

HB

146

Alaska State Legislature

REPRESENTATIVE
MIKE W MILLER
P.O. Box 55094
North Pole, Alaska 99705
(907) 488-2687

District 18
North Pole
Badger Road
Eielson
Moose Creek
Salcha

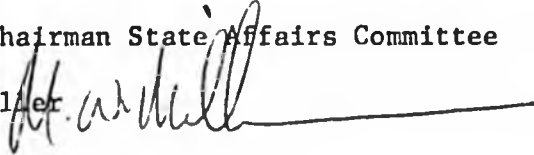


While in Juneau
P.O. Box V
Juneau, Alaska 99811
(907) 465-4976

House of Representatives

RECEIVED
MAY 01 1987

MEMORANDUM

DATE: April 30, 1987
TO: Senator Mitch Abood, Chairman State Affairs Committee
FROM: Representative Mike Miller 
SUBJECT: HB 146

Attached please find information sent to me regarding a bill in your committee. I was requested to pass this information on for your consideration.

C
Why do we have this bill in SA or done?
my

The Fairbanks Child Sexual Abuse Task Force

1550 Gillam Way
Fairbanks, AK 99701

APR 21 1987

April 14, 1987

Members of the Alaska Interior Delegation
Pouch V
Juneau, AK 99811

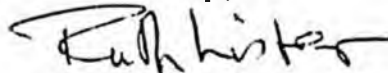
Dear Members of the Interior Delegation,

I am writing on behalf of the Fairbanks Child Sex Abuse Task Force, a coalition of agencies, counselors and attorneys in Fairbanks focussing on sexual abuse of children.

We'd like to offer the following comments on HB 146. The bill assists the authorities in utilizing before the Grand Jury hearsay evidence which would otherwise be inadmissible. Since it assists the authorities in bringing child sex abuse cases to light, it appears to us to be in the best interests of child sex abuse victims and we urge its enactment into law.

We would appreciate your conveying our views to the appropriate committee members.

Sincerely,



Ruth Lister
Chair

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

No. 1

REQUEST:

Bill Version : CSHB 146 (Jud)
Publish Date : HOUSE 4/24/87

Revision Date: _____
Title: "An Act relating to hearsay
evidence in grand jury proceedings..."
Sponsor: Representative Swackhammer
Requestor: Representative Swackhammer

Agency Affected: Department of Law
BRU: Prosecution
Components: ALL

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see attached analysis.

Prepared by: Richard I. Pegues, Director
Division: Administrative Services

Phone: 465-3672
Date: February 27, 1987

Approved by Commissioner: Grace Berg Schaible, Atty. Gen.
Agency: Department of Law

Date: February 27, 1987

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

CONTINUATION of FISCAL NOTE ANALYSIS

No. 1
CSHB 146(Jud)
4/24/87

For Bill/Resolution No. CSHB 146(Jud)

This bill amends Rule 6(r) of the Alaska Rules of Criminal Procedure by permitting the use of hearsay evidence in grand jury proceedings, if it is relevant, whether or not it would be admissible at trial. The current rule provides that hearsay evidence shall not be presented to a grand jury absent compelling justification. This change in the use of hearsay evidence, which is modeled after the federal rule, would substantially reduce the department's costs for conducting grand jury proceedings by reducing the number of witnesses who must physically appear and testify at such proceedings.

The department has estimated that about one-third of \$180,000 that it spends annually in grand jury witness expenses, or \$60,000, would be saved if this bill is approved. Likewise, a similar savings in staff resources would also occur, although we have no data available breaking out staff time by trial or grand jury activity. However, any savings that occurs as a result of this bill will be offset many times over by reductions in the department's budget that have already taken place in FY 87, and reductions that will take place in FY 88.

The criminal division's non-personal services funding will have been reduced by \$737,900 from FY 86 to FY 88. About one-half of this amount represents reductions in local district attorney office accounts, and from which witness expenses are paid. The staff of the Criminal Division will have been reduced from 164 full-time and 2 part-time positions to 107 full-time positions, over the same period of time. For these reasons the department is not showing a fiscal note savings.

MAR 13 '87 11:56 LIO - HCH 377-6112

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: CSHB 146 (Jud)
Publish Date: HOUSE 4/24/87

REQUEST: _____

Revision Date: _____

Title: "An Act relating to
hearsay evidence..."

Sponsor: Swackhammer & Hanley

Requestor: House Judiciary

Agency Affected: Administration
BRU: Office of Public Advocacy

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		0	0	0	0	0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL		0	0	0	0	0

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Frank McGee, Public Advocate
Division: Office of Public Advocacy

Phone: 274-1684
Date: 3/13/87

Approved by Commissioner: Garrey Peck
Agency: Department of Administration

Date: 3/12/87

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

POSITION PAPER

CSHB 146 (jw)

The Alaska Public Defender Agency and Office of Public Advocacy are totally reactive agencies which provide representation to indigent persons when appointed by the court. These agencies do not make policy nor do they initiate litigation. Only proposed legislation with fiscal or program ramifications for these agencies can be said to have a direct agency impact. Thus the Public Defender Agency and Office of Public Advocacy will submit position papers for legislation which will affect these agencies fiscally or programatically or will require these agencies to litigate constitutional issues raised by the legislation.

Fiscal impact: None.

Program impact: None.

Constitutional impact: See Analysis Below.

This bill would significantly change current law by allowing the presentation of hearsay evidence before Alaskan grand jury and further allow hearsay evidence to be presented regardless of whether it would be admissible at trial.

This bill will allow but a single witness, usually a police officer, to present all the evidence before the grand jury on a given case. A single witness could testify to all witness statements as reflected by police reports. The grand jury, unless they made a special request, would not have the opportunity to observe the demeanor and judge the credibility of the witnesses to a particular alleged offense.

The bill further would allow hearsay evidence that would not be admissible at trial. By eliminating the traditional restrictions on the admissibility of hearsay evidence, the bill will allow the grand jury to hear rumor, innuendo, and speculation and to base its decision on whether to indict an individual for a felony on evidence that the trial jury will never hear.

The Alaska Public Defender Agency and the Office of Public Advocacy oppose passage of the bill because it clearly undermines the protection afforded to citizens by Art. 1, §8 of the Alaska Constitution which mandates that a grand jury must review the evidence before a citizen is charged with a serious crime. The bill will render almost meaningless the role of the grand jury as an institution designed to ensure that the government has sufficient evidence before it charges citizens with serious crimes.

The bill presents formidable constitutional issues which would be exhaustively litigated in the appellate courts. If the state immediately implemented this legislation, the validity of indictments and subsequent trials would remain in question until the constitutional issues was finally determined by the Alaska Supreme Court. Immediate implementation of the bill thus would place hundreds of felony convictions in jeopardy of being overturned if this legislation was found to be unconstitutional.

Brant McGee
Brant McGee
Public Advocate

2/13/87
Date

Dana Fabe
Dana Fabe
Public Defender

3/13/87
Date

Garroy Peska
Commissioner Garroy Peska
Department of Administration

3/18/87
Date

5-13-87

The Honorable Mitch Abode
P.O. Box V
Tuneau, Alaska 99811

Dear Sir:

Please vote No on
HB 164, SB 158, passage
of the E.L.F. We do not
need to put more taxes
on the oil companies.

If this bill passes it
is going to halt development
on the north slope.

We need to encourage
the oil companies to continue
development, which will
put more money and jobs
into the private sector.

We should be looking to ways
to cut taxes on the oil
companies, so that they will
start drilling more wells
and spending more money.

Sincerely

Dary L McMichael
SKA Box 0185 T
Palmer, Alaska 99645

MEMORANDUM

STATE OF ALASKA

Department of Revenue

Petroleum Research Section

43164

February 27, 1987

To: Vincent D. Wright, Chief of Research

From: Charles Logsdon, Petroleum Economist

Charles

Subject: More ELF

Per your request, I have examined the revenue and production impact of extending the 10 year period during which the ELF is subject to the .7 or greater test to 15 years and fixing the value of the Production at the Economic Limit (PEL) at 300 barrels per well per day. Prudhoe Bay and Lisburne are the fields currently producing with a calculated ELF greater than .7 and thus would be directly impacted by this change in the State severance tax law. On average, the calculated ELF for Prudhoe is not expected to fall below 0.7 over the next 5 years. We expect the Lisburne ELF to fall below 0.7 in FY 1989 and subsequent years.

By setting the PEL at 300, the ELF no longer would be sensitive to the price of oil or the cost of producing oil and would be totally dependent on per barrel productivity for a producing lease or property. Over the next 5 years as Prudhoe Bay production begins to decline the only reason for an ELF less than 0.7 would be if a significantly greater than expected number of additional wells were drilled. For example we currently expect Prudhoe to produce on average, 0.984 million barrels per day in 1992 from 465 wells providing an ELF of .7911. If this same amount of oil were produced from 705 wells, the ELF would be equal to .6906.

The following tables illustrate the revenue impact and production impact of extending the ELF time line to 15 years and fixing the value of PEL at 300. These results are generated by the DOR revenue simulation model using the December 1986 input assumptions. The most significant result other than the revenues generated is that there is almost no average expected effect on North Slope production.

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

No. 3

Bill Version: CS HB 164 (Fin)

Publish Date: HOUSE 3/30/87

REQUEST _____

Revision Date: _____

Title: An act relating to the oil and gas production tax.

Sponsor: Rules/Governor

Requestor: House Resources

Agency Affected: Revenue

BRU: Audit

Components: Oil & Gas

EXPENDITURES/REVENUES: (Millions of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	88.7	108.5	117.6	112.9	117.8

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

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

ANALYSIS: The above numbers represent the increase in general fund revenues if this bill becomes law. The key assumptions are introduction of a 55,000,000 scaling factor into the exponent of the current ELF formula and fixing the value of the Production at the Economic Limit (PEL) at 300 barrels per well per day. The production impact from FY88 through FY2005 represents a cumulative total loss of 20.9 million barrels.

Prepared By: Chuck Logsdon
Division: Office of the Commissioner

Phone: 276-5364
Date: 3/19/87

Approved by Commissioner: [Signature]
Agency: Revenue

Date: 3/19/87

- Distribution (by Agency preparing fiscal note)
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

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LEGISLATIVE FINANCE _____ of _____

Section 2 of the attached bill deals with that problem by repealing the portion of existing law that provides for a hearing to change the PFI. The PFI is then simply set at 200 barrels per day. As a result, the PFI will be sensitive to changes in the amount of production, but will no longer be sensitive to fluctuations in price or the costs of production. Section 3 of the bill repeals two subsections in AS 43.55.012 dealing with the two elements of the hearing: costs and values. These changes do not apply to the production of gas.

I urge your early consideration and passage of this bill.

Sincerely,



Steve Cooper
Governor

The fiscal note on the 1981 legislation did not include projections beyond FY 1985, but an analysis by the Legislative Finance Division showed that application of the "true" ELF provision would cause state revenue to fall precipitously in FY 1988. Governor Harrard noted this possibility, but expressed "full confidence in the ability of the Legislature to deal at that time" with adverse revenue consequences, should they prove to be serious. Statement of Governor Harrard on signing FCCSSB 524 (ch. 176, SIA 1981); see July 27, 1981 press release on oil and gas legislation, fourth page.

Application of the "true" ELF to Prudhoe Bay would result in serious consequences for the state in the coming fiscal year: state severance collection would be reduced by over 15 percent, and FY 1987 revenue would fall by \$93,000,000 (already accounted for in the official "mean" forecast). Section 1 of the attached bill would prevent this precipitous decline in revenue by amending AS 43.55.013(h)(2) to delay the applicability of the true ELF to Prudhoe Bay for an additional five years. Section 2 of the bill also makes a conforming amendment to AS 43.55.013(h)(1) and (4). So long as the "true" ELF does not apply, the severance tax rate will be the full 15 percent of value, or 3.80 a barrel, whichever is greater, subject to the adjustment in AS 43.55.013.

The bill also changes the ELF provisions for all oil fields to remove the sensitivity of the ELF to price fluctuations. An element of the ELF calculation is the "PEL," or "production at the economic limit." The PEL represents the number of barrels a producer must produce in order to recover the costs of production. Currently, the PEL is presumed to be 300 barrels per well per day, but the taxpayer may rebut this presumption at a hearing before the Department of Revenue. At the hearing, the PEL would be calculated by dividing the cost of production into the value of the oil. AS 43.55.013(d). If the price of oil drops, the producer may be able to prove an entitlement to a PEL in excess of 300 barrels; if so, the ELF for that producer will go down. Thus, if prices fall drastically, the state loses severance tax revenue not only because the severance tax is applied against a lower value of oil, but also because the severance tax rate itself goes down as the result of a PEL hearing. Earlier in 1986, because of low prices, we were faced with the possibility that the state might suffer from this double reduction in severance tax revenue.

22B164

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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 3, 1987

The Honorable Fern Grussendorf
Speaker of the House
Alaska State Legislature
P.O. Box 1
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 19, of the Alaska Constitution, I am transmitting a bill relating to the oil and gas properties production tax. The primary effect of the bill is to postpone the application of the "true" economic limit factor (ELF) to the Prudhoe Bay field. The bill also amends the economic limit factor provisions applying to all oil fields so that the ELF is not sensitive to changes in the value of oil.

Existing AS 43.55.013(a) provides that an oil producer must calculate its production (severance) tax by multiplying the nominal rate calculated under AS 43.55.013(b) and (c) by the economic limit factor determined under AS 43.55.013. The ELF is a formula that has the effect of reducing the severance tax rate. In 1981, the legislature made several changes in oil and gas taxes: the income tax was changed to substitute modified apportionment for separate accounting; the nominal rate of the severance tax was increased for some fields; and the application of the ELF to a lease or property with an ELF of more than .7 was suspended until after that lease or property had been in commercial production for 10 years. Ch. 116, SLA 1981. Suspension of application of the ELF was accomplished by providing that, if the ELF was more than .7, then the ELF was considered to be ".7." AS 43.55.013(b)(3). Thus, when multiplying the severance tax rate by the ELF, the full amount of the tax is the product.

Only the Prudhoe Bay and Lisburne fields currently have an ELF greater than .7. The Lisburne ELF is expected to fall below .7 after fiscal year 1988, but the Prudhoe Bay ELF is expected to remain about .7 for a number of years. Prudhoe Bay will have been in production for 10 years in June, 1987; thus, absent an amendment to AS 43.55.013(b)(3), the "true" ELF, as calculated under AS 43.55.013(b)(1), will begin to apply to that field at that time.