.55.40: Intelligence and investigatory files maintained by the Department are confidential and may be revealed only with the consent of the Department.

To Section 1, at AS 40.25.060 "Definitions" is added "(1)" before the word "record" in line 2, and these additional definitions are added;

"(2) confidential financial data" includes personal financial statements, personal bank confirmations, personal credit reports and references, personal character references, state and federal income tax returns, correspondence pertaining to loan investigations, loan record cards, appraisals and marine surveys, and any financial information revealing the financial structure of a business organization or entity provided to a state agency for the purposes of securing a public loan.

Representative Terry Gardiner -2-

February 5, 1976

I have decided that the courts after hearing litigants argue would probably be better able to define the terms "confidential commercial data" and perhaps the term "trade secrets" than I am at this point. I will defer to their judgement and will not try to define them more.

An alternative to including in the definition section the meaning of "confidential financial data" is to put the exact same definitive language in the enabling statutes of the four loan programs which are administered by this department. Thus, if the committee wishes, instead of including this in the definition section, as I did above, it can establish new sections in the four loan programs as follows:

AS 45.95.080 (Small Business Loans); AS 45.90.050 (Tourism Loans); AS 16.10.340 (Commercial Fishing Loans); and AS 26.15.180 (Veteran's Loans), Each new section will read exactly as follows:

Information in the records of the department that is intended for use in the evaluation of loans made under this chapter, including but not limited to personal financial statements, personal bank confirmations, personal credit reports and references, personal character references, state and federal income tax returns, correspondence pertaining to loan investigations, loan record cards, appraisals and marine surveys, and any financial information revealing the financial structure of a business organization or entity provided to a state agency for the purposes of securing a public loan is confidential and may be revealed only with the consent of the department.

I'll be glad to discuss these matters at the committee's pleasure or at your pleasure.

Sincerely,



Miles S. Schlosberg
Director

cc: Langhorne A. Motley, Commissioner

House Judiciary Committee, February 5, 1976

The meeting was called to order at 7:10 p.m. by Chairman Gardiner, all members were present.

CSSSHB 531 "Freedom of Public Information Act."

HB
531

Joe LaRocca relayed his story about gaining access to all of the applications of persons applying for the Director of Criminal Justice Agency position.

Specking made a motion for page 2, line 22 to delete section (3), no pass.

Discussion was held on #3 page 2, line 22, "individual personnel files."

Tom Turnbull related that the Workman's Compensation Board has difficulty with page 3 line 3 subsection 6 with regards to information they need at hearings.

Bradley made a motion to adopt new federal language for #12, of proposed amendment and language Fred added. Passed. See attachments.

Cotten made a motion for page 4, line 9 to omit "both" and change it to either. No pass.

Brown made a motion for page 5, lines 18-19, 19-20, 27 and 29 to omit less than (and the amount) (and) nor. Motion passed.

Brown made a motion to omit person who is subject of the record change to "loan applicant", omit if the loan is not granted, pages 7, line 23, 8, line 8 and 22, 9, line 6. Amendment passed.

Gardiner read amendments proposed from the Attorney General's Office.

A motion for appropriate wording for an attorney work product, but not as broad as the proposal by the Attorney General's Office. The motion passed.

Motion to a change in regards quasijudicial, no pass.

Passed the bill out of committee.

The meeting was adjourned at 8:50 p.m.

(12) intelligence and investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would

- (A) interfere with enforcement proceedings.
- (B) deprive a person of a right to a fair trial or an impartial adjudication
- (C) constitute an unwarranted invasion of personal privacy
- (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal security intelligence investigation, confidential information furnished only by the confidential source
- (E) disclose investigative techniques and procedures, or
- (F) endanger the life or physical safety of law enforcement personnel.

Page 5, line 3, after

(a) "chapter."

The Court may charge no filing fees, and the Department of Public Safety may charge no fee for service of process, from an applicant seeking an injunction under this section.

No Security will be required by the Court from an Applicant seeking an injunction under this section. If the applicant is granted the injunction he shall be entitled to recover costs and reasonable attorneys fees from the Agency, political subdivision or other body subject to the open meeting provision of AS 44.62.310.

(b) The Superior Court shall make available to applicants hereunder, fee/charge, simplified forms for proceeding ~~pro~~^{without counsel} hereunder,

* Note Requiring only identification of the Plaintiff, ~~the~~ the state official or custodian who allegedly has refused access to records.

The inclusion of this, or similar language would necessitate amending the rules of court. That amendment would be reflected in the title of the bill.

House Judiciary Committee
February 9, 1976

The meeting was called to order by Chairman Gardiner at 1:20. Members present were Cotten, Eliason, Bradley, Parr and Gardiner.

HJR 3 GRAND JURY AMENDMENT TO CONST. OF ALASKA

HJR
3

According to Mike Rubenstein, HJR 3 is providing for the constitutional right of preliminary hearing. A preliminary hearing on a felony charge will direct things in three ways: to trial, a dismissal, and/or a clearing of the issues. In states where this system is utilized, law enforcement members claim that it is the most important part of the litigation. After a preliminary hearing, charges can be adjusted according to the facts presented. Mike Rubenstein suggests that this change should perhaps be in the Court Rules, not a constitutional amendment as in HJR 3. He feels that the Grand Jury should be independent, with its own group of attorneys.

Mr. Bradley and Mr. Cotten requested that the Committee hear the opposing views held by Dan Hickey, Deputy Attorney General.

The meeting was adjourned at 2:50.

House Judiciary Committee
February 11, 1976

The meeting was called to order by Chairman Gardiner at 1:30. Members present were Brown, Specking, Eliason, Parr and Gardiner.

HB 600 DETERMINATE SENTENCING

HB
600

Avrum Gross, Attorney General:

Rehabilitation seems to be unsuccessful, so why are we sending people to jail? Studies indicate that jails do not help rehabilitation. Indeterminate sentencing, whereby one stays in jail until he is rehabilitated, was only a con game between prisoner and parole board, based on pure guess work. If we abandon rehabilitation as the sole goal of sentencing, then jails will serve to isolate and punish and have a deterrent effect on future criminals. While deterrence has no effect on crimes of passion, it does on other premeditated ones. A few people are committing most of the crimes, therefore if we isolate them from society we can eliminate most of the crimes. Criminal justice as it stands today is a failure.

Mandatory determinate sentencing as in this bill is directed toward second and third or more criminal felons. Those that indicate a pattern of criminal behavior; punish and isolate. The fallacy of the parole board is corrected by the "good time" program. Hopefully an individual might be more responsive to rehabilitation programs directed at helping himself, rather than to con the parole board. Determinate Sentencing will have a deterrent effect. It is worth trying now even without a revision of the Criminal Code.

The meeting was adjourned at 2:45.

House Judiciary Committee
February 11, 1976

The meeting was called to order by Chairman Gardiner at 7:05 p.m.
Members present were Cotten, Specking, Parr and Gardiner.

HB 510 ASHA LAND SALES

HB
510

Mr. McKinnon explained that there are no regulations governing ASHA's disposal of property. It seems better and agreeable to remedy this by statute rather than regulations. Land may not be sold for less than appraised value, appraised within 9 months of date of sale.

Mr. Cotten moved that HB 510 pass out of Judiciary Committee in the form of CS HB 510 offered by the Resources Committee. There being no objection, it was done.

HB 559 INSURANCE FILING REVIEW PERIOD

HB
559

Mr. Block explained that due to the large number of forms and rates to be reviewed, the division of insurance needs more time to review them. Just a housekeeping change. Section 2 will give more latitude and perhaps encourage more insurance bureaus in Alaska. He stated that originally rate review was to assure solvency of insurance companies, but now is more of a consumer protection device.

Mr. Specking moved that HB 599 pass out of committee. There being no objection, it was done.

HB 581 WATERCRAFT

HB
581

Rick Svobodny explained that this bill expands the state's jurisdiction to include salt water, now it only includes fresh waters.

Mr. Cotten moved that HB 581 pass out of committee. There being no objection, it was done.

HB 655 FORECLOSURE

HB
655

Rick Svobodny explained that this bill changes the place of filing deeds on foreclosures from the Department of Revenue to the Department of Natural Resources. Department of Revenue does not have any of the pertinent files relating to land sales and such.

Mr. Specking moved that HB 655 pass out of committee. There being no objection, it was done.

House Judiciary Committee
February 11, 1976
Page 2

CSSB 440 SECURITY INTERESTS

CSSB
440

Rick Svobodny explained that this deals with the Uniform Commercial Code. As things stand now automobiles and mobile homes which are covered by certificate of title, do not require the dealer to file liens held by the bank on his inventory until it is sold. This would make it necessary for this information to be available before the article was sold. The filing must be done when the manufacturer sells the vehicles to the dealer, not when the dealer sells to the consumer.

Mr. Parr moved that CSSB 440 pass out of committee. No objection, it was done.

HB 606 VACANCIES U.S. SENATORS

HB
606

The members discussed the following amendments to CS HB 606:

Page 1, lines 27 - 29: Delete last sentence of subsection (c).

Page 2, line 6: Delete "not more than".

Mr. Cotten moved that the above amendments be adopted. No objection, so ordered.

Page 2, lines 11 - 17: Change to read:

Sec. 15.40.016. PLAN FILED WITH LIEUTENANT GOVERNOR.
Each state party central committee shall maintain on file with the office of the lieutenant governor a plan which defines the "party districts" for the purposes of Sec. 15.40.010 and Sec. 15.40.015.

Mr. Gardiner moved that the above amendment to adopted. No objection, so ordered.

Mr. Parr moved that HB 606 pass out of committee in the form of CS HB 606 with the above amendments included. No objection, so ordered.

The meeting was adjourned at 8:35 p.m.

House Judiciary Committee
February 12, 1976

The meeting was called to order by Chairman Gardiner at 1:20 p.m.
Members present were Brown, Specking, Parr and Gardiner.

HB 653 LEGAL COUNSEL APUC

HB
653

Mr. Will Gordon of the A.G's Office was here saying that they need a full-time attorney to handle the APUC problems. Legal representation of state agencies has to come from the Department of Law. Administration does not want departments hiring their own lawyers who would not be under direction of AG.

Mr. Glen Stanley of Select Commission of Telecommunications stated that APUC has to argue against every rate increase RCA applies for. RCA has plenty of money to hire attorneys and accountants and the APUC is hard pressed to argue effectively.

After much confusion, the meeting was adjourned at 2:35.

House Judiciary Committee
February 12, 1976

The meeting was called to order by Chairman Gardiner at 7:25 p.m. Members present were Cotten, Specking, Parr, Gardiner and Brown.

CSHB 575 VOLUNTARY ARBITRATION, MEDICAL MALPRACTICE

HB
575

Anne Carpeneti:

Page 1, line 21, Orally explained to avoid signing unknowingly.

Awards are same as civil trial.

Page 3, sec. 2: Just housekeeping measures.

This system will allow for handling of smaller claims that do not have anywhere to go at this time. Less cumbersome than adjudicatory pane.

Art Snowden explained that if a judge is on the adjudicatory board, he cannot later sit at trial or trial do novo. In small towns with few judges this can cause problems and raise havoc within the judicial branch by having to transfer judges around the state.

Anne was instructed to add section so that party has 60 days to rescind arbitration agreement after signing it, if it was signed before the operation.

Mr. Parr prefers mandatory binding arbitration with a right to trial do novo, rather than voluntary. Mr. Parr wants right to jury trial somehow included.

Mr. Brown asked if mandatory arbitration is a burden on jury trial.

HB 614 GOB COURT SYSTEM

HB
614

Art Snowden, Administrative Director of Court System. Originally this was asked for in capitol portion of general budget submitted to the Governor. The Governor saw fit to change the capital portion to a bond bill. Should not be a bond bill which goes before the public, because of lack of interest. The number one priority is a court building in Barrow. Conditions there are deplorable and the judges are threatening to condemn the buildings. The Court System is asking House Finance for funds to construct a court building in Barrow. A bond might not pass, and even if it did, it would take at least 2 years

Mr. Brown moved to postpone til a time definite to await the dicision of the House Finance Committee. 8 committee days. Mr. Specking objected. Question: 3-2 so motion passed. Hold til February 24.

The meeting adjourned at 8:35 p.m.

House Judiciary Committee
February 13, 1976

The meeting was called to order by Chairman Gardiner at 1:30 p.m.
Members present were Brown, Cotten, Specking and Gardiner.

HB 574 MEDICAL MALPRACTICE

HB
574

Mr. Brown moved that on page 4, line 15 (b) be changed so that board has discretion for different categories, not just a blanket 15 days. Mr. Cotten objected. Question: 4-0 so Anne was instructed to so amend.

Anne was instructed to see what nurses and dentists are covered for at this time.

The meeting was adjourned at 3:00 p.m.

House Judiciary Committee
February 17, 1976

The meeting was called to order by Chairman Gardiner at 1:30 p.m. Members present were Brown, Eliason, Parr, Gardiner and Cotten.

HB 522 LOBBYING

HB
522

Rep. Parker and Stu Hall.

Lobbyists currently report to the Department of Administration and file within 60 days after the session. One-fourth of the secretary's time is spent on lobbyists. So they are transferring duties to the Ak. Public Offices Commission. Report on a monthly basis during session and quarterly otherwise.

Marilyn Miller, President PALS.

PALS is against the bill as they need no more regulations. The double entry system is OK but 10 days to report is too short. Cash rather than accrual bases might be better.

Mr. Richard Lauber, lobbyist.

Against HB 522! Rather than follow California and Washington, we should amend present laws, not introduce new laws. This bill will require extensive records to document 100/month expenses on each legislator. How about some credit when a legislator buys. The legislator's part of this system is ridiculous, as they never have any receipts to document what they think a lobbyist might have spent on them. This measure will not control major companies spending lots of money, because they can just hire more lobbyists. Mr. Lauber suggests that the money spent by lobbyists on legislators will not equal the fiscal note of this bill--\$35,000. It does not stop the spending of money to influence legislation. The booklet to be produced in 45 days is also ridiculous. It is needed much sooner than that. Suggests perhaps filing picture and information with Clerk, Secretary and PAL Lounge.

Mrs. Mary McKinnon, individual.

Badly written bill. ALL lobbyists must register, including municipal lobbyists, and part-time legislative employees. Should be retroactive to 1944.

Brian Rogers, individual.

The Grass Roots section is limiting free speech. Should be omitted.

The meeting was adjourned at 4:20 p.m.

House Judiciary Committee
February 18, 1976

The meeting was called to order by Chairman Gardiner at 1:30 p.m. All members were present.

HB 575 VOLUNTARY ARBITRATION

HB
575

Mr. Brown would like to see arbitration made more attractive so it is used more.

Mr. Parr stated that Doctors in Fairbanks want mandatory arbitration to be necessary for treatment if it is to be used at all.

Terry stated that adjudication with Trial de Novo is longer and more expensive.

Mr. Specking stated that medical adjudicatory board is just another court. Would rather see expert medical advisory panel. Mr. Brown agrees.

Mr. Specking moved that the committee adopt the arbitration version of CS HB 575. Mr. Parr objected. Question: 6-1 so adopted.

HB 574 MEDICAL MALPRACTICE

HB
574

Mr. Brown moved to delete section 15 on page 10, Expert Advisory Panel. Costs more and just adds another layer. Question: 4-3 so passed.

Amendment No. 1 by Anne:

Page 2, line 2:
Page 2, line 25
Page 3, line 18
Page 4, line 28
Page 5, line 21 After "demonstrated" insert "lack of"
Page 6, line 14
Page 7, line 7
Page 7, line 29
Page 8, line 22
Page 9, line 23:

Mr. Bradley moved that amendment No. 1 be adopted. Question: 7-0. and so amendment No. 1 was adopted.

Amendment No. 2 by Anne:

Page 4, line 3: After "him" insert "from the Health Care Provider's Indemnity Corporation"

Mr. Brown moved that amendment No. 2 be adopted. Question: 7-0, and so amendment No. 2 was adopted.

Amendment No. 3 by Anne:

HB
574

Page 4, lines 15-20: Delete all material and insert:

(b) Before a license may be renewed the licensee shall submit evidence to the board that continuing education requirements prescribed by regulations adopted by the board have been met.

Mr. Brown moved that amendment No. 3 be adopted. Question: 7-0, and so amendment no. 3 was adopted.

Amendment No. 4 by Anne:

Page 4, between lines 10-11: Insert the following:

(c) This section does not apply to persons licensed under this chapter who are employed by the federal, state, or local government and do not practice outside this employment.

Mr. Parr moved that amendment No. 4 be adopted. Mr. Brown objected and amended "practice" to read "provide health care". His amended version was not accepted, nor was the original amendment No. 4.

Mr. Specking moved to rescind the previous action taken in deleting section 15 on page 10. Question: 4-3 so motion passed, and Expert Advisory Panel was put back in.

Mr. Eliason moved that only surgeons, hospitals and physicians need insurance as a condition of licensure. Question: 2-3-1, and so the motion failed.

Amendment No. 6 by Anne:

Page 13, line 8: After "proving" insert "by a preponderance of evidence"

Mr. Brown moved and asked unanimous consent that amendment No. 6 be adopted. There being no objection, it was adopted.

Amendment No. 7 by Anne:

Page 14, between lines 26-27: Insert:

Sec. 09.55.554. ORAL CONTRACTS. No cause of action against a health care provider arises for breach of an oral contract to provide a cure or achieve a specific medical result.

House Judiciary Committee
February 18, 1976
Page 3

HB
574

Mr. Specking moved that amendment No. 7 be adopted. Mr. Cotten objected.
Question: 4-1-1 and so amendment No. 7 was adopted.

Amendment No. 8 by Anne:

Page 16, lines 16-17: Delete "and consulting with two other health care providers"

Mr. Gardiner moved and asked unanimous consent that amendment No. 8 be adopted. There being no objection, it was adopted.

Amendment No. 9 by Anne:

Page 23, lines 21-24: Delete all material and insert the following:

(g) Members of the board of governors receive \$100 a day when the board meets, and travel expenses allowed by law.

Page 24, lines 20-21: Delete all material.

Mr. Specking moved and asked unanimous consent that amendment No. 9 be adopted. There being no objection, it was adopted.

Amendment NO. 10 by Anne:

Page 25, line 15-16: After ";" insert "(B) and, at the option of the health care provider,"

Mr. Specking moved that amendment No. 10 be adopted. There being no objection, amendment No. 10 was adopted.

Amendment No. 11 by Anne.

Page 27, between lines 6-7: insert the following:

(6) negotiate for and enter into contracts for management services for the corporation;

renumber remaining paragraphs accordingly.

Mr. Brown moved and asked unanimous consent that amendment No. 11 be adopted. There being no objection, it was adopted.

The meeting recessed at 4:05 until 7:00 p.m.

The meeting was called back to order at 7:15 p.m. Members present were Brown, Cotten, Specking, Parr, Gardiner and Bradley.

Amendment No. 1 by Wilson:

Page 10, line 24: Delete "physically or orally examine the parties" and replace with "interview the parties and physically examine the injured person if alive"

Mr. Brown moved that amendment No. 1 be adopted. Question: 6-0-1, and so amendment No. 1 was adopted.

Amendment No. 2 by Wilson:

Page 10, line 28: After "records" add "or materials"

Mr. Brown moved and asked unanimous consent that amendment No. 3 be adopted. There being no objection, it was adopted.

Amendment by Parr:

Page 13, line 25-27: Change to read: "The fact finder, in rendering its award for damages, shall specify the amount awarded for each category of loss, computing loss of future earnings on a monthly basis."

Mr. Brown moved and asked unanimous consent that the above amendment be adopted. There being no objection, it was adopted.

Amendment No. 7-1 by Block:

Page 14, line 1: After "periodic basis" delete remainder of (a) and insert:

"shall be increased annually in the same proportion as annual increases in the consumer price index for the community in which the claimant resides."

Mr. Brown moved and asked unanimous consent that the above amendment by Mr. Block be adopted. There being no objection, it was adopted.

Amendment No. 3 by Wilson:

Page 17, line 1: After "recommendations of" add "its medical staff,"

Mr. Bradley moved and asked unanimous consent that amendment No. 3 be adopted. There being no objection, it was adopted.

House Judiciary Committee
February 18, 1976
Page 5

HB
574

Amendment No. 4 by Wilson:

Page 23, line 4: Delete "attorneys"
line 5: Delete "representative of" and insert
"affiliated with"

Mr. Specking moved and asked unanimous consent that amendment No. 7 be adopted. Mr. Brown objected and withdrew his objection. Mr. Parr objected and withdrew his objection. There being no further objection, amendment No. 4 was adopted.

Amendment by Brown:

Page 23, line 3: Change "three" to "two"
line 4: Change "two" to "three"

Mr. Brown moved the above amendment. Question: 5-1, and so it was adopted.

Amendment No. 10 by Block:

Page 25, line 16: retroactive insurance provision should be changed to read as follows:

(B) at the option of the health care provider that arise out of services performed by the health care provider after December 31, 1974 for any period in which the health care provider had no mal-practice insurance except that coverage will not be provided for a claim already filed or of which the health care provider has or reasonable should have had notice at the time retroactive insurance is purchased."

Mr. Brown moved that amendment No. 10 by Block be adopted. Question: 4-2, and so it was adopted.

Mr. Specking moved that gross medical revenue be geared to Gross Business License tax form due February 28. Question: 4-2, and so it was adopted, and Ann was instructed to draft the language.

Mr. Cotten moved that on Page 27, line 28 (1) should be returned to original with "gross" deleted. Question: 6-0-1, and so it was adopted, and once again Anne was instructed to draft the language.

Amendment No. 1 by Block:

House Judiciary Committee
February 18, 1976
Page 6

HB
574

In subparagraph B of the several statutes requiring insurance for a health care provider it is provided that the Commissioner of Commerce and Economic Development may require all persons licensed to obtain the insurance required. This is essentially a determination involving knowledge of the markets, underwriting requirements, rates and trends in the insurance industry and falls within the special purview of the Director of Insurance. I believe that in all of those sections the Director of Insurance should be substituted for the Commissioner of Commerce and Economic Development. This recommended change is endorsed by the Commissioner of Commerce and Economic Development.

Mr. Bradley moved that amendment No. 1 be adopted. There being no objection, it was adopted.

Amendment No. 4 by Block:

Page 12, line 29-page 13, line 1: Change to read:

(g) Parties to the case and their counsel may not initiate communications with members of the panel..."

Mr. Brown moved that amendment No. 4 be adopted. There being no objection, it was adopted.

Amendment No. 8 by Block:

Page 14, line 13: Delete "after the fact finder has rendered its award."

Mr. Bradley moved that amendment No. 8 be adopted. Mr. Brown objected. Question: 3-3, and so amendment No. 8 failed.

Amendment by Brown:

Page 14, line 12: Change to read: "collateral sources shall be credited against the award after the fact finder has rendered its award."

Mr. Brown moved the above amendment. Question 5-1, and so it was adopted.

No. 11

Amendment/by Block:

Page 28, line 10 and lines 16-17: Delete "reserves for claims incurred but not reported" and insert"

House Judiciary Committee
February 18, 1976
Page 7

HB
574

"reserves for claims incurred during the policy period but not reported but reasonable expected to be reported within three years after the date of incident"

Mr. Brown moved that amendment No. 11 be adopted. Question: 5-1 and so it was adopted.

Amendment No. 12 by Block:

Page 28, after (11) add:

"(12) an amount sufficient to repay any loan obligation."

Mr. Cotten moved that amendment No. 12 be adopted. There being no objection, it was adopted.

Amendment No. 9 by Block:

Page 16, line 21 should be amended to read:

"...liability per year of not less than one million dollars plus an additional twenty thousand dollars for each bed over fifty beds for which the hospital is licensed."

Mr. Parr moved that amendment No. 9 be adopted. There being no objection, it was adopted.

Mr. Cotten moved that the coverage for chiropractors, dentists and physicians and osteopaths be 300-600, and for others 100-300. Question: 4-2, and so it was adopted.

The meeting was adjourned at 10:55 p.m.

House Judiciary Committee
February 19, 1976

The meeting was called to order by Chairman Gardiner at 1:15 p.m. Members present were Brown, Cotten, Parr, Gardiner, Bradley and Specking.

HB 574 MEDICAL MALPRACTICE

HB
574

Mr. Parr moved that on page 22, line 11-12: Delete "which can negotiate more successfully for insurance from casualty insurers licensed by this state". There being no objection, it was adopted and Anne was instructed to redraft this paragraph.

Amendment by Brown:

Page 26, line 15: Delete second "shall" and insert "may".

Mr. Brown moved the above amendment. There being no objection, it was adopted.

Amendment by Parr:

Page 27, line 7: Add:

(6) provide risk management and services
renumber "(6)" to "(7)".

Page 17, line 2: after Mr. Wilson's amendment No. 3, add: "Health Care Providers Indemnity Corporation,"

Mr. Parr moved the above amendment. There being no objection, it was adopted.

Mr. Block stated that the MIC has to be financially responsible, therefore, the state is obligated to advance a loan out of the general fund or to instigate an automatic mechanism so that funds are switched as needed.

Mr. Brown moved that physicians and surgeons and hospitals may renew their existing policies for one year before being mandated into MIC. Mr. Specking objected. Question: 2-4, and so the motion failed.

Mr. Specking moved that some sort of statute of limitations be instigated so that a claim may not be brought after 3 years past date of act or omission, or after the ninth birthday of a child. Question: 1-5, and so the motion failed.

The meeting was adjourned at 3:00 p.m.

House Judiciary Committee
February 19, 1976

The meeting was called to order by Chairman Gardiner at 7:00 p.m. Members present were Brown, Cotten, Bradley, Parr, Gardiner and Specking.

HJR 45 GUN CONTROL

HJR
45

Mr. Swanson stated that Alaska is different from other states. We need guns for survival, not quite like Chicago.

Mr. Brown moved that Mr. Swanson's amendment changing the Be It Resolved clause be changed somewhat. It was agreed upon. Mr. Cotten moved that the amendment be adopted. There being no objection, it was adopted and will be incorporated in a CS.

Mr. Brown moved CS HJR 45 out of committee. There being no objection, it was done.

HB 738 MISCELLANEOUS COURT AWARDS

HB
738

Rick Counsel of the AG's office was here to explain that this appropriation was to pay back court costs arising out of attorney's fees, judgments against the state and interest on these for six cases.

Mr. Cotten moved HB 738 out of committee. There being no objection, it was done.

SB 296 am INTEGRATED BAR ACT

SB
296
am

Mr. Bill Barrier of LAA.

This bill is detrimental to the agency and the Legislature. We are here dealing with a highly specialized kind of law. The work done here gets plenty of scrutiny, and we have only one client, the Legislature. Therefore this bill accomplished no public purpose. If imposed it would cause serious career problems for those working for the agency as they are not defined as practicing law. It would also cut down on the caliber of people the agency will be able to attract.

Mr. Allen Compton, Counsel for the Alaska Bar Association.

Page 3, line 24: It should be clear to whom in the Legislature these reports should be directed.

Page 3, line 25: Some matters are confidential by court rule, therefore cannot be included in above report.

House Judiciary Committee
February 19, 1976
Page 2

Mr. Brown moved that on page 2, line 9, delete : "and two laypersons appointed by the governor from the entire state." Question: 3-3, and so the motion failed.

SB
296
am

Amendment by Parr:

Page 3, line 26: after "proceedings" and before "." add

"except for those matters defined confidential by Court Rule"

Mr. Parr moved the above amendment. There being no objection, it was adopted.

Amendment by Brown:

Page 4, between lines 22-23: Add:

"(d) Employees whose activities would constitute the practice of law under this chapter and under the Alaska Bar Rules, shall be licensed to practice law in Alaska."

Mr. Brown moved the above amendment. Question: 5-1, and so it was adopted.

Amendment NO. 1 by Barrier:

Page 4, line 18-22: Delete (c) and replace with:

"(c) This section and section 230 of this chapter do not apply to employees of the legislature in the performance of their duties for the legislature which do not involve appearance before the courts of this state."

Mr. Specking moved amendment No. 1 by Barrier. Question: 4-2, and so it was adopted.

The committee will await arrival of new HCS before signing out the bill.

The meeting was adjourned at 9:10 p.m.

House Judiciary Committee
February 20, 1976

The meeting was called to order by Chairman Gardiner at 1:20 p.m.
Members present were Brown, Eliason, Parr, Gardiner, Cotten and Bradley.

HB 631 COMMUNICATIONS CARRIER/PUC

HB
631

Mr. Brown stated that this was advocating the lowest possible rates, and was considered a priority by the subcommittee on telecommunications.

Mr. Brown moved HB 631 out of committee with a further referral to Finance. No objection, it was so ordered.

HB 633 REGULATION OF PUBLIC UTILITY RATES

HB
633

Companion bill to HB 631. Mr. Brown moved HB 633 out of committee to wait in Rules for HB 631 to come from Finance. There being no objection, it was so ordered.

HB 574 MEDICAL MALPRACTICE

HB
574

Amendment by Anne after slight modifications by Committee:

ARTICLE 3. LOAN FUND.

Sec. 21.88.110. FUND ESTABLISHED. (a) There is in the Department of Commerce and Economic Development a medical malpractice liability revolving loan fund to be administered by the director of insurance.

(b) Loans from the fund shall be made to the corporation upon certification by the Director of the Division of Insurance that the loan is necessary for the corporation to maintain adequate reserves or for initial costs of operation. If a loan is made to the corporation from the fund, the corporation shall issue a note to the fund pledging the premiums collected in the future as security for the loan.

(c) Loans from the fund shall be repaid by the corporation within four years at an annual interest rate of seven per cent.

(d) The director may sell or transfer at par value to the Department of Revenue the notes held by the Department of Commerce and Economic Development as security for loans made under this section. The Department of Revenue shall purchase all the notes offered until the current principal amount of notes purchased and held by the Department of Revenue equals \$5,000,000.

Mr. Brown moved that the above amendment be adopted. There being no objection, it was adopted.

House Judiciary Committee
February 20, 1976
Page 2

Mr. Brown stated that one member of the board of governors should be a member of a clinic or group. Question: 5-0, and so it was adopted and Anne was instructed to so draft the language concerning appointment to the board of governors.

HB
574

The meeting was adjourned at 3:00 p.m.

House Judiciary Committee
February 23, 1976

The meeting was called to order by Chairman Gardiner at 1:20 p.m.
Members present were Brown, Cotten, Specking, Bradley, Parr and Gardiner.

SB 296 INTEGRATED BAR ACT

SB
296
am

Members had before them the Judiciary CS for SB 296. Mr. Specking moved the HCS for SB 296 out of committee. There being no objection, it was so ordered, and the committee report was signed.

HB 574 MEDICAL MALPRACTICE

HB
574

Mr. Brown requested that on page 30, the definition of Health Care Provider be expanded to include those who may be later added by the Director of the division of insurance. After several other amendments were offered and accepted, Mr. Bradley moved the bill out of committee. There being no objection, the final version of CS HB 574 was signed out of committee.

HB 522 LOBBYING

HB
522

Don Clocksin, director of litigation for Alaska Legal Services:
Page 3, lines 7-10, as this bill covers administrative activity, many will be considered lobbyists that are now not. Such as all lawyers and employees.

Page 5, (f), is it necessary to include a final report, why not just mark final report as such?

Page 9, lind 17: Legislators should report same information as lobbyists, should this be under disclosure?

Page 17, line 16-19: What about unsolicited inquiries by state officials?

The meeting was adjourned at 3:00 p.m.

196

House Judiciary Committee
February 24, 1976

The meeting was called to order by Chairman Gardiner at 1:20 p.m.
All members were present.

HB 522 LOBBYING

HB
522

Page 1, line 20: Delete: "that relate to current affairs". Mr. Parr moved the above amendment. There being no objection, adopted.

Page 1, line 20: Change to read: "; and that the people are entitled to know the identity, income, expenditures and activities of those persons who pay or are paid to persuade members of the legislature or officials or agencies in the executive branch to take specific actions."

Mr. Parr moved the above change. No objection, adopted.

Page 2, line 10 and 14: Delete "a manual and" and "the manual and". Mr. Brown moved the above amendment, no objection, adopted.

Page 2, (4): Mr. Parr moved that this section be deleted. Q: 3-2-1, and so it was deleted.

Page 2, line 21-22: Delete "other reports it considers appropriate, including". Mr. Brown moved the above amendment. No objection, adopted.

Page 4, line 17 (d): Change to reflect 2 1/2" X 2 1/2" picture displayed Commission, public place in legislature, Lt. Governor and reference library.

Mr. Brown moved the above change. No objection, so ordered.

Page 5, (f): Mr. Brown moved to delete this section (f) and add a (7) which states that the final report shall be labeled as such. No objection, so ordered.

Mr. Brown moved that all appropriate amendments be drafted so that if someone has zero to report, he need not report and if someone does not report, it shall be considered as reporting zero. Q: 3-3, failed.

Page 5, line 20-22: Mr. Parr asked Stu Hall to redraft to apply to lobbying. No objection, so ordered.

Page 5, line 25: Add after "period" "in support of or in connection with influencing legislative or administrative action". Mr. Parr moved above amendment, no objection, so ordered.

House Judiciary Committee
February 24, 1976
Page 2

Page 7, line 21: Change "neither" to "none". Mr. Brown moved the above amendment. No objection, so ordered.

The meeting recessed at 3:00 p.m. until 5:00 p.m.

The meeting was called back to order at 5:10 p.m.

Mr. Brown suggested that a lobbying entity should also report. Stu Hall was directed to draft such language. It was also recommended that a committee chairman's report be drafted to state that a company with more than one lobbyist should report when the aggregate amount spent reaches the trigger levels. Staff was requested to do such.

Mr. Cotten moved that if public officials have nothing to report, they should not have to report. Q: 4-0 and so adopted.

Mr. Brown moved that something be drafted so that a cross check exists between lobbying and conflict of interest filings.

Page 10, line 4-5: Mr. Brown moved for a clarifying amendment for when a person is already employed when he runs for office or is appointed. No objection, so ordered.

Mr. Parr moved that section 24.45.091 be deleted. Q: 4-0-1, deleted.

Page 12, line 2: Mr. Parr moved that "under oath" be deleted. No objection, deleted.

Page 13, line 20: Mr. Cotten moved that "purpose" be changed to "intent". No objection, so ordered.

Page 13, line 22: Mr. Parr moved that "intentionally" be added before "deceive". No objection, so ordered.

Stu Hall was given many more such changes to make and will return with an appropriate CS as soon as possible.

The meeting was adjourned at 7:30 p.m.

House Judiciary Committee
February 25, 1976

The meeting was called to order by Chairman Gardiner at 1:20 p.m.
Members present were Cotten, Specking, Bradley, Parr and Gardiner.

HB 584 SUBSTITUTION OF GENERIC DRUGS

HB
584

Ron Sedgewick of the Alaska Pharmaceutical Association:

His first concern was on page 1, line 14 where "therapeutically" is used. This is too broad a word and should be substituted for by "bio availability" or "bioequavalency" which should then be included under definitions. He stated that cost should not be the only criteria used in substitution. He thought that notification of substitution should be to the doctor or his agent. Sections (f) and (g) of the original bill should be added back as they are in existing statute. It might be helpful to know how many pills were originally in a bottle. As for posting of prices, he feels that this will only confuse the consumer and produce busywork for HESS.

Ruby Jones, Nurse from Senior Center:

Substitution of generic drugs is very helpful to older people who are on fixed incomes and cannot afford the higher prices.

Paul Mitchell, Pharmacist from Wisconsin, and salesman for Lilly:

Does not think that cost should be only criteria in substitution. Some cheaper brands are not as stable, even though at some time they are bio equivalent. FDA cannot certify as to bioequivalence of drugs that are prone to deterioration.

The meeting was adjourned at 3:20 p.m.

House Judiciary Committee
February 25, 1976

The meeting was called to order by Chairman Gardiner at 7:30 p.m.
Members present were Brown, Specking, Parr and Gardiner.

HB 546 PUBLIC UTILITY SURCHARGE RATES

HB
546

There happened to be a meeting going on here in town of all small electrical companies in the state. They showed up here in force and presented a united, unanimous front opposed to HB 546. Their rational is that these small companies will go bankrupt if not allowed to continue the practice of surcharges.

The situation is that after the 1973 oil embargo, prices for all fuels went up. It takes much too long, like six months for an electrical utility to apply for a rate increase; this is an expensive and time consuming process to say the least. The APUC does not have the manpower to speed the process up in any way. Therefore, the companies are passing on the extra cost for fuel to run their generators which generate electricity to the consumer in the form of a surcharge. This surcharge is based on the difference of fuel costs from what they submit is an average with APUC divided by the number of kwh sold. This is now in terms of cents/kwh and is charged to the consumer in that fashion. It does not reflect any other costs or profits incurred by or to the utilities. It only reflects the difference in fuel costs to operate their generators.

As for construction in progress, this is already the position of the APUC and is in force now and will continue to be with or without this bill.

The meeting was adjourned at 9:00 p.m.

House Judiciary Committee
February 26, 1976

The meeting was called to order by Chairman Gardiner at 1:20 p.m.
All members were present.

HB 694 CRIMINAL CODE REVISION COMMISSION

HB
694

This is making the Criminal Code Revision by commission rather than by interim committee as it will obviously take more time than is allowed by legislative session interim committees.

Page 1, line 15: Mr. Eliason moved that it be "Chairman of each Judiciary Committee or his designee. No objection, so ordered.

Page 2, line 20: Brown moved that the commission die as of February 1, 1978. No objection, so ordered.

Mr. Cotten moved that a CS be written to reflect the above changes and that CS HB 694 pass out of committee. No objection, done.

HB 584 SUBSTITUTION OF GENERIC DRUGS

HB
584

Page 2, line 5: Change "brand" to "drug product"

line 6: add "and complies with prescription".

Mr. Cotten moved the above amendment. No objection, adopted.

Mr. Bradley moved that Page 3, sec. 2 of the original bill be incorporated in CS as sec. 3 on page 3. No objection, so ordered.

Page 2, line 24: After "of the" add "generic names of the"

line 25: After "prescribed" add "and examples of each by brand name".

Mr. Brown moved above amendment. No objection, so ordered.

Mr. Bradley moved the CS HB 584 out of committee. No objection, done.

The meeting was adjourned at 3:00 p.m.

House Judiciary Committee
February 26, 1976

The meeting was called to order by Chairman Gardiner at 7:20 p.m.
Members present were Bradley, Parr, Gardiner, Brown and Cotten.

HB 522 LOBBYING

HB
522

Stu Hall of LAA was back with a finished draft for CS HB 522 which incorporated all the previous changes desired by the Committee. It also included changes which made it parallel with the Conflict of Interest laws and Disclosure.

Mr. Brown moved that Mr. Hall's definition of gift be adopted for purposes of this bill. No objection, so ordered.

Mr. Brown moved CS HB 522 out of committee. No objection, done.

HB 809 LIMITATION ON PROCEEDS--GAMBLING

HB
809

Page 2, line 9: Change to read as follows: "that party's candidates for that office, but equal amounts must be given to each candidate for the same office from that party if funds are distributed to any candidate for that office."

Mr. Brown moved the above amendment and that it be incorporated in a CS HB 809. No objection, so ordered.

Page 1, line 22: Delete "but". No objection, so ordered.

Mr. Brown moved CS HB 809 out of committee. No objection, done.

HB 722 CONSUMER PROTECTION

HB
722

According to the opinion of the Attorney General, this is much needed legislation. Therefore Mr. Brown moved the bill out of committee. No objection, done.

HB 723 RESIDENTIAL HOMESTEAD EXEMPTION

HB
723

Acknowledges inflation. Mr. Brown moved the bill out of committee. No objection, done.

House Judiciary Committee
February 26, 1976
Page 2

HB 614 GOB COURT SYSTEM

Mr. Brown stated that as the Finance Committee does not want to see this issue taken care of as a bond, that this bill should remain in committee to die. No objection.....

The meeting was adjourned at 8:30 p.m.

House Judiciary Committee
February 27, 1976

The meeting was called to order by Chairman Gardiner at 1:25 p.m.
Members present were Cotten, Specking, Bradley, Parr and Gardiner.

HB 833 ABATEMENT OF NUISANCES

HB
833

Doug Pope was here to explain that this bill will allow individual persons to sue in case of environmental damage or nuisance, in the case where the Department of Environmental Conservation will not, and where a class action suit is the only alternative. He offered the following amendment:

Page 1, line 23 and following: Change to read:

"If a person has submitted a formal request to the department that it take action to abate a form of pollution, environmental degradation or any other matter declared to be a nuisance under this chapter and that request either has been formally rejected or the department has not affirmatively responded to the request within 30 days after it has been submitted, nothing in this chapter affects the right to bring an action to abate that pollution, environmental degradation, or nuisance. A person bringing the action need not show injury different in kind, or degree, from that sustained by the general public to prevail."

Ernest Mueller, Commissioner of Environmental Conservation, stated that we may be pre-empting local control.

The committee decided to wait for further work from Doug Pope before continuing on this matter.

HB 785 ELECTRIC DART GUNS

HB
785

Mr. Parr explained that these things which look substantially like a large flashlight are very harmful to humans, are being used by crooks rather than for protection, and should be illegal in Alaska.

Mr. Bradley agreed and moved the bill out of committee. There being no objection, it was done.

HB 839 FISH AND GAME DATA

HB
839

Terry's bill to allow fish and game data to be used for research purposes.

House Judiciary Committee
February 27, 1976
Page 2

Mr. Bradley moved HB 839 out of committee. No objection, it was done.

HB 199 OPEN AND CLOSE POLLS

HB
199

After general discussion, Mr. Bradley moved that HB 199 be amended to read that the polls open at 7:00 a.m. and close at 8:00 p.m., with workers to arrive by 6:30 a.m. There being no objection, a CS will be drawn up to reflect such.

Mr. Bradley moved CS HB 199 (Jud) out of committee. No objection, it was done.

The meeting was adjourned at 2:20 p.m.

House Judiciary Committee
March 1, 1976

The meeting was called to order by Chairman Gardiner at 1:30 p.m.
Members present were Cotten, Brown, Specking, Bradley, Parr, Gardiner
and Eliason.

HB 784 COOK INLET LAND TRADE

HB
784

Commissioner Morton, Mike Smith and Jim Reeves were here explaining
the State participation and viewpoint on the proposed land trades. This
complex issue is way ahead of me and I hope you understood more than I.

The meeting was adjourned at 4:45 p.m.

House Judiciary Committee
March 2, 1976

The meeting was called to order by Chairman Gardiner at 2:25 p.m.
All members were present.

HJR 49 90 DAY SESSIONS

HJR
49

After a census was taken, the committee decided to leave this bill in the drawer.

HB 476 REGULATION OF ATTORNEY FEES IN MALPRACTICE

HB
476

After some discussion, the committee decided to leave this bill in the drawer also.

HB 833 ABATEMENT OF NUISANCES

HB
833

Doug Pope was back with another amendment (see attachment). actually a rough draft of a CS. The committee decided that they liked it better than the original and is having an official CS typed.

Mr. Brown moved the CS HB 833 out of committee. There being no objection, it was done.

The meeting was adjourned at 3:10 p.m.

AS 46.03.760(e) is amended to read:

(e)Nothing in this section affects an individual's right to recover damages or to obtain injunctive relief under sec. 895 of this chapter, ~~or~~ other applicable statutes of the common law.

AS 46.03.870(a) is amended to read:

(a)Except as specified in secs. 822-828 of this chapter, the bases for proceedings or actions resulting from violations of this chapter or a regulation promulgated under this chapter inure solely to and are for the benefit of the state, and are not intended to in any way create new, or enlarge existing rights of persons or groups of persons in the state except as provided in sec. 895 of this chapter.

AS 46.03 is amended by adding a new section to read:

46.03.895(a) A person has standing to enforce the provisions of this chapter in abating pollution, environmental degradation or any other matter declared to be a nuisance under this chapter if that person has submitted a formal request to the department or an appropriate municipality vested with local pollution control powers, that either the department or municipality take action to abate a form of air or water pollution, environmental degradation or nuisance and that request has been formally rejected or the department or municipality has not affirmatively responded to the request within 30 days after it has been submitted. A person bringing the action need not show injury different in kind, or degree, from that sustained by the general public to prevail.

(1)"affirmatively responded" as used in ~~xxxx~~ this section means that the department or appropriate municipality has determined and formally replied that action will be taken to abate the pollution, degradation or nuisance complained of.

House Judiciary Committee
March 3, 1976

The meeting was called to order at 1:15 by Chairman Gardiner. All members were present.

HB 784 COOK INLET LAND TRADE

HB
784

Bill Barrier of LAA was here with a CS HB 784. He stated that under existing law, the transaction is not legal. Therefore we need some legislation.

Mr. Specking moved that the committee adopt the CS and pass it out of committee and on its way. No objection, it was done.

HB 630 EXEMPT MUNI. TELE. FROM PUC

HB
630

Gordon Zerbetz, Chairman APUC.

This bill affects Fairbanks and Ketchikan telephone exchanges and will solve some problems now incapable of solutions. It would be in the public interest to have jurisdiction over consumer complaints.

Mr. Bradley moved to delete the last sentence on lines 24-25. No objection, it was so ordered.

HB 632 EXEMPT SMALL TELE. COMPANIES FROM PUC

HB
632

Gordon Zerbetz:

Mr. Zerbetz recommends that this be expanded to include small electric utilities. Also, with small earth stations coming up in the bush, lots of small telephone utilities are likely to emerge, and they need to be regulated as they will be tying in with national lines and must be up to standards.

Mr. Brown moved do change bill to read "AS 42.05.711(e) is repealed." No objection, so ordered. Mr. Zerbetz was elated. A CS is to be drawn up and Mr. Zerbetz will be sending us a fiscal note.

HB 653 LEGAL COUNSEL APUC

HB
653

Perhaps the APUC can budget for an attorney with AG's office as the Human Rights Commission has done.

House Judiciary Committee
March 3, 1976
Page 2

HB 679 INDEBTEDNESS OF SUBSIDIARIES OF PUBLIC UTILITIES

HB
679

Gordon Zerbetz:

Says he needs a little more time to investigate this matter in detail, but that it is needed in order to be able to trace costs of various subsidiaries to their parent companies. Example: RCA GlobCom sells a 3 million dollar generator to RCA AlasCom for 5 million dollars and the consumers in Alaska must pay for it at this inflated cost.

Mr. Zerbetz will be sending us written testimony in the near future.

The meeting was adjourned at 2:45 p.m.

House Judiciary Committee
March 4, 1976

The meeting was called to order by Chairman Gardiner at 2:25 p.m.
Members present were Brown, Cotten, Parr, Gardiner and Eliason.

HB 774 COLA FOR MAGISTRATES

HB
774

Art Snowden, administrator for the court system.

Magistrates pay is now set by workload, but those who live in rural and more expensive areas have a higher cost of living, so the court system would like to see the COLA schedule applied to their pay scale.

The fiscal note is \$100,000.

Mr. Brown moved the bill out of committee. No objection.

The meeting was adjourned at 2:40 p.m.

House Judiciary Committee
March 5, 1976

The meeting was called to order by Chairman Gardiner at 2:20 p.m. Members present were Cotten, Specking, Bradley, Gardiner, Parr and Brown.

CS SS SB 336 TREATMENT OF DRUNKS

CSSS
SB
336

Sen. Ferguson:

This bill takes care of the problem whereby a person is intoxicated on a licensed premis and is unwilling to leave. As it now stands, the police have no authority to remove a person for being intoxicated, although it is unlawful for him to remain there vis a vis the license holder. This bill will allow the intoxicated person to be taken home if possible, to a detoxication facility if available or to jail for holding without criminal implications. The intoxicated person may be retrieved by his family from the detixication unit.

Sen, Ray:

The other portion of this bill allows the detaining officer to search the intoxicated person basically for weapons or more alcohol.

Mr. Brown raised the question of the fruits of this search as relates to the search and seizure law now on the books. A Letter if Intest was incorporated to explain the committee's view on this matter.

Dan Hickey, A.G.'s office:

As it stands now, drunks are arrested on drummed up charges just to get them out of licensed establishments where they are causing trouble. Generally they are charged with disorderly conduct and the charges are usually dropped after the person has sobered up.

SB 345 DRUNKS ON HIGHWAY

SB
345

Sen. Ray:

Drunks on the highway should be removed if possibility of causing a hazard. Actual possibility of hazard as opposed to actual hazard.

Mr. Bradley moved the bill out of committee. No objection.

SB 346 UNIFORM ALCOHOLISM ACT

SB
346

Dan Hickey, A.G.'s office:

This bill incorporates SB 345 into the Uniform Alcoholism Act.

Mr. Bradley moved the bill out of committee. No objection.

House Judiciary Committee
March 5, 1976
Page 2

SB 511 Enforcement of Revenue Laws

SB
511

Commissioner Gallagher, Revenue:

Commissioner Gallagher stated that this bill was incorporating all revenue laws under one general section. It also includes an 8% interest rate on overpayment due over 90 days.

Rick Svobodny checked to see that the sections being repealed and added to did not affect the taxpayer in any other way. He said that it was so that the taxpayer was not affected.

Mr. Brown moved the bill out of committee. No objection.

House Judiciary Committee
March 8, 1976

The meeting was called to order by Chairman Gardiner at 1:30 p.m.
Members present were Brown, Cotten, Specking, Bradley and Gardiner.

HB 853 RUCAG

HB
853

Commissioner Motley:

Commissioner Motley stated that he had not had time to really read and study this bill, but that at first glance, it appeared like a good concept except that it might cause undue harassment of a utility to answer numerous questions. He stated that he would like to testify in more depth at a later time.

Jamie Love:

This bill is being offered to help the consumer be represented at PUC hearings for rate increases etc. Private citizens alone cannot comprehend the scope of what is going on enough to be effective.

RUCAG was tentatively rescheduled for next Tuesday.

The meeting was adjourned at 2:20 p.m.

House Judiciary Committee
March 9, 1976

The meeting was called to order by Chairman Gardiner at 1:20 p.m. Members present were Cotten, Bradley, Parr, Gardiner and Brown.

HB 795 STATUS OF WOMEN IN ALASKA

HB
795

Lisa Rudd:

The Commission on the status of women was repealed in 1972. Would like a one year study and investigation on status of women as relates to education, employment, health care and minorities. Would provide good base for educational material and show deficiencies and inequalities which should be remedied.

Tate Thomas, National Commission on status of women

We need a study because discrimination is subtle; problem of enforcement.

Janet Bradley, Human Rights Commission:

Approximately 40% of complaints are due to race, and approximately 40% are sexual discrimination complaints. How are women sexually harassed at work? Need in depth study of status of women in Alaska.

Several other speakers representing various women organizations expressed similar views that the state should fund this study of the status of women.

The meeting was adjourned at 2:45 p.m.

House Judiciary Committee
March 9, 1976

The meeting was called to order by Chairman Gardiner at 7:00 p.m. Members present were Cotten, Brown, Bradley and Gardiner.

HB 775 CRIMINAL ESCAPES

HB
775

Pat Conheady, Department of Law:

Most of those prisoners allowed out on furlough are not considered dangerous to public. Walk aways should be treated different than violent escapees.

Bill Huston, Acting Director of Corrections:

Need to have penalth consecutive to what is already being served. Perhaps 1/3 of maximum sentence. Said prisoners are in favor of this as it will discourage other prisoners from trying to escape or failing to return and thereby making things harder on those who are still there.

Mr. Brown moved that Page 1, line 25, change "3" to "5", page 2, line 2, change 1 year to six months and 3 years to 2 years. No objection, so ordered. To be incorporated in CS.

Mr. Bradley moved CS out of committee. No objection, so ordered.

CS SS SB 336 INTOXICATED PERSONS

CS
SS
SB
336

The committee adopted the Letter of intent by motion.

Mr. Bradley moved bill out of committee. No objection, so ordered.

Mr. Brown requested that the letter of intent be noted as having been approved by motion. No objection, journal will reflect such.

The meeting was adjourned at 8:20 p.m.

House Judiciary Committee
March 10, 1976

The meeting was called to order by Chairman Gardiner at 1:30 p.m. Members present were Cotten, Specking, Eliason, Gardiner and Parr.

HB 802 TAXICABS

HB
802

No one was here to testify at our announcec public hearing so we moved on to:

SB 594 UNAVAILABLE INSURANCE

SB
594

Senator Croft:

Various types of insurance are becoming hard to get other than mal-practice. Suggests that when a problem becomes apparent that the director of the division of insurance shall direct the companies selling that type of insurance to continue to sell it, perhaps through a JUA. Kinds of insurance that may be affected are fire insurance, automobile, workmen's compensation, fishermen, etc.

Mr. Specking moved the bill out of committee. No objection so ordered.

The meeting was adjourned at 2:30 p.m.

House Judiciary Committee
March 11, 1976

The meeting was called to order by Chairman Gardiner at 7:00 p.m. Members present were Cotten, Specking, Bradley, Parr and Gardiner.

HB 705 PIPELINE COMMISSION

HB
705

Steve Cowper:

The Commission has been doing nothing. They should be seeing that the state is getting the highest possible base for royalty figures. The State needs action NOW! The State needs to be well represented at possible upcoming ICC hearings in D.C. Otherwise oil companies will get away with billions. This bill will put the AG's office in charge of hiring and directing counsel to represent the state at these hearings. The AG's office does this in all other cases.

Mr. Specking stated that the Legislature and Governor have both failed to utilize the Commission. They took several years to even appoint 2 of the 3 Commissioners. Has been a learning experience for the Commissioners.

John Warner and Russell Mulder, Commissioners:

It takes years to develop expertise in these matters (hearings before ICC). Were appointed to six year overlapping terms to keep politics out. They think they have done an excellent job, even though they have been inadequately funded. Someone has to represent the state at these rate hearings, and it should be the Commission.

Av Gross, Attorney General:

This case will be tried by an ICC specialist firm in D.C. and this firm should be under the direction of the AG as are all other such litigation proceedings. Ak. Pipeline Commission will still have its regulatory powers and will assist AG in this matter.

HB 802 TAXICABS

HB
802

Sam Coxson, Anchorage municipal lobbyist:

Why regulate? 1: Safety
2: licensed chauffeurs
3: 3 vehicle inspections per year
4: can be inspected at any time by police
5: secure income--so don't turn to dope and prostitution

Local control is better than state. Anchorage has 27 pages of regulations. Felons should be allowed employment as cabbies.

The meeting was adjourned at 9:10 p.m.

House Judiciary Committee
March 15, 1975

The meeting was called to order by Chairman Gardiner at 7:00 p.m. Members present were Cotten, Specking, Bradley, Parr, and Bardiner.

SS HJR 39 PERMANENT FUND

SSHJR
39

Mr. Specking moved and asked unanimous consent that Randy Berry's amendment (attached) be adopted. There being no objection, it was so ordered.

Mr. Cotten moved that Finance amendment No. 1 be adopted. No objection, so ordered.

Mr. Specking moved that amendment no. 2 be adopted. No objection, so ordered.

Mr. Specking moved that amendment No. 3 be adopted. No objection, so ordered,

Mr. Specking moved that amendment No. 4 and amendment No. 5 be adopted. No objection, so ordered.

Mr. Cotten moved that amendment No. 6 be adopted. No objection, so ordered.

Mr. Specking moved that on line 24 add "all" between "and" and "mineral".

It was suggested that perhaps we should check with AG's office to lood at types of taxes that may be instituted in future. Dealing with income which is not renewable.

The meeting was adjourned at 8:10 p.m.

AMENDMENT #1

Milton 3/15

OFFERED IN THE HOUSE:

By: FINANCE COMMITTEE

To: _____ HOUSE BILL No. SSHJR 39

SENATE BILL No. _____

adopted 1)

PAGE: 1

LINE: 6 Title _____

after "establishing" insert:

an ALASKA PERMANENT FUND

adopted 2)

1

22

before PERMANENT FUND insert:

ALASKA

before "per cent" delete:

Ten

insert:

Twenty-five

adopted 3)

1

23

before "revenue" insert:

federal mineral

adopted 4)

1

26

after "investments" insert:

which shall be established by law

adopted 5)

1

29

after "fund" add:

unless otherwise provided by law

adopted 6)

2

5

add another section:

* Sec. 4. The amendments proposed by this resolution if adopted by the voters at the next general election shall become effective 90 days after the certification of the election returns by the lieutenant governor.

120

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

March 15, 1976

SUBJECT: SSHJR 39 and amendments proposed by the House
Finance Committee

TO: Representative Gardiner, Chairman
House Judiciary Committee

FROM: Randolph Berry *RB*
Revisor of Statutes

I have examined the amendments proposed by the House Finance Committee to SSHJR 39 and do not find any problems or internal inconsistencies created by those amendments. I would, however, recommend that for grammatical clarity and to conform to the cross-citation form used elsewhere in the constitution, the amendment to the constitution made by sec. 1 of the resolution be worded in the following manner:

adopted

SECTION 7. DEDICATED FUNDS. The proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in section 15 of this article or when required by the federal government for state participation in federal programs. This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification of this constitution by the people of Alaska.

RB/sm

House Judiciary Committee
March 16, 1976

The meeting was called to order by Chairman Gardiner at 7:00 p.m. Members present were Cotten, Eliason, Bradley, Parr, Gardiner and Brown.

HB 795 STATUS OF WOMEN IN ALASKA

HB
795

Neil Thomas, Human Rights Commission,

Mr. Thomas handed in a revised Fiscal Note for \$140,000 instead of \$200,000.

Mr. Parr moved that on line 10 after "status of women" to add: "relative to that of men in Alaskan society specifically with relation to legal, social, economic and cultural barriers to full equality in the fields...". There being no objection, the above amendment will be incorporated into a CS.

Mr. Parr moved the CS out of committee. No objection, so ordered.

HB 214 ABSENTEE VOTING

HB
214

Thelm Buchholdt, sponsor, was here to state that due to cabin and wilderness living conditions in Alaska it is often difficult or impossible to find the proper person or persons to sign an absentee voting card. Therefore she is suggesting that a person over 18 be allowed to sign as witness.

Mr. Parr moved that language on lines 11-13 relating to two persons over 18 be deleted to avoid confusion. No objection, so ordered.

Mr. Bradley moved the bill out of committee with the above changes in a CS. No objection, so ordered.

SS HJR 39 PERMANENT FUND

SSHJR
39

Mr. Cotten moved that "all" be definitely added in line 24 and that in line 26 after "investments" "which shall be established by law" be added. No objection, to be incorporated in CS. Mr. Cotten then moved the CS out of committee. No objection, so ordered.

HB 677 ANTI-TRUST BANKING

HB
677

Mr. Wes Coyner, lobbyist for banks was here to state that competition will regulate, there is no pressing need for this legislation. There is no blanket exemption just because of regulation.

HB 802

TAXICABS

HB
802

Mr. Bradley stated that the taxis got in the way in the battle between the city and borough of Anchorage. Impossible to take taxi from one to the other.

Doug Pope: state regulation is much better than local municipal regulation.

Mr. Gardiner suggested that perhaps it be limited to cities with populations over 50-75 thousand.

HB 705

ALASKA PIPELINE COMMISSION

HB
705

Mr. Brown moved that to close another loophole, AS 42.06.230 be amended by adding the following language "and except as to jurisdiction of the Department of Law as provided by sec. 140(10) of this chapter." There being no objection, it was so ordered.

Mr. Cotten moved CS with above changes out of committee. No objection, so ordered.

HB 735

DEFRAUDING HOTELS AND INNKEEPERS

HB
735

Mr. Hackney, sponsor, stated that the Innkeeper bill did a fine job except that it did not include campgrounds and trailer courts who were having the same type of problem. This is closing the loophole for theft of services.

Mr. Cotten moved the bill out. No objection, so ordered.

The meeting was adjourned at 9:05 p.m.

House Judiciary Committee
March 18, 1976

The meeting was called to order by Chairman Gardiner at 1:30 p.m. Members present were Cotten, Bradley, Parr, Gardiner, Specking and Brown.

HB 853 RUCAG

HB
853

William J. Moran, attorney for Chugach Electric.

Mr. Moran stated that the APUC is supposed to represent the consumer at rate increase hearings. If they do not it is only because they are inadequately funded and staffed. More funding has been requested but denied. We need a PUC with adequage authority and staff to do a good on-going job. RUCAG is approaching the situation in the wrong way. It will cost additional money for the electrical companies to comply with this suggestion, and what if they do not collect enough money to repay these companies for these extra costs. Who pays? What about the commercial consumer.

Don Clockson, ALS:

Not all parties at rate hearings are adequately represented. All the expertise is in the hands of the utilities. There are three alternatives to remedy the situation:

- 1 - appropriate money from general fund to increase APUC staff
- 2 - make utilities pay, which will result in another rate increase
- 3 - make consumer pay through RUCAG

Extra costs will be paid by corporation, not electrical companies.

Sam Coxson, Municipality of Anchorage:

The APUC holds the utilities accountable, who will hold RUCAG accountable? Mailing costs will be expensive.

Henry Pratt, self:

Doesn't want any more junk mail. What about right to privacy? If you do join, what assurance do you have that RUCAG will represent Your view?

Harold Strandbery, Homer Electrical Assoc. Associated himself with the remarks of Mr. Moran above.

The meeting was adjourned at 2:50 p.m.

House Judiciary Committee
March 19, 1976

The meeting was called to order by Chairman Gardiner at 1:30 p.m. Members present were Specking, Bradley, Parr and Gardiner.

HB 873 DISSOLUTION OF MARRIAGE

HB
873

Mr. Bradner, sponsor, stated that this bill will solve the "real" as opposed to the "legal" problems involved in divorce cases. The parties involved will be able to resolve their differences with compatible results, which is necessary when children are involved. They could solve their affairs in their own way, the incentive would be to resolve things amicably rather than prove one party guilty. The judge may appoint an attorney for the children if he feels it is necessary. It avoids the lawyers digging in order to gain more money and thereby creating deeper problems between the parents of children.

Don Clockson, ALS stated that at present divorce is too expensive, \$500 of uncontested and no limit if it is contested. Under present law someone must be at fault, which reduces the possibility of an agreeable and amicable divorce. Mr. Clockson then went through a sec. by sec. explanation of the bill for committee members.

Art Petersen, AG's office, Department of Law does not want to have to write up the forms. Perhaps the court system or Alaska Legal Services.

The meeting was adjourned at 3:05 p.m.

House Judiciary Committee
March 22, 1976

The meeting was called to order by Chairman Gardiner at 1:30 p.m. Members present were Specking, Bradley, Parr and Gardiner.

HB 598 TORT CLAIMS AGAINST STATE/MOTOR VEHICLES

HB
598

Ray Preston, AG's office

2/3 of suits against state are out of highway accidents due to design and maintenance. This bill is conservative. State is experiencing lots of serious exposure. Imbalance from courts awarding lots of high damages. The state wants more sovereign immunity.

The meeting was adjourned at 3:05 p.m.

House Judiciary Committee
March 23, 1976

The meeting was called to order by Chairman Gardiner at 1:30 p.m. Members present were Cotten, Bradley, Specking, Gardiner and Brown.

HB 600 DETERMINATE SENTENCING

HB
600

Avrum Gross, Attorney General:

The CS proposed here would deal only with violent felonies, such as those including bodily harm or a great potential for bodily harm as in burglary in a dwelling. Making it even more narrow, we are only dealing with second offenders of violent crimes. Must have been convicted of a violent crime twice before this bill takes effect.

Commissioner Burton, Public Safety:

Agreed with remarks of Attorney General.

HB 871 BETHEL JUDGES

HB
871

Art Snowden has already been here to testify on this bill. He stated that it would be considerably less expensive to change Bethel's district judge for a superior court judge rather than have to shift other judges around to meet the needs of Bethel.

Mr. Cotten moved the bill out of committee. No objection, so ordered.

HB 864 INTERROGATORIES

HB
864

Rick Svobodny explained that interrogatories are lists of questions which one party in an action presents to the other side so that when they all arrive in court each side is aware of the position of the other side. This can be done either by written interrogatories or by deposition where one must be physically present to answer questions under oath. Insurance companies are asking page after page of unnecessary questions of people causing problems with time, effort and money. Unethical attorneys are bill insurance companies on the number of interrogatories. Deposition costs should be borne by both parties equally.

Page 1, line 22 it was suggested that after "corporation" words be added to include state or federal government agencies and departments. Rick was instructed to have a CS drawn up indicating such.

The meeting was adjourned at 2:45 p.m.

House Judiciary Committee
March 24, 1976

The meeting was called to order by Chairman Gardiner at 1:15 p.m.
Members present were Brown, Cotten, Specking, Bradley and Gardiner.

HB 873 DISSOLUTION OF MARRIAGE

HB
873

Mr. Brown moved that on page 1, line 13 delete: "maintain an action in" and substitute: "petition the". There being no objection, it was adopted.

Mr. Brown moved that on page 7, line 3 after "Department of Law" add "in cooperation with the Administrator of the Alaska Court System". No objection, it was adopted.

Mr. Brown moved that on page 3, line 5 after "detail" add "the relief sought". No objection, adopted.

Mr. Brown moved that page 3, line 13 after "date" and "and "place". No objection, adopted.

Mr. Bradley moved a CS incorporating the above amendments out of Committee. Specking objected. Q: 4-1 and so it was moved out.

The committee meeting was recessed until 3:00 p.m. to hear the Senate on T.V.

The meeting was called back to order at 3:10 p.m.

HB 554 REGULATION OF INSURANCE HOLDING COMPANIES

HB
554

Mr. Block offered the following amendment to HB 554:

Page 3, line 26: After "all" add "felony convictions and misdemeanor convictions involving moral turpitude" strike the remainder of the clause up to ";".

Mr. Cotten moved the above amendment. No objection, adopted.

Mr. Bradley moved that on page 18, line 10 "after giving notice and an opportunity to be heard," be moved and inserted after "director" on line 7. No objection, adopted.

Mr. Bradley moved a CS incorporating the above changes be moved out of committee. No objection, so ordered.

House Judiciary Committee
March 24, 1976
Page 2

HB 558 REGULATION OF INSURANCE PRACTICES

HB
558

Mr. Block offered the following amendments to CS HB 558:

Page 4, line 7 after "engage" add "with such fequency as to indicate a practice".

Page 5, line 26: Add: "AS 21.36 is amended by adding a new section to read:

AS 21.36.210 ENFORCEMENT. The director of insurance shall promulgate regulations to implement, define and enforce sec. 135."

Page 7, line 6: (d) is changed to read:

"(d) In addition to an order issued under (c) of this section, the Director may also order a penalty of not more than \$1,000.00 for each act or \$10,000.00 for engaging in a practice in violation of this chapter."

Page 7, line 9: (e) is changed to read:

"(e) If the person charged knew or should have known he was in violation of this chapter, a penalty in addition to that prescribed in (d) of this section, or not more than \$1,000.00 for each act or \$25,000.00 for engaging in the practice in violation of this chapter, or suspension or revocation of the person's license, or both, may also be ordered by the Director."

Mr. Bradley moved that above amendments be incorporated into a CS. No objection, so ordered.

Mr. Bradley requested that a Chairman's report be included to explain that the intent is not to bother someone who makes a mistake once, but to have authority to deal with those making a practice of wrong doings.

Mr. Bradley moved CS out of committee. No objection, so ordered.

House Judiciary Committee
March 24, 1976
Page 3

HB 366 DEED OF TRUST SALES

HB
366

Susan Sullivan, sponsor:

This bill is no hardship to banks. It gives the buyer a chance to get caught up to date and is consistent with what the banks are doing now, without the possibility of abuse as is currently available. You used to have to come up with the whole amount due before foreclosure could be stopped, now you only have to come up with what is delinquent.

Miles Schlosberg, director of banking:

Might be a little more expensive because have to be served in person rather than by mail unless in state. Suggests that in (c) it be changed so that if a person cannot be served in person, the bank has 180 days to publish notice of foreclosure before it can actually occur.

The meeting was adjourned at 4:00 p.m.

House Judiciary Committee
March 25, 1976

The meeting was called to order by Chairman Gardiner at 10:30 a.m.
Members present were Cotten, Bradley, Parr and Gardiner.

HB 546 SURCHARGES

HB
546

Red Swanson, sponsor:

Utility companies like Golden Valley are padding their fuel costs
and passing it on to consumers via surcharges. Want base increase
with public hearings, not surcharges. Force APUC to expedite their
rate increase procedures.

HB 851 QUASI-JUDICIAL REGULATORY AGENCIES

HB
851

Wilson Condon, Deputy Attorney General:

Taking APUC, ATC and Ak. Pipeline Commission out of the Department
of Commerce and making them more independent. AG must designate one
attorney for each of these agencies, so need more budget. Takes budget
duties away from the Department of Commerce and makes these commissions
more politically isolated.

The meeting adjourned at 12:00 noon.

House Judiciary Committee
March 26, 1976

The meeting was called to order by Chairman Gardiner at 3:00 p.m.
Members present were Cotten, Specking, Bradley and Gardiner.

SB 546 EMINENT DOMAIN

SB
546

Richard Kerns, AG' office (Highways):

Determination for right of way must be made before can go to contract. The court room is not the place to decide right of way, that is for the agency (dept. of highways) to decide. Eminent domain and "quick take" is a proper authority for dept. of highways to have but nor for private corporations, like Alyeska or ARCO. State wants exemption from court room determination. Agency wants to make decision of what route to take before court room appearance. Expensive and time consuming. Department of Highways can make a better decision of right of way than a judge.

Richard Winning, Anchorage municipal attorney:

Suggests deletion of "greatest public good" as any public project could be scrutinized after completion as not being in the greatest public good and therefore must pay back the original owner.

The meeting was adjourned at 4:30 p.m.

House Judiciary Committee
March 29, 1976

The meeting was called to order by Chairman Gardiner at 3:45 p.m.
Members present were Specking, Eliason, Gardiner, Cotten and Parr.

HB 823 STATE CHARTERED CREDIT UNIONS

HB
823

Bill Samples, manager of Federal credit union in Anchorage:

Endorses the bill. More liberalization in lending such as 30 year mortgages for homes for members. Patterned after the Federal Credit Union Act. Alaska has no state laws so there can be no state credit unions, only federal which will not allow 30 year mortgages.

Joe McKinnon, sponsor:

Need more money in home mortgage market and competition in financial institution industry. More services at lower rates.

Mr. Specking requested that Motley, Block and Hubbard testify before bill leaves committee.

The meeting was adjourned at 4:40 p.m.

House Judiciary Committee
March 30, 1976

The meeting was called to order by Chairman Gardiner at 1:15 p.m.
Members present were Specking, Bradley, Parr, Gardiner and Cotten.

HB 604 UNIFORM LAND SALES PRACTICES ACT

HB
604

Larry Carrol, Commerce
John Tillinghast, AG:

Subdivisions of 50 or more lots must register with the department and submit for verification a public offering statement which accurately describes the land for sale. Directed at Boom towns as Valdez where land is being sold sight unseen to unsuspecting buyers. This will require full disclosure so buyer knows what he is getting into. An on sight inspection will be performed by department of commerce to see that public offering statement is accurate.

HB 634 EMPLOYMENT OF MINORS

HB
634

Lee Leland, Labor, Wage and Hour division:

Would like an exemption for licensed premises so that young people can work in kitchens, gift shops, and as maids. Also want exemption for those over 16 who are drop outs so they can work steadily. Mr. Leland offered the attached amendment by the ABC Board.

Ron Lorensen, AG's office:

Minors may work on licensed premises with written permission of commissioner and parents. Problem has been with hotels and restaurants who cannot find people willing to work for lower wages, so like young people. But most of these are licensed premises. Department of Labor would like to be notified when a minor is being hired so they can check conditions, hours, wages etc.

HB 713 STUDENT REGENT

HB
713

Student regent must actually be a student, if drops out, governor must choose a replacement.

The meeting was adjourned at 2:45 p.m.

234

A M E N D M E N T

OFFERED IN THE HOUSE

Y:

TO: HOUSE BILL NO. 634

AMENDMENT: Page 1, Line 6:

Before the period, insert: "; and providing for an effective date"

AMENDMENT: Page 2, Line 18:

Insert the following:

Sec. 5. AS 04.15.020(d) is amended to read:

(d) Presence of minors on premises. It is unlawful for a person under the age of 19 years to enter or remain upon licensed premises unless he is accompanied by his parent, guardian or spouse who has attained the age of 19 years. [HOWEVER, A PERSON 18 YEARS OF AGE OR OLDER MAY ENTER AND REMAIN UPON LICENSED PREMISES IN THE COURSE OF HIS EMPLOYMENT AS A MUSICIAN, ENTERTAINER OR BUSBOY.] In addition, a person under the age of 19 years may enter and remain upon licensed premises which are also recognized as a restaurant for the purpose of dining or dancing if accompanied by his parent, guardian, or spouse who has attained the age of 19 years, or by the parent or guardian of any other minor also present, or by any other adult with the consent of the minor's parent or guardian. The Alcoholic Beverage Control Board, with the approval of the city council if the premises are within the city or with the approval of the borough assembly if the premises are outside the city but within a borough, shall designate which premises are restaurants for the purposes of this section. Licensed premises are premises holding licenses under

235

AS 04.10.020(a)--04.10.020(d). The Alcoholic Beverage Control Board shall promulgate regulations for the designation of restaurants and the continuation or withdrawal of the designation. No establishment may be designated as a restaurant for purposes of dining without the consent of the licensee.

Sec. 6. AS 04.15.020 is amended by adding a new subsection to read:

(h) Employment of minors on premises. A person 16--18 years of age may enter and remain upon the licensed premises of a hotel or restaurant in the course of his or her employment if the employment does not require or involve the serving, mixing, delivering or dispensing of alcoholic beverages and if the person has the written consent of a parent or guardian and an exemption by the Department of Labor for the employment.

Sec. 7. AS 23.10.355 is amended to read:

Sec. 23.10.355. PERSONS UNDER 19. No person under 19 may be employed or allowed to sell or serve intoxicating liquors or to work in any room or other place where intoxicating liquors are sold for consumption on the premises, except as provided in AS 04.15.020(h) [(d)].

Sec. 8. This Act takes effect immediately in accordance with AS 01.10.070(c).

House Judiciary Committee
March 31, 1976

The meeting was called to order by Chairman Gardiner at 1:45 p.m. Members present were Brown, Cotten, Parr, Gardiner and Bradley.

HB 713 STUDENT REGENT

HB
713

Mr. Parr moved that page 1, line 19 after "student" add "exclusive of summer sessions" be added. There being no objection, it was adopted.

Mr. Parr moved CS out of committee. no objection, so ordered.

HB 851 QUASI-JUDICIAL REGULATORY AGENCIES

HB
851

Susan Knowles)
Carolyn Guess) Commissioners of APUC

They have no objection to initiation of removal by Legislature.

The public would be better served if there was counsel on the commission and counsel on the staff. Need a full time attorney on the staff with a contractual agreement for more if necessary.

HB 823 CREDIT UNIONS

HB
823

Joe McKinnon, sponsor
Commissioner Motley
Ken Humphreys, LAA

Commissioner Motley explained the administration's amendments:

- 1) Limits the borrowing power of Credit Unions for a sound financial basis. Board of Directors has lots of power, could make imprudent judgment if lent out 100% of assets.
- 3) Why pays cost of examinations? Applicant.
- 4) Additional exams if necessary by Commissioner of Commerce
- 7) Alaska does not register accountants
- 9) Provides surplus requirement. Reserves are for bad investments to cover losses.
- 10) 5 year limit on unsecured loan with financial statement. Prevents preferential treatment.
- 11) Standards for real estate loans. No one loan can exceed more than 2% of assets of lending institution.

- 13) Cannot play stockmarket.
- 14) Insured student loans. Credit Unions want some of these able to be considered "Risk Assets" such as student loans, loans to other credit unions, etc. Ability to deduct student loans in default.
- 15) Raises amount from 7.5% to 10%.
- 16) More time for merger.
- 17) Trust account first in line for liquidation.

Dick Fischer: Banker

Credit Unions do not pay taxes.

The meeting was adjourned at 4:10 p.m.

House Judiciary Committee
April 1, 1976

The meeting was called to order by Chairman Gardiner at 1:30 p.m.
All members were present.

HB 853 RUCAG

HB
853

Susan Knowles)
Carolyn Guess) APUC

These two commissioners were here and stated that this present bill
is unworkable and unwieldy for small utilities. It is addressing
a real problem, but is this the right solution? Think not.

The meeting was adjourned at 3:10

House Judiciary Committee
April 1, 1976

239

The meeting was called to order by Chairman Gardiner at 7:30 p.m.
Present were Cotten, Brown, Specking and Gardiner.

HB 857 CAMPAIGN DISCLOSURE

HB
857

Gordon Harrison, APOC

Mr. Harrison gave a detailed section by section explanation of the
bill and suggested a few changes to be considered at a later date.

The meeting was adjourned at 8:45 p.m.

House Judiciary Committee
April 2, 1976

The meeting was called to order by Chairman Gardiner at 1:30 p.m. Present were Cotten, Specking, Bradley, Parr, Gardiner and Eliason.

HB 600 DETERMINATE SENTENCING

HB
600

Pat Conheady
Dan Hickey

Discussion of good time. As suggested by Fogel and Schueller good time should be vested after 30 days so that no more than 30 days good time can be lost. Will give the prisoners a better outlook and more reason to not misbehave.

Get rid of parole and get determinate sentencing. Need for statutory guidelines for mandatory minimums.

HB 634 EMPLOYMENT OF MINORS

HB
634

Section 1 was changed to agree with amendment suggested by Mr. Lee Leland of Wage and Hour Division of Dept. of Labor. Section 2 was deleted and 23.10.340 (b) was repealed.

HB 604 LAND SALES

HB
604

Cotten moved to change from 50 lots to 25 lots as trigger point. No objection, so ordered.

Mr. Parr wants the state to conform to the same guidelines and moved that 34.55.042(a)(6) be repealed. No objection, so ordered and a CS was ordered drawn up.

Mr. Cotten moved CS out of committee. No objection, so ordered.

The meeting was adjourned at 2:45 p.m.

House Judiciary Committee
April 3, 1976

The meeting was called to order by Chairman Gardiner at 11:15 a.m.
Members present were Cotten, Specking, Eliason, Bradley and Gardiner.

HB 442 SANCTUARIES

HB
442

Some people are illegally hunting walrus on Walrus Island. Make it a sanctuary as it is a breeding ground and it will then be protected. Hunting is expressly prohibited in sanctuaries.

HB 873 DIVORCE

HB
873

Don Clocksin, Alaska Legal Services
Norman Gorsuch, Bar Assoc. lobbyist

Under discussion were the two attached letters from John Reese and Don Clocksin.

Mr. Gorsuch stated that the Barr Assoc. is not opposed to do-it-yourself divorces, just this bill. The Bar Assoc. feels that if kids are involved, should consult a lawyer. Concerned that may do harm to the children. Guardian ad litem should be mandatory for children.

RE: Reese letter

1) Forms will require atty to help fill out.

Clocksin: This bill provides for more situations, so perhaps a longer form is necessary. This bill provides for non-adversary divorces which present form do not allow.

2) Clocksin's answer is correct.

3) Clocksin's suggestion will clarify bars concern.

Clocksin: Philosophical difference is that when one spouse has left the state and cannot be located, other should be allowed a summary divorce.

Gardiner moved Clocksin's amendment on question 3. No objection, adopted.

4) Clocksin: Change is 3 above also applies here.

Gorsuch: Committee should adopt Clocksin's changes, will satisfy Bar Association.

5) Clocksin: this will eliminate an internal inconsistency.

Gardiner moved Clocksin amendment in 5. No objection, adopted.

House Judiciary Committee
April 3, 1976
Page 2

6) Must abide by decision of divorce decree. Cannon immediately re-enter another suit over kids, house etc. Final like any other divorce.

Gardiner moved amendment in 6. No objection, adopted.

7) Premarital property. Court can handle all property of marriages. If house is needed for children, judge can so decree. By agreement can take premarital property.

Gardiner moved amendment in 7. No objection, adopted.

8) Child has same protection as in any other divorce.

9) Change requires to provides. Gardiner moved amendment in 9. No objection, adopted.

Perhaps should prove assets and income so none hidden. Page 3, line 11 add "and assets". Specking moved this amendment, no objection, adopted.

Parr moved that the above amendments be incorporated with those already in the previous CS and moved new CS out of committee.

Specking objected.

HB 366 DEED OF TRUST SALES

HB
366

Prevents unscrupulous seller from vulturing in wait of a missed payment.

Page 2, line 19 (CSHB 339 (Jud)) add: "notice of" and "under (b) of this subsection", "or delivered personally".

Bradley moved CS out of committee. No objection.

SJR 48 GLACIER BAY MONUMENT

SJR
48

Eastaugh
Tangen Attorneys

If 2371 passes, mining provision is repealed. This is a truly promising area for economic development. Please don't make in undevelopable.

Bradley moved SJR 58 out of committee. No objection, so ordered.

The meeting was adjourned at 3:15 p.m.

243

JOHN REESE
ATTORNEY AT LAW
920 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
TELEPHONE: 274-8974

March 26, 1976

Norman Gorsuch, Esquire
326 4th Street, Suite A
Juneau, AK 99801

Re: Alaska Bar Association Position on
Do-It-Yourself Divorce Procedures and HB 873

Dear Mr. Gorsuch:

At the request of the Board of Governors a special committee of the Family Law Committee has studied self-help divorce over the past 10 months and has recommended forms and instructions for use by the public. I understand Mary has sent you copies.

We held a meeting last night (March 25th) and spent some time analyzing HB 873 which addresses the same general subject matter. The committee reviewing the bill was myself, Andrew Hoge, Stan Reitman, and Timothy Lynch.

We have agreed on several objections to the bill as drafted, specified below. It is our position that the Bar Association procedures are simpler, more effective, and safer. It was also agreed that HB 873 would add so much confusion and doubt that it would probably deter self-help divorce.

Objections noted:

1. Confusing and complicated. It will make it too difficult to do a divorce without a lawyer. Present procedures are far simpler.

2. § 232(d) requires a rule change (Civ. R. 84 governs name change procedure). The present A.S. 9.55.010 creates a substantive right to a name change, but the rule sets forth the procedure.

3. The default procedures of § 231(b) and 233(c) leave much to be desired. This is a departure from the policy of the Bar Association, which is in favor of agreed simple divorces. Default adds an adversary element to the

Norman Gorsuch, Esquire
March 26, 1976
Page 2

process, and is in itself complicated. The degree of confusion inherent in this is illustrated by the language of § 233(c), indicating that publication is the only alternative to personal service within Alaska. Civ. R. 4(e)(2) clearly sets forth a second alternative, which is preferred, and the subject of a local rule in Anchorage. Actual notice through personal service outside Alaska must be attempted or impossible before publication is allowed. If it can be assumed the drafting of HB 873 was with the assistance of legal counsel, that counsel was confused about the reasoning of Rule 4. How can non-lawyers be expected to proceed satisfactorily if lawyers get lost so easily?

The result of defective service and jurisdiction is a valid concern. Mr. Hoge advises that in his opinion real property titles affected by such default decrees would not qualify for title insurance. Collateral attack on custody decisions should not be encouraged.

4. § 233(c) is a departure from present rules of court for calendaring and would indicate a sixth rule change. The simple Bar Association procedure requires no change in the rules. No calendaring problems exist if the default procedures are removed.

5. § 233(g) is a change in the law of child custody which is not approved. The best interest of the child should be the standard for custody, visitation, and support decisions by a court. This section changes the standard to include anything better than substantial injustice. Alaska should think more of its children than this. Such a provision is especially destructive of children's welfare in the self-help divorce area, where a dominant spouse can so easily impose an improper "settlement" on the other spouse.

6. § 234(e) does away with res judicata. There is no justification for a departure from principles of finality of decrees and res judicata. Neither property divisions nor child decisions should be subjected to a perpetual state of limbo. The instability of such a decree concerning children would clearly be against the best interests philosophy.

245
Norman Gorsuch, Esquire
March 26, 1976
Page 3

7. § 234(f) restrains the court's power to make a just property settlement. The typical single asset divorce is the best example of this. If the asset is the family home it must be sold to divide the property. The children may need the home for their care. Separate property of the custodial parent could be used to make a fair settlement without jeopardizing the children.

This section is also a contradiction of A.S. 9.55.210(6), which raises constitutional problems (equal protection, right to petition, etc.).

8. The most striking feature of this bill is the lack of protection afforded children. There is no encouragement to seek a guardian ad litem for the children, although the settlements common to self-help divorces create great risk for children, due to uneven bargaining power and bitterness between the parents. The reference to third party custody (§ 231(2)) is an especially dangerous proposition for children, and protection should be available and encouraged. The freedom of a non-lawyer to make his or her own mistakes without legal counsel is a separate question from the right of children to proper care and attention. Children should be protected in all cases.

I am available to comment further on this and would be happy to.

Yours truly,



JOHN REESE, Chairman
Alaska Bar Association
Family Law Committee and
Committee on Self-help
Divorce

JR:lsd

cc: Keith Brown
Mary F. LaFollette
Timothy Lynch
Stanley Reitman
Andrew Hoge

246

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION
315 FIFTH STREET, SUITE 8
JUNEAU, ALASKA 99801
TELEPHONE 586-6425

MEMORANDUM

TO: House Judiciary

FROM: Donald E. Clocksin

RE: HB 873--Marriage Dissolution - Response to Bar Association

DATE: April 2, 1976

Paragraphs 1-8 of this memo respond to the corresponding paragraphs of Mr. Reese's letter of March 26. Paragraphs 5, 7, and 9 resolve other questions which have been raised.

1. No change. The bill is no more complicated than the present situation, where the divorce law of Alaska exists nowhere on paper. Present procedures, simpler or not, are not known to the public.
2. No change. Civil Rule 84 does not govern the change of name in a divorce proceeding. The substantive right to a name change as part of a divorce appears in AS 9.55.210(7), not in AS 9.55.010 as suggested by Mr. Reese.
3. On page 3, line 25, after "that spouse shall" delete the rest of the subsection and insert:

submit proof of diligent inquiry and provide
notice by publication, posting, or other means
as ordered by the court pursuant to the Alaska
Rules of Civil Procedure.

Explanation: The Bar Association is correct that the procedures for one spouse to obtain a dissolution add some confusion. However, a person who has lost touch with his/her spouse should be able to get a quick dissolution of the marriage, too. The amendment clarifies that the procedure for giving public notice to an absent spouse shall be governed by the present court rules.

4. See #3 above. Deleting the calendaring limitation means the Civil Rules prevail. No hearing would be scheduled under the existing rules before the other spouse has an opportunity to respond.

5. On page 5, line 3, after "concur" delete "or substantial justice would otherwise occur".

Explanation: As Mr. Guthrie from Legislative Affairs points out, the deleted language would have made the subsection inconsistent with Section 234(c)(2) at page 6, line 3. Since the theory behind this bill is to provide for an agreed petition, lack of agreement should result in the petition being dismissed, especially since neither party will likely be represented by counsel. This should also answer the Bar Association's objection, although the "best interests" test is clearly imposed in Section 233(d)(2) despite their objection to the contrary.

6. On page 6, line 18, after "issues", delete the rest of the subsection and insert "not resolved in the decree."

Explanation: The Bar Association's objection that res judicata is being eliminated is not well founded. The intent of the subsection was to make clear that where notice was by publication, posting, etc., issues not resolved can be resolved in a separate proceeding. For example, if a child of the marriage is not present in this state, the decree cannot decide as to custody or support. It should be made clear in the decree that those issues can be decided separately. The amendment is to clarify that intent.

7. On page 6, line 24, after "marriage" insert ", unless the parties expressly agree otherwise or the court determines that such property should be made available, by sale or other conveyance, to assure that the children's best interests are provided for."

Explanation: The Bar Association is correct. All the property of the spouses should be available to assure that the children will be cared for. To this extent the amendment makes the subsection consistent with AS 9.55.210(6), the existing divorce statute. Since an agreed petition is required, no further consistency is necessary. Once the children are cared for, the agreement of the parties should prevail.

8. No changes. The Bar Association's concerns have been met. Children subject to a summary dissolution proceeding are protected as well as those in an adversary proceeding. Their best interests are protected; guardians are appointed in the same circumstances as in normal divorces; and the court has the identical power to reject a custody arrangement.

The provision in Section 231(a)(2) serves to make the parties aware that a third party may be the best custodian.

9. On page 3, line 23, after "cause," delete "requires" and insert "provides".

Explanation: This is to clarify that the court may more often be responding to a request rather than banning a party over objection.

DEC:pp

House Judiciary Committee
April 5, 1976

The meeting was called to order by Chairman Gardiner at 1:20. Present were Cotten, Specking, Bradley, Parr, Gardiner and Eliason.

HB 823 CREDIT UNIONS

HB
823

Tony Motley, Commissioner of Commerce

Credit Unions have no expertise on mortgages. Banks have lots of experience and have qualified loan officers. Credit unions are not the vehicle for long term loans. Credit Union should be for first mortgage only. Prudent underwriting.

Commissioner Motley offered the following comments to the attached list of recommendations:

- 3) Cannot take deposits from another credit union because if that credit union pulled out, you may have loans taken from that deposit. Undie risk, affects stability.
- 4) Do not want crecit unions in real estate business, speculation with members money.
- 7) Conditional sales. Credit union should make direct loan to member to pay off rather than buy sale contract. Item may depreciate faster than loan is paid off.
- 8) Credit union cannot analize situation to make loan in Iowa, so should not be able to buy municipal bonds there.
- 9) Commissioner should be able to deny merger.
- 10) Out of state credit unions should apply like all others.

Richard Hall, NBA

This bill is preferential to Credit Unions, but not to banks. First responsibility should be to insure depositors, not to make cheap loans.

The meeting was adjourned at 3:30.

HOUSE BILL 823

CREDIT UNIONS

New recommendations not discussed with Ken Humphreys, Research Analyst.

1. 06.40.010. Formation.

- (b) second sentence. If, after his review and investigation the commissioner approves the articles and bylaws, he shall issue a certificate of approval.....

Incorporate provisions of the Federal Credit Union Act, Chapter 14 of Title 12 of the United State Code, #1754 Paragraph 104, . Approval of organization certificate..in part "Before any organization certificate is approved, an appropriate investigation shall be made for the purpose of determining (1) whether the organization certificate conforms to the provisions of this chapter; (2) the general character and fitness of the subscribers thereto; and (3) the economic advisability of establishing the proposed _____ credit union.

06.40.040. Name. We are wondering about the definition of the word city. Can a Credit Union be established in an unincorporated town or village, example; Cantwell, Alaska is probably not incorporated and is not in a borough.

3. 06.40.060. Membership. (c) Allowing Credit Unions to be members of other credit unions dilutes the common bond and could have a bad effect on the smalls. Also, credit unions should be self supporting.

4. 06.40.070. Powers. (4) Take out "incidental" (refers to real estate investment). (9) & (10) Permitting membership in other credit unions dilutes common bond and, also, it would seem a credit union should be self sustaining.

5. 06.40.140. Examinations. Add that the directors be required to sign a form stating that they have reviewed the report and are familiar with its contents. Form then mailed to the Department.

06.40.160. Shares, (c) when such a situation exists, the directors should be required to advise the Department. (Assets less than liabilities).

06.40.260. "(g) A credit union may purchase the conditional sales contracts of its members." This could be very dangerous: Example: Purchasing contracts of mobile home dealers, automobile dealers, vaccum sweeper contracts, etc.. The credit union could possibly have all it's assets invested in these instruments since they would not be considered direct member loans.

8. 06.40.280. Investments

(2) add to Mr. Humphreys' changes: No investment permitted in out of State Revenues.

(5) What kind of entity is this, a Central Credit Union? No investment should be permitted in preferred stock.

9. 06.40.300. Merger. (c) we should have time to review and approve or deny. This sounds like we have no choice but to approve.

10. 06.40.310. Conversion of Charter. This section should be deleted (it provides credit unions organised in this state could convert to a charter in another state having perhaps more liberal laws and the credit union could continue to operate and do business in Alaska).
11. 06.40.490. Liability of members, directors, officers, and employees. (a) The members of a credit union are not personally or individually liable for the debts of the credit union.

(b) Any director, officer or employee of a credit union who knowingly approves or permits the funds of the credit union to be invested or loaned in an excessive, careless or dishonest manner is personally liable for all damages which the credit union, its members, depositors, or any other person sustains because of the violation. The liability may be enforced against the director, officer or employee by suit or action in any court of competent jurisdiction.
12. 06.40. .(New) Defalcations by Directors, officers or employees. When a defalcation, mysterious disappearance of cash, securities, notes or other assets or any items that may result in a loss to the credit union is discovered, an immediate report shall be made by officers of the credit union providing full disclosures of the circumstances to (1) Department of Commerce and Eco. Dev. (2) National Credit Union Administration (3) nearest office of the Alaska State Police, (4) State District Attorney serving the district wherein the credit union is located and (5) the bonding company. The officers shall notify the board of directors immediately.
13. Article 5 Delete in it's entirety.

insurance requirement

All certificates of approval when being considered pursuant to 06.40.010(b) shall be subject to the applicant receiving a certificate evidencing that it is an insured credit union within the provisions of subchapter II of Chapter 14 of Title 12 of the United States Code as amended.

HOUSE BILL 823

CREDIT UNIONS

Recommendations discussed with Mr. Humphreys that were not changed as apparently agreed:

06.40.260. LOANS. it was our understanding, when agreeing to a provision for mortgage loans, that the first three paragraphs of 06.15.250. would be used from the Mutual Savings Bank Act, changing the verbage of course, to apply to credit unions.

p-18

A provision was included but it does not provide for first mortgages, the maximum that can be loaned one individual or the maximum amount of any one mortgage. It also does not limit conventional loans to one to four family residences.

It does not include the first paragraph of 06.15.250 or subparagraph (1). Only paragraph (2) was used and that was altered.

- 1) So loans are only available for 1-4 family residences - Mutual Savings Bank Act
- 2) Credit Union must be in first position

add 25000 and para. above it.

253

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 29, 1976

SUBJECT: Proposed Amendments to CSSSHB 823 (W.O. #1830)

TO: The Honorable Joe McKinnon

FROM: Ken ^{J.K.H.}Humphreys, Research Analyst

Attached are the proposed amendments to CSSSHB 823 which grew out of the meeting on Friday with Larry Houston of the division of banking.

I have inserted brief explanatory notes and will be happy to discuss any of the attached material.

KH:jm
Attachment

54

PROPOSED CHANGES - CSSSHB 823

- ✓ 1. Page 1, line 20, delete "30" and insert "60". This gives the commissioner 60 instead of 30 days to approve and certificate in sec. 06.40.010(b).
- ✓ 2. Page 4, line 26, after "source" insert "in an amount not to exceed 50 per cent of paid in and unimpaired capital and surplus and". This places a limit on the amount of debt a credit union can incur in sec. 06.40.070(8).
- ✓ 3. Page 10, line 24. Delete "\$20" and insert "\$100". This raises the limit on the amount the commissioner may charge under sec. 06.40.130(d) for paying the costs incident to ascertaining whether an organization certificate should be approved.
- ✓ 4. Page 11, line 23, after "examination" insert "and such additional examinations as he may deem necessary". Allows the commissioner to conduct additional examinations if he thinks it is necessary.
- ✓ 5. Page 11, line 25, delete "30" and insert "60". This gives the department 60 instead of 30 days to make its report of examinations.
- ✓ 6. Page 11, line 26, after "examination." insert "The report shall be the property of the department and may be repossessed. Information concerning the personal financial standing and reliability of members shall be confidential and available to the directors, the credit committee and loan officers but not to the general membership of the credit union or the public."

Page 11, line 29, delete ", and copies of the report shall be made available to all members of the credit union". This changes sec. 06.40.140(a) to insure the confidentiality of certain personal information which may appear in reports of examinations.

- ✓ 7. Page 12, line 9, delete "registered". Apparently, this is not a meaningful adjective when applied to accountants in Alaska.
8. Page 17, line 25, delete "five" and insert "seven".

Page 17, line 27, after "person" delete ", may by the action of the board of directors, be credited to the reserve fund of the credit union, and no further dividends or interest will accrue on them. The member shall have the right to claim these sums by proper judicial proceedings commenced within an additional 10 years after the action of the board of directors" and insert "escheats to and becomes the property of the state".

This change makes sec. 06.40.240 agree with the escheat provisions for banks.

9. Page 18, line 7, after "provision" insert "operating expenses, interest and accrued taxes and"

Page 18, line 8, after "reserves" insert "and surplus contributions".

Page 18, line 11, after "Administrator." insert "No dividend shall be declared if known losses exist and, after payment of the dividend, would exceed the combined balances of the reserve fund, surplus and undivided earnings."

Page 22, line 10, after "RESERVE" insert "AND SURPLUS".

Page 23, after line 17, insert "(d) as soon as practicable after the close of each calendar year each credit union shall credit to surplus at least 5 per cent of its net earnings before dividends for the preceding year until surplus equals 7 per cent of paid up shares outstanding."

This change in secs. 06.40.250 and 290 provides for additional security in the form of a surplus requirement; it might have been provided for anyway by the commissioner as a "special reserve" under sec. 06.40.290(b).

10. Page 18, line 26, after "statement." insert "An unsecured loan shall bear a maturity of no longer than 5 years and shall be accompanied by a financial statement. All secured loans except real estate loans shall mature within 10 years."

This change in sec. 06.40.260(a) was suggested in the interests of sound business management.

11. Page 20, after line 3, insert "(h) No investment in a mortgage may exceed 80 per cent of the appraised value of the property securing the loan; however, a credit union may make 95 per cent of appraised value loans if the term of the loan does not exceed 30 years and the loan is secured by an amortized mortgage, deed of trust, or other instrument under the terms of which the installment payments are sufficient to amortize the entire principal of the loan within the period ending on the date of its maturity and, in addition, the loan is either (1) insured by mortgage insurance in an amount equal to 20 per cent of the loan issued by a mortgage insurer authorized to do business in Alaska; or (2) the loan is secured in addition to the amortized mortgage by shares or deposits held by the credit union in an amount equal to 10 per cent of the loan or other collateral acceptable to the department. Value of real estate shall be determined by an appraisal which shall be kept in the records of the credit union; title insurance showing the loan to be a first lien and fire insurance shall be acquired by the borrower. The unpaid principal balance of loans secured by real estate may not, in the aggregate, exceed 50 per cent of the paid-in capital of the credit union."

This change in sec. 06.40.260 sets out standards for real estate loans; some of the language parallels the mutual bank requirements in AS 06.15.250.

12. Page 21, line 13, after "(2)" insert "obligations of the State of Alaska and its political subdivisions provided that no amount more than 15 per cent of the paid-in capital be invested in any one issue of revenue obligations or, if they are rated in the top three quality grades by a recognized national rating service,".

This change requires that obligations from outside the state have a prime quality rating.

13. Page 21, line 28, delete all language through line 5 on page 22.

Page 22, line 6, delete "(8)" and insert "(7)".

This removes the power of credit unions to "play the stock market" under sec. 06.40.280; it was felt that, in any case, the commissioner should not be obliged to furnish a list of implicitly "sound" corporations.

14. Page 23, delete lines 4 and 9 and renumber paragraphs accordingly.

Page 23, line 12, after "programs" insert ", provided that loans described in this paragraph which are in default shall be deducted from the total".

Page 23, line 13, after "(7)" insert "the insured portion of".

Page 23, line 15, after "(8)" insert "guaranteed or insured portions of".

Page 23, line 16, after "chapter" insert ", provided the credit union is the direct beneficiary of the guarantee or insurance".

These changes in sec. 06.40.290 make "risk asset" more inclusive. "Risk asset" would include (1) loans to other credit unions, (2) real and personal property of the credit union, (3) student loans in default, (4) the uninsured portion of mortgage loans, and (5) the uninsured and not guaranteed portion of common trust investments in government securities.

15. Page 22, line 15, delete "5" and insert "7 1/2".

Page 22, line 16, delete "7" and insert "5".

Page 22, line 17, delete "6" and insert "10".

Page 22, line 18, delete all material after "loans".

Page 22, delete line 19.

Page 22, line 20, delete "7" and insert "10".

Page 22, line 20, after "per cent", delete ",6".

Page 22, line 21, delete "per cent, or 5" and insert "or 7 1/2".

This raises the reserve requirements in sec. 06.40.290 from a maximum of 7 per cent to 10 per cent; it inserts the federal standard for reserves.

16. Page 24, line 8, delete "30" and insert "60".

This gives the commissioner 60 instead of 30 days to certify and return a plan for merger of credit unions under sec. 06.40.300(c).

17. Page 26, line 8, after "required;" insert "(2) trust accounts;".

Page 26, line 8, delete "(2)" and insert "(3)".

Page 26, line 8, delete "(3)" and insert "(4)".

This places trust accounts second only to expenses of liquidation if liquidation occurs under sec. 06.40.330.

House Judiciary Committee
April 6, 1976

The meeting was called to order by Chairman Gardiner at 3:00. Present were Specking, Eliason, Bradley, Parr, Gardiner and Brown.

HB 546 SURCHARGES

HB
546

Mr. Parr moved that there should be a time limit on surcharges after which they must have a rate increase. There being no objection, it was adopted.

Mr. Brown moved CSHB 546 out of committee. No objection.

HB 851 QUASI-JUDICIAL REGULATORY AGENCIES

HB
851

See attached:

Am. #1 Legislature starts removal procedure and Governor concurs. Governor has veto power. Not subject to override by Legislature

Am. #2 Commissioners select chairman which is rotated.

AM. #3 Exempt agencies use state scale. Executive director salary shall not exceed that of Commissioner (=to district court judge)

Mr. Brown moved that the above amendments be adopted. No objection, adopted.

HB 679 INDEBTEDNESS

HB
679

Cannot deal exclusively with parent company unless can show reasonagle necessity and fair price.

Line 12, change "profits" to "profit". Mr. Brown made minor changes so the bill reads easier.

Mr. Bradley mercifully moved new CS out of committee.

The meeting was adjourned at 3:50.

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 A M E N D M E N T NO. 1

3 TO: HB 851 (Re Removal Power)

4 On page 1, between lines 25 and 26, insert:

5 Alternatively, the legislature, by a concurrent resolution adopted by a
6 roll call vote of (two-thirds/a majority) of the members in each house
7 entered in the journal, may remove a commissioner from office for cause
8 as prescribed in this section.

9 On page 4, between lines 6 and 7, insert:

10 (The same language as above.)

11 On page 6, line 4, after "session.", insert:

12 (The same language as above.)

A M E N D M E N T N O . 2

TO: HB 851 (permits commissioners rather than governor to select commission chairman; reduces APUC chairman's term from four to two years; limits chairman to one two-year term)

On page 1, between lines 20 and 21, insert a new section, and renumber the sections of the bill accordingly:

"* Sec. 2. AS 42.05.020(b) is amended to read:

(b) The commission members [GOVERNOR] shall elect [DESIGNATE] one member of the commission as chairman of the commission. This member shall serve as chairman for a term of two [FOUR] years, and [BUT] may not be re-elected [APPOINTED] for a successive term [TERMS]."

On page 4, between lines 1 and 2, insert a new section and renumber the sections of the bill accordingly:

"* Sec. 8. AS 42.06.030(b) is amended to read:

(b) The commission members [GOVERNOR] shall elect [DESIGNATE] one member of the commission as chairman of the commission. This member shall serve as chairman for a term of two years, and may not be re-elected [APPOINTED] for a successive term [TERMS]."

On page 5, between lines 28 and 29, insert a new section and renumber the sections of the bill accordingly:

"* Sec. 14. AS 42.07.011(b) is amended to read:

(b) The commission members [GOVERNOR] shall elect [DESIGNATE] one member of the commission as chairman of the commission. This member shall serve as chairman for a term of two years, and [BUT] may not be re-elected [APPOINTED] for a successive term [TERMS]."

2 A M E N D M E N T NO. 3

3 TO: HB 851 (shifts commission employees from classified service to
4 exempt service)

5 On page 2, strike out lines 28 and 29, and on page 3, strike out lines
6 1 - 12, inclusive, and insert:

7 "(a) The commission may employ an executive director who shall
8 have had at least five years of experience in an administrative capacity and
9 who is experienced in public utility management or regulation. [THE EXECU-
0 TIVE DIRECTOR MAY BE ONE OF THE COMMISSION MEMBERS.] The commission may
1 employ engineers, hearing officers, experts, clerks, accountants, and
2 other agents, [AND] assistants and employees it considers necessary. The
3 executive director[, IF NOT A MEMBER OF THE COMMISSION,] and all other
4 employees and agents of the commission[, OTHER THAN LEGAL COUNSEL,] are
5 in the exempt [CLASSIFIED] service under AS 39.25.110. [THE COMBINED
6 SALARY OF AN EXECUTIVE DIRECTOR WHO IS A MEMBER OF THE COMMISSION MAY NOT
7 EXCEED THAT OF A SUPERIOR COURT JUDGE.]

8
9 On page 5, strike out lines 9 - 13, inclusive, and insert:

0 "(c) The executive director, his deputy and all [HIS SECRETARY, ARE
1 IN THE PARTIALLY EXEMPT SERVICE DESCRIBED IN AS 39.25. ALL] other employees
2 of the commission[, OTHER THAN LEGAL COUNSEL,] are in the exempt service
3 under AS 39.25.110.

4
5 On page 7, strike out lines 15 - 20, inclusive, and insert:

6 "(a) The commission may employ an executive director, engineers,
7 hearing officers, experts, clerks, ac countants, and other agents, [AND]
8 assistants and employees it considers necessary. Employees and agents of
9 the commission[, OTHER THAN LEGAL COUNSEL,] are in the exempt [CLASSIFIED]

1 service under AS 39.25.110.

262

2
3 On page 7, strike out lines 26 and 27, and insert:

4 "(13) commissioners and employees of the Alaska Public Utilities
5 Commission, Alaska Pipeline Commission, and Alaska Transportation Commission
6

7 On page 7, strike out lines 28 and 29, and on page 8, strike out lines 1
8 and 2.
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263

House Judiciary Committee
April 7, 1976

The meeting was called to order by Chairman Gardiner at 1:25. Present were Cotten, Bradley, Parr and Gardiner.

HB 823 CREDIT UNIONS

HB
823

Joe McKinnon, sponsor

Went through Humphrey's amendments and Motley's amendments as changes from Commerce CS to Judiciary Cs.

Mr. Parr moved that charter conversion be approved by members like merger. No objection, adopted.

Deleted any reference of wages as collateral for loan.

Bradley moved new CS by Judiciary out of committee.

SB 546 EMINENT DOMAIN

SB
546

Mr. Brown moved am to sec 2(a) on line 20-21. No objection, adopted.

Mr. Brown moved page 1, line 25 add "or possession". No objection, adopted.

Mr. Brown moved CS out of committee.

HB 634 EMPLOYMENT OF MINORS

HB
634

Page 2, line 14-15 reads as if minor should give notice. Drafting error. Rewrite so that employer must give notice.

Sec. 6 should read "and 23.10 340(b)".

Mr. Specking moved CS out. No objection.

HB 600 DETERMINATE SENTENCING

HB
600

A new CS by Pat Conheady of Dept. of Law.

2(a) and 3(a) are specific minimum terms of confinement.

Sec. 5: Good time is vested after accumulation of 30 days.

Page 5, line 16 to read: "shall inquire of the accused person whether or not he is..."

The meeting was adjourned at 3:20.

House Judiciary Committee
April 8, 1976

The meeting was called to order by Chairman Gardiner at 1:30. Present were Brown, Cotten, Specking, Parr and Gardiner.

HB 261 RESIDENTIAL PROPERTY EXEMPTION

HB
261

Malone, sponsor:

This bill removes the \$10,000 exemption which is too low. Local governments need more flexibility. Local governments are not soaking up large amounts of state revenue. This will return things to the law before the 1973 special session.

Mr. Cotten was requested to bring information gathered by the CRA Committee.

HB 851 QUASI-JUDICIAL REGULATORY AGENCIES

HB
851

Stu Hall:

The Public Utilities Commission, the Alaska Transportation Commission and the Pipeline Commission are now as much parallel as possible.

Mr. Cotten moved HB 851 out of committee. No objection.

HB 857 CAMPAIGN DISCLOSURE

HB
857

Stu Hall:

Page 6, (d) & (e) penalties are too severe. Not purpose to remove for late filing, but for more serious offenses as accepting illegal contributions. Perhaps should have another penalty for late filing.

Delete (d) & (e) and add language so that a candidate who wilfully fails to file may not run again until those reports are filed.

Specking moved above changes. No objection, adopted.

Page 7, sec (f) change "void" to "voidable". No objection, adopted.

Page 7, line 5 after "determined" add "after proceedings in an action files under (g) hereof".

Page 6, line 1, these fines are pretty stiff.

Mr. Brown moved to delete "not less than \$1000 nor" page 6, line 1. No objection, adopted.

House Judiciary Committee
April 8, 1976
Page 2

Page 1, Mr. Cotten moved that lines 20-25 be deleted. No objection, adopted.

Page 2, line * Why is "groups" deleted? Are businesses persons? Yes.

Specking moved to change page 1, line 19 to read: "district or central office" with other offices to be expediantly given copies. Not adopted.

The meeting was adjourned at 3:20 p.m.

House Judiciary Committee
April 9, 1976

The meeting was called to order by Chairman Gardiner at 1:30. Present were Cotten, Bradley, Parr, Gardiner, Brown and Specking.

SB 484 ABANDONED MOTOR VEHICLES

SB
484

Dennis Robersten, Public Safety

Municipalities shall use same notification and disposal procedures as state. If cannot find driver, then notify legal owner. Parr moved such language on page one. No objection, adopted.

Mr. Specking moved language on page one to take care of joy-riders. No objection, adopted.

HB 600 DETERMINATE SENTENCING

HB
600

Mr. Cotten moved on page 7, line 4 to change "two" to "one" and "days" to "day". To reduce good time from 2/3 to 1/2 mandatory. No objection, adopted.

Mr. Cotten moved Page 3, line 29 to change "10" to "5". No objection, adopted.

Mr. Brown moved to postpone indefinitely passage of this bill. Mr. Specking objected. Question: 2-5 so motion failed.

Mr. Cotten moved to change title to "An Act relating to sentencing" No objection, adopted.

Page 5, line 17 delete "require" ... "to say". and add "inquire of".

Mr. Parr moved the above amendment. No objection, adopted.

Mr. Bradley moved the bill out of committee. Question 4-3 so motion passed.

The meeting was adjourned at 3:10 p.m.

House Judiciary Committee
April 12, 1976

The meeting was called to order by Chairman Gardiner at 1:30. Members present were Cotten, Eliason, Parr, Gardiner, Specking and Bradley.

HB 808 HIPPIE HOMESTEAD BILL

HB
808

Oral Freeman, sponsor:

Land should be made available for homesites for Alaskan residents. \$10.00 is to cover paperwork when receive patent.

Mr. Parr moved page 1, line 24, change to read "shall classify and survey"
No objection, adopted.

Mr. Parr moved page 2, line 1 after "years" add "and after paying cost of survey of the land" No objection, adopted.

Mr. Gardiner moved page 3 (D) change to read "agree to pay for land survey made under this subsection." No objection, adopted.

Mr. Cotten moved that page 2-3, change ate of majority to 18 years of age. No objection, adopted.

The meeting was adjourned at 3:00 p.m.

House Judiciary Committee
April 13, 1976

The meeting was called to order by Chairman Gardiner at 2:30 p.m. Present were all members!

SB 157 CONSCIOUSNESS CLAUSE

SB
157

Mr. Eliason moved bill out. Mr. Parr objected. Question: 4-2 so motion passed.

SB 484 ABANDONED MOTOR VEHICLES

SB
484

Page 1, (d) when person in (c) cannot be identified, then find legal owner.

Mr. Brown moved page 1, line 29 to change regarding vehicle owner, so that the owner can reclaim vehicle before it is taken. No objection, adopted.

Mr. Brown moved to amend page 2, lines 25-28 to conform with procedures in title 34 regarding requirements for real property. No objection, adopted.

Page 3, line 2 change "10 days" to "30 days" Mr. Brown moved this change. No objection, adopted.

Page 3, line 10. Mr. Brown moved to amend so that redemption of vehicle is possible up to time of title transfer or public auction. Must pay all actual costs incurred. No objection, adopted.

Mr. Brown moved to delete "private sale" on page 3, line 20. No objection, adopted.

Mr. Brown moved to change lein statute to 60 days on page 4, line 16. No objection, adopted.

CS forthcoming.

HJR 44 KANTISHNA MINING

HJR
44

Mr. Brown moved HJR 44 out of committee. No objection, so ordered.

HCR 109 ATTORNEY FEE

HCR
109

Mr. Brown moved HCR 109 out of committee. No objection, so ordered.

The meeting was adjourned at 3:40 p.m.

26A
House Judiciary Committee
April 14, 1976

The meeting was called to order by Chairman Gardiner at 7:15 p.m. Present were Cotten, Specking, Bradley, Parr and Gardiner.

HB 261 RESIDENTIAL PROPERTY EXEMPTION

HB
261

Mr. Cotten moved HB 261 out of committee. No objection, so ordered.

HB 855 CONFLICT OF INTEREST

HB
855

Dave, Walker:

Changed to include appointed or hired public official.

Page 3, sec. 3 \$1000 in aggregate, should be changed to \$1000 in single purchase.

Page 4, definition of Ombudsman should be made to agree with 24.55.310 to be consistent. Mr. Parr moved to make the necessary changes to accomplish this consistency.

Page 1, lind 18, Mr. Specking is concerned that if you file for office on the last day, you will not be able to fill out the forms in one day.

Mr. Parr suggested that if you have a current form on file, just certify that one is already on file and you do not have to file another.

Mr. Parr moved to change Page 1, line 24 to agree with his above suggestion. No objection, adopted.

Dick Bradley of the AG's office suggested that the APOC should notify the Legislature who has failed to file. Perhaps should be added under the Powers and Duties section.

Mr. Brown moved forfeiture of office to be consistant with HB 851 for disqualification of legislators. Question: 4-2 so adopted.

Norman Gorsuch of the Bar Association suggested that 39.50.030 be changed by adding a subsection (7) so that municipal officials must disclose their contracts with the state and municipality.

Mr. Bradley moved the amendment above. No objection, adopted.

Mr. Parr moved to delete (b) on page 3, sec. 160. No objection, adopted.

Mr. Parr moved to add Executive director of Fisheries Council to

39.50.200 (9). Mr. Specking objected. Question : 3-3 so motion failed.

HB 808 HIPPIE HOMESTEAD BILL

HB
808

Oral Freeman, sponsor:

Regarding remarks by Department of Natural Resources:

- 1) A lottery would defeat the purpose of making land available to Alaskan citizens.
- 4) False statements on residency, cancellation should be punishment enough. Burden of proof is on applicant.
- 3) 300 sites on a 2 year cycle. Trial program. Not very many sites. Should be able to do more than 300 sites in 2 years. According to fiscal note, this would be \$2000/site. a bit ridiculous!

Mr. Specking moved that only one permit be issued per household. No objection, adopted.

Page 2, line 5, Change "2" to "2 1/2" No objection, adopted.

Mr. Cotten moved page 3, line 17, add "and conveyed," No objection, adopted.

Mr. Cotten moved on page 2, line 29 to change "seven" to "three" Question: 2-4 so failed.

Mr. Parr moved to change (2) on page 2 so that DNR does not have an out to do nothing. Suggests that perhaps should be on a rotating basis of Judicial districts. Question: 4-1 so adopted.

Mr. Cotten moved that publication should be at least 3 times. Page 2 (3). No objection, adopted.

The meeting was adjourned at 9:55.

27

House Judiciary Committee
April 15, 1976

The meeting was called to order by Chairman Gardiner at 1:30 p.m. All members were present!

SB 659 CHILD SUPPORT ENFORCEMENT

SB
659

Eugene Lawn, H&SS

Mr. Lawn stated that 2500 cases exist not that need attention. The problem is that old federal law is being enforced now until regulations can be drawn up to implement the new law. Question arises as to whether this should be taken care of in the department of H&SS or in the department of Law.

SB 673 JUDICIAL APPOINTMENTS

SB
673

Art Snowden, Administrator of Courts:
Michael Rubenstein, Judicial Council:

Page 2, in cases of retirement or other impending vacancies, the court would like to be able to appoint a successor before the fact so that there is no break in continuity.

Mr. Snowden and Mr. Rubenstein informed the committee of a philosophical difference of opinion between the two bodies. That being who has authority to place judges where needed in district. Judicial Council now has that authority but Snowden says that the Court will decide against the Judicial Council if necessary.

Mr. Eliason moved to delete page 1, line 15-16. Mr. Cotten objected. Question: 3-2 so adopted.

Mr. Eliason moved HCS out of committee. No objection, so ordered.

The meeting was adjourned at 3:00.

272
House Judiciary Committee
April 16, 1976

The meeting was called to order by Chairman Gardiner at 1:30 p.m. Present were Brown, Cotten, Bradley, Gardiner, Parr and Specking.

SB 443 TAKEOVER BIDS

SB
443

Henry Pratt:
William Bowden, General Counsel for Alaska Interstate Co:

According to the Williams Act, disclosure must be made at the time of a tender offer. Under this bill, disclosure must be made 20 days before tender offer. This bill discourages marginal and unfair tender offers which divert the attention of management. Tender offers are not good for the state of Alaska. Protection of shareholders who can make up their minds intelligently rather than being railroaded. Perhaps if they wait, they can get a better offer.

The meeting was adjourned at 3:10 p.m.

217
House Judiciary Committee
April 17, 1976

The meeting was called to order by Chairman Gardiner at 9:00 a.m. Present were Brown, Cotten, Specking, Bradley and Gardiner.

SB 696 TELECOMMUNICATIONS

SB
696

George Shaganaw, GOT:
Larry Golden:

Groups other than government should have access to the use of the transponder when not being used otherwise.

Shaganaw: we are not ready for use by public.

Village sites shall be chosen on bases of criteria, not political whim, be AFN.

Mr. Bradley moved to adopt Eric Eckholm's new language for Senate HESS letter of intent.

Mr. Brown moved to change "stations" to "facilities" in proposed change. No objection, adopted.

Senate HESS letter of intent with changes adopted.

Mr. Specking moved to include \$150,000 for public radio network. No objection, adopted.

Mr. Bradley moved HCS out of committee with letter of intent.

SB 484 ABANDONED MOTOR VEHICLES

SB
484

Page 3, lind 16: Mr. Brown moved to change "disposal" to "sale or relinquishment". Question 3-1 so adopted.

Mr. Specking moved that in order to be eligible, the tower must be certified. Withdrawn.

Mr. Brown moved HCS out of committee. No objection,so ordered.

HB 808 HIPPIE HOMESTEAD BILL

HB
808

Mr. Specking concerned that trailer owners are being discriminated against.

Mr. Specking requested standards in a letter of intent. No objection, so ordered.

274

House Judiciary Committee
April 17, 1976
Page 2

SB 215 NAVIGABLE WATERS

SB
215

Expands definition of navigable waters.

Mr. Cotten moved SB 215 out of committee. No objection, so ordered.

HB 639 PAYMENT OF WAGES

HB
639

Waive bonding requirement if can demonstrate that it is unavailable or burdensome or detrimental.

Mr. Brown moved CS out of committee. No objection, so ordered.

The meeting was adjourned at 11:35.

275

House Judiciary Committee
April 21, 1976

The meeting was called to order by Chairman Gardiner at 3:00. All members were present!

SB 720 KACHEMAK BAY

SB
720

Leo Rhode:

Kachemak Bay is a habitat area, created after leases were sold. Seldovia Natives want Kachemak Bay as part of their land claim. If made a sanctuary will take it.

Clayton McAuliffe, Chevron Research in La Habre:

Says drilling is not harmful. Influence on bottom is minor. Drilling fluid is relatively non-toxic. Likelihood of spill is very low. Not instantaneous, over a period of time.

Armstrong, Land manager, Standard Oil:

December 1973 acquired lease. Applied to drill in August of 1974. Want to continue drilling. If had known state wanted to pull out, would not have purchased lease.

The meeting was adjourned at 5:00 p.m.

House Judiciary Committee
April 23, 1976

The meeting was called to order by Chairman Gardiner at 1:30. Members present were Brown, Cotten, Specking, Bradley, Gardiner and Parr.

SB 630 APPRENTICESHIP

SB
630

Dwayne Carlson, AFL-CIO:
Bud Wadsworth, Dept. Labor:

Want same exemption as federal government has. Unions want to be able to dictate who they allow into their training programs. State wants this to be part of continuing education.

Lisa Rudd:

Against bill. Discrimination because of age is against Alaska statutes. Will affect women because they begin looking for careers later in life after raising families.

Karen Morehouse:

Please leave age open so women who are over limit can still apply as apprentices.

Ingred Judson:

Refused entrance into IBEW because she was 30 years old.

SB 641 WAGE RATES

SB
641

Contractors must pay prevailing wage rates if working on government project. Puts contractors on equal bargaining basis.

Mr. Bradley moved SB 641 out of committee. No objection, so ordered.

Mr. Cotten moved SB 630 out of committee. No objection, so ordered.

The meeting was adjourned at 3:15.

House Judiciary Committee
April 26, 1976

The meeting was called to order by Chairman Gardiner at 3:00 p.m.
Members present were Cotten, Bradley, Parr, Gardiner, Specking and Brown.

HB 885 STUDENT/COLLECTIVE BARGAINING

HB
885

Mr. Bradley moved CS out of committee. No objection, so ordered.

HB 857 CAMPAIGN DISCLOSURE

HB
857

CS(Jud) #2

Stu Hall:

Page 7, line 3, successful candidate for legislative seat or elective position, if violated false statement or report or prohibited expenditure section, rather than not allow to hold office, should make recommendations to Legislature.

Page 9 to end, amends municipal code to allow municipal body to judge qualifications.

Page 9, between sec 12 and sec 13: limitation on expenditures is breech of freedom of speech, and would be proven by suit if remains in statutes.

Mr. Brown suggested that contributions should be declared which are gathered before filing. Mr. Specking moved to add such language on page 4, line 18. No objection, so ordered.

HB 890 COOP RESOURCE MANAGEMENT

HB
890

Page 2, line 2, Delete (c) as already law under 43,23 020.

Mr. Specking moved to delete sec (3) as Commissioner Martin says it is redundant.

Need repealer to eliminate previous 38.05.025.

State does have the right to enter into agreement with Federal Government, (i.e. logs)

Mr. Specking moved HB 890 out of committee. No objection, so ordered

The meeting was adjourned at 5:00.

House Judiciary Committee
April 29, 1976

The meeting was called to order by Chairman Gardiner at 2:30 p.m.
Members present were Cotten, Specking, Eliason, Gardiner, Brown and Bradley.

SB 670 SUPERIOR COURT JUDGES

SB
670

Sitka needs a Superior court judge, and Fairbanks needs another one.

Mr. Specking requested a fiscal note.

Mr. Bradley moved the bill out of committee. No objection.

SB 659 CHILD SUPPORT AGENCY

SB
659

Lisa Rudd read several letters from mothers with problems collecting child support due them. Lack of court order to collect child support. No one is empowered to collect.

Gene Lawn, CSA

The court system only collected 50% of unpaid support, therefore H&SS needs more people than court system needed.

The meeting was adjourned at 4:00.

House Judiciary Committee
May 1, 1976

The meeting was called to order by Chairman Gardiner at 2:15 p.m. All members were present.

SB 570 HOLDING MUNICIPAL OFFICE

SB
570

Bob Van Houte, NEA:

Teachers are not really municipal employees and should be allowed to hold municipal office. School district employees are not municipal employees.

Mr. Specking moved to add at end "if employment is in the municipality." No objection, so ordered.

Cotten moved to add "district" after "school" on line 13. No objection, so ordered.

Mr. Parr moved on line 15 to add "for purposes of this section a school district employee is not a municipal employee". Q: 3-3 so failed.

Mr. Parr moved to rescind the previous action. Q: 6-1 so above amendment was adopted.

Mr. Parr moved HCS out of committee. No objection, so ordered.

SB 741 TEACHING PRACTICES

SB
741

Mr. Eliason moved this bill out of committee. No objection, so ordered.

SB 691 PUBLIC BROADCASTING

SB
691

Eric Eckholm:

Changes Educational Broadcasting to Public Broadcasting to conform with federal regulations. Allows some authority by Commission. Allows to make satellite time available for public interest broadcasts.

Mr. Parr moved on line 27 to change "regulation" to "coordination". Mr. Gardiner objected and withdrew his objection. No further objection, amendment was adopted.

Mr. Brown asked for a letter of intent stating that we are not violating the Public Broadcasting Act of 1934.

House Judiciary Committee
May 1, 1976
Page 2

Mr. Specking moved SB 691 out of committee as HCS. No objection, so ordered.

HB 724 ADMINISTRATIVE ADJUDICATION

HB
724

Norman Gorsuch:
Mike Rose:

Would create an administrative law committee composed only of lawyers.

Now hearing officers are either:

- 1) from private practice and usually busy elsewhere, or
- 2) employees of APA and subject to commissioners direction, as commissioners are their bosses and might be told how to decide a case.

This bill merely removed hearing officers to a new roof so they are not employees of the agency.

SB 659 CHILD SUPPORT ENFORCEMENT

SB
659

Mr. Brown moved to amend 47.23.090 (a) to read as follows:

"If the agency or other obligee seeks execution, the agency shall apply to the court to reduce the outstanding arrears to judgment in accordance with the Rules of Civil Procedure."

No objection, so ordered.

Mr. Brown moved page 3, line 18 to be changed to the positive form.
No objection, so ordered.

Mr. Brown moved page 2, line 21-22 change order to read:

"The Department of Health and Social Services shall contract with the Department of Law to provide needed legal services."

No objection, so ordered.

Mr. Specking moved HCS out of committee. Parr objected. Q: 5-1 so passed out of committee.

The meeting was adjourned at 4:10 p.m.

House Judiciary Committee
May 5, 1976

The meeting was called to order by Chairman Gardiner at 7:15 p.m. All members were present.

SB 443 TAKEOVER BIDS

SB
443

Henry Pratt:

Went over changes that resulted in HCS.

Mr. Brown moved to delete lines 26-27 on page 5. No objection, so ordered.

Mr. Gardiner moved to delete lines 13-14 on page 7. No objection, so ordered.

Mr. Gardiner moved to delete subsection (c). No objection, so ordered.

Mr. Specking moved HCS out of committee. No objection, so ordered.

SB 592 THEFT OF TELECOMMUNICATION SERVICES

SB
592

Mr. Brown stated that HB 651 is better drafting so suggests that we substitute 651 for 592 as HCS. No objection, so ordered.

Mr. Eliason moved bill out of committee. No objection, so ordered.

SB 627 LARCENY BY TRICK

SB
627

Makes it illegal to trick someone into working for you.

Mr. Specking moved bill out of committee. No objection, so ordered.

HB 801 CAPITOL SITE
HCR 88 CAPITOL SITE

HB
801
HCR
88

Mr. Gardiner moved to delete unnecessary language in sections (1), (2), (3), and (4) on pages 1 and 2. No objection, so ordered.

Mr. Brown moved to change page 2, line 2 to be \$100 per diem and travel expenses. No objection, so ordered.

Mr. Brown moved HB 801 out of committee.

Mr. Gardiner moved to amend line 28-29 to reflect statute number. No objection, so ordered.

Mr. Parr asked to draft letter of intent.

House Judiciary Committee
May 5, 1976
Page 2

Mr. Brown requested that HB 801 and HCR 88 be calendared together.

Mr. Parr moved CS HCR 88 out of committee. No objection, so ordered.

The meeting was adjourned at 9:10.

House Judiciary Committee
May 7, 1976

The meeting was called to order by Chairman Gardiner at 1:30 p.m.
Members present were Brown, Cotten, Specking, Gardiner and Bradley.

SB 720 KACHEMAK BAY

SB
720

Billy Barrier:

No constitutional problem. If a taking which must be paid for. This approach is a regulation, not a taking.

Sec. 26 says state may suspend if necessary for conservation (environmental) reasons.

Moritorium for:

- 1) study of methods
- 2) reacquisition of lease might be necessary after study in (1).

Avrum Gross, Attorney General:

Administration accepts this version

Commissioner may suspend lease for finite period. Not a taking. If continues beyond finite period of time, then it is a taking. If state cannot buy back, then will take through eminent domain.

Federal Government tried this in 1969 in the Santa Barbara Channel. Was made into a marine sanctuary.

Gene Wilds, Standard Oil:

Doesn't recall any testimony on oil being harmful to larvae. In fact testimony was the opposite.

Section 26 "conservation" was intended to be conservation of oil. Threat of condemnation is BLACKMAIL.

Mr. Brown moved on page 2, line 8 to change "shall" to "may" to give more discretion.

line 12 delete "on state land". Mr. Brown moved, no objection, so ordered.

Page 2, line 15-16 add "a reasonable" and delete "not to exceed 20% of the" s". No objection, so ordered.

Mr. Brown moved HCS out of committee. No objection, so ordered.

The meeting was adjourned at 2:55 p.m.