Adopted by Staff Alliance the 16th day of March 2016.

Faye Gallant, Chair

Voting results as attested by Morgan Dufseth, Executive Officer:
Yes – 6
No – 0
Abstained – 2

February 12, 2016

University of Alaska Concerns AboutSB 174
Concealed Carry on Campus

SB 174 takes away most of the Board of Regents' authority to regulate the carrying of concealed handguns and knives at the university, even by persons who don't have a concealed carry permit.

As drafted, the legislation would preclude the Board of Regents and University administration from effectively managing student and employee conflicts and campus safety issues where concealed weapons are involved. The Board of Regents and UA Administration oppose the bill in its current form. The following details the University's concerns about the proposed legislation and explains changes requested by the University.

Differences Between the University and State or Municipal Governments Unlike state or municipal laws, the University's firearms regulations do not extend into the community at large. University policy and regulation only apply to

The University must have rules to effectively manage the following critical situations. In addition, these situations are analogous to situations in which concealed carry is criminalized under current state law. However, because of technical distinctions, they fall short of coverage by criminal law, and could not be regulated by the University under the current bill. UA requests a

cannot act when harm is foreseeable, and cannot comply with the standard of care suggested by those statutes. [4]

Permitting regulation in these circumstances has value even if the regulations are not always followed. Even criminal law does not prevent all crimes from occurring. UA's policies, like criminal laws, allow UA to take potentially preventative action when it becomes aware of a violation that poses a threat of harm[5] and to respond administratively when non-criminal violations occur. This is particularly important in the high conflict circumstances common on University campuses described above. UA requests that the bill be amended to permit UA to manage in these circumstances.

Concealed Carry Permit

SB 174 also omits the requirement in Senator Coghill's 2014 bill that a person obtain a concealed handgun permit as a condition to carry a concealed handgun at the university. In 2014 the university opposed concealed carry permits as a substitute for the University's ability to manage its students, workforce and property. For the reasons discussed in the 2014 memo to Senate Finance,[6] a permit requirement alone is not an adequate substitute for the ability to manage in the sensitive areas described above.

However, a requirement that a person obtain a permit, in addition to the requested amendments providing University authority to regulate in these sensitive areas, makes sense in the university environment. A permit would require some training and knowledge about gun safety and applicable law, and exclude individuals with certain (but not all) criminal backgrounds from obtaining a permit.

[4] The University appreciates the fact that the bill includes an immunity provision. While that should be effective against state damage claims, that will not be much consolation if an avoidable incident occurs. State immunity also may not bar certain civil rights actions or administrative sanctions by federal agencies.
[5] The University is a small community where information about firearm possession may be shared by roommates, classmates or by the owner, sometimes willingly to brag or intimidate, and sometimes unwittingly.
[6] Attachment A, March 31, 2014, UA General Counsel Memo to Senate Finance, at pp.7-8.

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[1] These rules do not establish criminal penalties, and primarily affect students and University employees

In addition, these rules are required to permit the University to manage areas, situations and people for which the University is responsible. This distinction is critical because unlike the state and municipality, the University is uniquely and directly responsible for how it manages its students and employees interactively and proactively.

Critical Changes Requested – UA does not support this bill because it eliminates UA's ability to effectively

The University must have rules to effectively manage the following critical situations. In addition, these situations are analogous to situations in which concealed carry is criminalized under current state law. However, because of technical distinctions, they fall short of coverage by criminal law, and could not be regulated by the University under the current bill. UA requests amendment to permit regulation in the following circumstances to address these critical safety issues:

1) **When the behavior of students or employees demonstrate they pose a risk of harm to themselves or others -** The Report to the NRA by the National School Shield Task Force recommends that schools react promptly to snds 0 Td7de2 Td [s 0 Tcs-6(i61e)6(d)2( )]TJ 0 Tc Tc 0 Tv

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that would prohibit possession of concealed weapons in shared student residences would be consistent with existing age limits on concealed carry, alcohol restrictions on possession of firearms, as well as with requirements for “adult resident” consent to concealed carry in a residence.

3) **I**

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However, this

Supreme Court held that George Mason University was both a government entity and a school and thus a "sensitive place"[9] where under *Heller,* firearms restrictions are presumptively valid. The challenge to George Mason's regulation was brought on both state and federal constitutional grounds. Though the appellant could have sought review of the federal constitutional issue by the US Supreme Court, no request for US Supreme Court review was filed.[10]

The same analysis holds true under the Alaska Constitution. In 1994 the voters of Alaska amended Alaska's constitution to add the second sentence of Article I, Section 19, thus establishing an individual right to bear arms under Alaska's Constitution. In *Wilson v. State*,[11] the Alaska Court of Appeals looked at whether the 1994 amendment to Article I, Section 19 invalidated Alaska law prohibiting felons from possessing firearms. Since voters had approved the amendment to the constitution, the Court of Appeals determined the breadth of the right by examining the "meaning placed on the amendment" by the voters. Because the voters had been assured that existing laws would not be affected by the amendment, the Court concluded that the voters had not intended to invalidate existing Alaska laws regulating firearms. Thus the voters who passed the amendment did not intend to create a constitutional right that extends, for example, to carrying firearms in schools, to concealed carry under 21, to courts or other government buildings, all of which were restricted in 1994.

2. Because Regents' Policy And University Regulation Only Apply To Developed University Premises Which Are defined By The Courts As "Sensitive Places," No Constitutional Right Is Implicated A

presumptively lawful and outside the scope of the Second Amendment's protections.[15] As a result, no further constitutional analysis is appropriate, much less an analysis applying strict scrutiny.

B. Concealed Carry By Permit Is Not Less restrictive Or More Effective Than Current University Policy

For the reasons discussed below, the concealed carry permit system in the CS is not less restrictive than current policy in certain circumstances. The CS would potentially intrude on the rights of everyone who brings a firearm to campus while preventing the University from addressing the acknowledged compelling interests of safety and prudent risk management on UA campuses.T47(As2 Tc 0.002</MCID 8 >>BDC T* [(FTc -0.008--4(s)-EMC /LBo

UA's policies, like criminal laws, allow UA to take action when it becomes aware of a violation, in this case, the presence of any weapon on developed premises.[17] This is particularly important in problematic circumstances common on University campuses and described in more detail below. The CS, however, would prohibit any UA response even in circumstances when UA knows of a threatening situation and thus is likely to be held liable for failure to act.

C. The CS Prevents the University From Meetingiies,hnnnng1 Tc 2(a)6([(h)2Tw (j EMC /P <
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campuses in large numbers, sometimes in extended residential, enrichment and college prep programs, often daily after school.

• Concealed carry under 21 is a crime - but the CS would require permitting firearms in dorms where 60% of UA residential students are under 21, and where, unlike private housing, UA is the "adult" – UA retains authority and responsibility for dorms, and hires Resident Assistants to maintain safety, order and provide counseling;

• Possessing a loaded firearm in a place where intoxicating liquor is served is a crime - but the CS would require UA to permit firearms in dormitories where liquor is present;

• Possession of a firearm in a child care facility or adjacent parking lot is a crime - but the CS would require permitting firearms in nearby locations since both UAA and UAF have child care facilities integrated on campus;

• Possession of a firearm in a court facility is a crime, but the CS would require UA to permit firearms in potentially contentious adjudications of staff and student disciplinary and academic issu3e 6(r)oo0.001 [(an44(i)-2(plc3 (•)Tj ( )Tj ( )Tj [(P)-4(os)-1(s)-1(e)4(s)-1(s)-14)T