

HC R

10

HOUSE COMMITTEE REPORT

(9)

Date Referred: March 24, 1993

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 3-25-93

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HCR 10

HOUSE CONCURRENT RESOLUTION NO. 10 FEDERAL-AID HY FUNDING/DRUG ENFORCEMENT

Relating to certification of the Alaska State Legislature's opposition to requiring suspension of a driver's license for drug offenses.

RECOMMENDATIONS: the same title
 be replaced with CS HCR 10 (HESS) a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

A.DOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) DOT 3/24

zero fiscal note _____

zero fiscal note(s) Public Safety 3/24

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Vito Roth</i>	✓				
<i>Al Terry</i>	✓				
<i>Sam L. Steyer</i>	✓				
<i>Col. Blende</i>	✓				
<i>[Signature]</i>	✓				
<i>Harley Olberg</i>	✓				
<i>Betty David</i>	✓				
<i>Wendy Nicholas</i>	✓				
<i>Tom Price</i>	✓				

A B 10

FISCAL NOTE

Revision Date:
Title: Federal-Aid Hy Funding/Drug
Enforcement
Sponsor: Transportation
Requestor:

Department Affected: DOT&PF
BRU:
Component:
Component Serial Number:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING:	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE FUND SOURCE	0	0	0	0	0	0
---------------------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

1002 FEDERAL RECEIPTS **	-9,615,346	-9,615,346	-19,230,692	-19,230,692	-19,230,692	-19,230,692
1003 GF MATCH	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/PROGRAM RECEIPTS	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL FUNDING:	-9,615,346	-9,615,346	-19,230,692	-19,230,692	-19,230,692	-19,230,692

POSITIONS

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

Estimate of current year (FY93) impact: \$0

ANALYSIS: (Attach a separate page if necessary)

** Failure to pass legislation will result in the loss of federal ISTEA funds.

Prepared by: Katy McHugh

Phone: 465-3902

Division: Office of the Commissioner

Date: March 12, 1993

Approved by Commissioner: 

Phone: 465-3901

Agency: Department of Transportation and Public Facilities

Date: March 12, 1993

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO: HCR 10

Revision Date: _____ Dept. Affected: Public Safety
 Title: "Relating to suspension of driver's license for drug offenses" BRU: Motor Vehicles
 Sponsor: House Transportation Component: Driver Services
 Requestor: House State Affairs COMPONENT SERIAL NO. 500

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

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE FUND SOURCE:	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

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

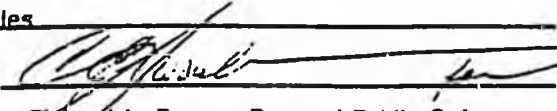
POSITIONS:

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

Estimate of current year (FY 93) impact: \$ _____

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact upon the Division of Motor Vehicles is anticipated.

Prepared By: Iuanira Hensley Phone: 465-4361
 Division: Motor Vehicles Date: 3/15/93
 Approved by Commissioner:  Date: 3/15/93
 Agency: Richard I. Burton, Dept. of Public Safety

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o Fiscal Note - Public Safety



Alaska State Legislature
House of Representatives
COMMITTEE ON HEALTH, EDUCATION
AND SOCIAL SERVICES

DATE: MARCH 25, 1993

PLACE: Capitol Room 106

SUBJECT OF MEETING:
*HB 244: APPROP: SINGLE/DUAL SITE SCHOOLS
HCR 10: FEDERAL-AID HWY FUNDING/DRUG ENFOR
MENT (PENDING REFERRAL)
HB 85: PUBLIC SCHOOL FOUNDATION PROGRAM
(TELECONFERENCE)

NAME <small>PRINT CLEARLY</small>	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
Bruce Stanton	KEA-Anch	177 Shop St. S, Ketchikan	99901	225-4436	225-5138	(Y) N	HB 85 ✓
Morris Voruems	Klawock Sch. School Dist	Box 9 Klawock 99925		755-2369	755-2917	(Y) N	HB 85 ✓
Rob ANDERSON	Klawock City School Board	Box 9 Klawock 99925		755-2933	755-2228	(Y) N	HB 244 ✓
Jack Cadigan	CCSEA	3199 Pioneer Ave. Juneau	99801	586-8332	586-2778	(Y) N	HB 85 ✓
Greg Maddy	KEA	643 Sunset Drive Ketchikan	99901	225-2290	225-9815	(Y) N	HB 85 ✓
Andy Jacobson	KEA	1900 1st Ave Ketchikan	99901	225-5819	225-4741	(Y) N	HB 85 / HB 244
Mal Kuegyma	Pelican PTA	Box 726 Pelican AK	99837	735-2475	735-2236	Y CA	HB
Jeanie Smith	Leg. Asst	Rep Foster - Capitol			465-4858	(Y) N	HCR 10 <small>IF REFERRED</small>
KEITH GERREN	DOT/AF			465-3200	465-3903	(Y) N	HCR 10
Kathi McCrd	NEA-Alaska	1601 Hidden Lane Anch	99571	272-8018	345-8100	Y (N)	HB 85
Juanita Hensley	DPS/DMV	Box 28020 Juneau	99802		4335	(Y) N	HCR 10 ✓



Alaska State Legislature

House of Representatives

COMMITTEE ON HEALTH, EDUCATION
AND SOCIAL SERVICES

DATE: MARCH 25, 1993

PLACE: Capitol Room 106

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*HB 244: APPROP: SINGLE/DUAL SITE SCHOOLS
HCR 10: FEDERAL-AID HWY FUNDING/DRUG ENFOR.
MENT (PENDING REFERRAL)
HB 85: PUBLIC SCHOOL FOUNDATION PROGRAM
(TELECONFERENCE)

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
<small>PRINT CLEARLY, PLEASE</small> DUANE GUILLEY	DOE	Tuneau AK			8679	<input checked="" type="radio"/> Y <input type="radio"/> N	#B85 ✓
Kent Durand	AAASB Assn. of AK Sch Bd. Inca				1083	<input checked="" type="radio"/> Y <input type="radio"/> N	HB 244 & 85
						<input type="radio"/> Y <input type="radio"/> N	
Sherron Porter	Ketchikan Ed. Assoc.	8302 S. Tongass Hwy Ketchikan	99901	225-2474	225-5720	<input type="radio"/> Y <input checked="" type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	

LTN1100-R01
03/26/93

LEGISLATIVE TELECONFERENCE NETWORK

PAGE 01
10:10:55

TCN: 30414 DATE & TIME: 03/25/93 15:00 TO 17:00 STATUS:6 ADJOURNED

**** ORDER SUMMARY ****

SPONSOR: HHES HOUSE HEALTH, EDUCATION AND SOCIAL SERVI CHAIRS: TOOHEY
PURPOSE: PUB PUBLIC HEARING BUNDE
CONTACT: LYNNE SMITH TEL#: (907)465-6825
CHAIRING SITE: JUNEAU CAPITOL CAP106

SPONSOR REMARKS(PUB): TESTIMONY:Y ALLOWED 5 MINUTE LIMIT
HB 85 IS SCHEDULED TO BE THE SECOND BILL UP
TCN REQUESTED ON 03/25/93 AND HAS 14 UPDATES

**** AGENDA ****

- 1 HB 85 PUBLIC SCHOOL FOUNDATION PROGRAM
- 2 HB 244 APPROP: SINGLE/DUAL SITE SCHOOLS

**** PARTICIPATING LIOS ****

ANC ANCHORAGE	3111 C STREET	LOCATION STAFF
BAR BARROW	COURTHOUSE #305	LOCATION STAFF
BET BETHEL	301 WILLOW ST.	LOCATION STAFF

6 MS	BETT	JAKUBEK		TSFY HB 85
	BOX 8194		KETCHIKAN	AK 99901 (907)247-8716
7 MS	CONSTANCE	GRIFFITH		OBSV. HB 85
	2509 4TH AVE.		KETCHIKAN	AK 99901 (907)225-5069
8 MS	SUSAN	OSHIDA		OBSV. HB 85
	POX 3326		KETCHIKAN	AK 99901 (907)225-6965

PARTICIPANTS IN HOONAH SIT HOO
 1 DR. JOHN ANTONEN SUPERINTENDENT TSFY. HB 244
 BOX 157 HOONAH AK 99829 (907)945-3611

PARTICIPANTS IN YAKUTAT SIT YAK
 1 MR. LARRY EKLUND SUPERINTENDENT TSFY. HB 244
 BOX 429 YAKUTAT AK 99689 (907)748-3317

PARTICIPANTS IN KEN/SOL SOL
 1 MR. RICHARD SWARNER KPBSD TSFY. HB 85
 148 N. BINKLEY SOLDOTNA AK 99669 (907)262-5846
 2 MS. MARY RUBADEAU KPBSD TSFY. HB 85
 148 N. BINKLEY SOLDOTNA AK 99669 (907)262-5846
 3 MS. MARILYN DIMMICK KPBSD TSFY. HB 85
 148 N. BINKLEY SOLDOTNA AK 99669 (907)262-5846

PARTICIPANTS IN SEWARD SOL SEW
 1 MR. MALCOLM FLEMING SEWARD HS TSFY. HB 85
 BOX 302 SEWARD AK 99664 (907)000-0000
 2 MR. MIKE SMITH SEWARD TSFY. HB 85
 BOX 684 SEWARD AK 99664 (907)224-3862
 3 MS. MAGGY WILCOX SEWARD TSFY. HB 85
 BOX 3353 SEWARD AK 99664 (907)224-3351
 4 MS. LINDA SEWALL TSFY. HB 85

LTN1100-R01 LEGISLATIVE TELECONFERENCE NETWORK PAGE 03
 03/26/93 10:10:55
 TCN: 30414 DATE & TIME: 03/25/93 15:00 TO 17:00 STATUS:6 ADJOURNED

PARTICIPANTS IN SEWARD SOL SEW
 BOX 1184 SEWARD AK 99664 (907)224-3581
 5 MS. KAY SMITH SEWARD TSFY. HB 85
 BOX 684 SEWARD AK 99664 (907)000-0000

PARTICIPANTS IN TOK LIO TOK
 1 MR. RICHARD THOMAS OBSV. HB 85
 P.O. BOX 126 TOK AK 99780 (907)883-5181
 2 MS. MELLIE TERWILLIGER OBSV. HB 85
 P.O. BOX 206 TOK AK 99780 (907)883-5351
 3 MS. CATHERINE WILSON AGSD OBSV. HB 85
 P.O. BOX 226 TOK AK 99780 (907)883-5151

PARTICIPANTS IN VALDEZ VAL
 1 MR. JOHN TONGEN (HB 244) VALDEZ SCHOOL OBSV. HB 85
 P.O. BOX 398 VALDEZ AK 99686 (907)835-2924

DLG DILLINGHAM	KNOX DILLINGHAM BLDG	2501 1ST AVE
FBX FAIRBANKS	119 N CUSHMAN ST	LOCATION STAFF
HOM HOMER LTC	126 W PIONEER #4	LOCATION STAFF
* JNU JUNEAU	CAPITOL	CAP106 LOCATION STAFF
KOD KODIAK	112 MILL BAY RD.	LOCATION STAFF
KTN KETCHIKAN	352 FRONT STREET	LOCATION STAFF
SIT SITKA	210 LAKE STREET	LOCATION STAFF
SOL KEN/SOL	34824 KALIFONSKY	LOCATION STAFF
TOK TOK LIO	MP 1314 AK. HWY	LOCATION STAFF
VAL VALDEZ	STATE BLDG. #13	LOCATION STAFF

**** VOLUNTEER & OFFNET SITES ****

PSG WRG WRANGELL LTC	LONGSHOREMEN'S	NABEL FENNIMORE	(907)874-3013
SIT HOO HOONAH	LOCAL SCHOOL	DARCY NEAL	(907)945-3664
SIT YAK YAKUTAT	CITY HALL	MONA SWANSON	(907)784-3325
SOL SEW SEWARD	COMMUNITY LIB.	VICKY SEIGEL	(907)224-3740
ZZZ OF1 OFFNET 1	TRAPPER CREEK	SUSAN WALLIN	(907)733-2298
ZZZ OF2 OFFNET 2	TANANA	SCHOOL DISTRICT	(907)366-7203
ZZZ OF3 OFFNET 3	GALENA	SCHOOL DISTRICT	(907)656-1205

PARTICIPANTS IN ANCHORAGE ANC

1	DENNIS WETHERELL	MAT-SU TAG	TSFY. HB 85
	PO BOX 876862	WASILLA	AK 99687 (907)745-2007
2	LARRY WIGET		TSFY. HB 85
	4600 DEBARR RD	ANCHORAGE	AK 99519 (907)269-2255
3	JANE STOKES-BARY		OBSV. HB 85
	4600 DEBARR RD	ANCHORAGE	AK 99519 (907)269-2284

PARTICIPANTS IN DILLINGHAM DLG

1 MR.	DON RENFROE	CITY SCHOOLS	OBSV. ALL ITEMS
	BOX 170	DILLINGHAM	AK 99576 (907)842-5223

PARTICIPANTS IN FAIRBANKS FBX

1 MS.	REVA SHIRCEL	TCC	TSFY. HB 244
	122 FIRST AVE.	FAIRBANKS	AK 99701 (907)452-8251

PARTICIPANTS IN HOMER LTC HOM

LTN1100-R01 LEGISLATIVE TELECONFERENCE NETWORK PAGE 02
 03/26/93 10:10:55
 TCN: 30414 DATE & TIME: 03/25/93 15:00 TO 17:00 STATUS:6 ADJOURNED

PARTICIPANTS IN HOMER LTD HOM

1	STEVE GIBSON		TSFY. HB 85
	1622 HIGHLAND DR.	HOMER	AK 99603 (907)235-6487
2	DEB GERMANO		TSFY. HB 85
	BOX 1511	HOMER	AK 99603 (907)235-2583
3	PAULA SETTERQUIST		OBSV. HB 85
	552 GRUBSTAKE	HOMER	AK 99603 (907)235-7922

PARTICIPANTS IN KODIAK KOD

1	TINA WITTEVEEN	LIO TESTING	OBSV. ALL ITEMS
	WE WERE DIALED IN FOR	TEST PURPOSES	AK (907)000-0000

PARTICIPANTS IN KETCHIKAN KTN

1 MS	DIANE GREELY		TSFY. HB 85
	BOX 8684	KETCHIKAN	AK 99901 (907)247-8348
2 MS	CATHERINE PLASENCIA		TSFY. HB 85
	BOX 5294	KETCHIKAN	AK 99901 (907)225-5294
3 MR.	BOB WEINSTEIN		TSFY. HB 85
	BOX 8340	KETCHIKAN	AK 99901 (907)225-9658
4 MR.	BILL THOMAS		TSFY. HB 244
	2610 4TH AVE.	KETCHIKAN	AK 99901 (907)225-1408
5 MS	MARYSIA OCHEJ		TSFY. HB 85
	BOX 8351	KETCHIKAN	AK 99901 (907)225-5949
6 MS	BETT JAKUBEK		TSFY. HB 85

BOB ANDERSON
CHR. OF BOARD
KLAUOCK CITY SCHOOL DISTRICT

HB 244

MR Chairman, Madam Co Chair
Members of the Committee

My name is Bob Anderson. I am
The Chairman of the Board for Klawock
City School District and speak for that
Board today. I thank you for the
opportunity to speak in support to
HB 244. Klawock City Schools is
one of the ~~NINE~~ city school districts
affected in this Bill. The 147010[#]
that was cut from § HB 45 for our
District represents a cut of 10.67%
of Klawock's FY94 Budget. ~~meaning~~
~~of~~ ~~it~~ ~~what~~ ~~does~~ that means to
Klawock City Schools may be hard for
some from larger areas to understand
because this amount of money is
relatively small on the overall spectrum.
But it is catastrophic for a small school
District. ~~If this funding cannot be~~
As board president I have spent
many hours ~~to~~ trying to look where
cuts would be made if ~~that~~ relief
such as this bill or supplemental
appropriations were made. We are
not a district that has excessively high (OVER)

PAID Superintendent on a private plane
as some would like you to believe. We
are a district that is dedicated to providing
207 K-12 students the best ~~possible~~
Education possible. As a parent of
6 and ^{an elected official} ~~board president~~ I often
find myself in a dilemma in decision
making and find myself often looking
at and directing our Board to look
at the banner on the wall facing
our board table. It says "IS IT
BEST FOR KIDS" I'm proud of our
District and board as in the seven years
I've enjoyed being part of ~~the~~ the board
we have used that slogan as our driving
force and ultimate decision maker. I
ask you as elected officials to do the
same and pass this Bill through committee
quickly so it may have a chance to
Rectify a grave error of the other body

CS FOR HOUSE CONCURRENT RESOLUTION NO. 10()
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE TRANSPORTATION COMMITTEE BY REQUEST

A RESOLUTION

* add:

1 ~~Relating to allowing the state the right to determine and impose sanctions on~~
2 ~~motor vehicle drivers.~~ * delete: [certification of the Alaska State

Legislature's opposition to requiring suspension of a drivers
license for drug offenses]

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

4 WHEREAS the State of Alaska is concerned with drug abuse by its citizens and has
5 enacted numerous laws and initiated programs aimed at reducing both the demand for and
6 supply of illegal drugs; and

7 WHEREAS the State of Alaska currently revokes the driver's licenses of persons
8 convicted of driving a motor vehicle under the influence of drugs; and * See below (2)

9 WHEREAS 23 U.S.C. 159(a) mandates the withholding of certain federal-aid highway
10 funds from states that by October 31, 1993, fail to either

11 (1) enact legislation requiring suspension of an individual's driver's license
12 upon conviction of a violation of the federal Controlled Substances Act or any drug offense;
13 or

14 (2) file a certification from the Governor that the Governor is opposed to the
15 enactment of such a law and that the legislature has adopted a resolution expressing its
16 opposition to such a law; and

* delete:

[whereas the revocation of a drug
offenders drivers license has not been shown to deter drug use, and]

1 **WHEREAS** failure of this legislature to take either mandated action will result in the
2 withholding of federal-aid highway funds; and

3 **WHEREAS** actions of the Congress to coerce states into passing ineffective laws are
4 inappropriate; and

5 **WHEREAS** the State of Alaska has and will continue to address illegal drugs in
6 effective and cost beneficial ways;

3 *delete [revoking]

Added

7 **BE IT RESOLVED** that the Alaska State Legislature certifies that it is opposed to the
8 requirement by the federal government that the state enact legislation to revoke or suspend the
9 driver's license of a person convicted of a drug offense if the offense does not involve the
10 operation of a motor vehicle, aircraft, or watercraft; and be it

11 **FURTHER RESOLVED** that the Alaska State Legislature will continue its efforts in
12 drug abuse education and enforcement programs and will commit its limited resources to
13 programs that, based on experience in Alaska, have a reasonable chance of reducing drug
14 abuse; and be it

15 **FURTHER RESOLVED** that the Governor is respectfully requested to certify the
16 Governor's opposition to adoption of legislation requiring revocation of the driver's license
17 of a person convicted of a drug offense.



Alaska State Legislature

HOUSE OF REPRESENTATIVES

Official Business

State Capitol
Juneau, AK 99801-1182

MEMORANDUM

MARCH 23, 1993

TO: MEMBERS, HOUSE HESS COMMITTEE

FROM: REPRESENTATIVE RICHARD FOSTER, CHAIR
HOUSE TRANSPORTATION COMMITTEE

SUBJECT: HCR 10 - RELATING TO CERTIFICATION OF THE ALASKA STATE LEGISLATURE'S OPPOSITION TO REQUIRING SUSPENSION OF A DRIVER'S LICENSE FOR DRUG OFFENSES.

PL 101-516 Department of Transportation and Related Agencies Appropriations Act, Sec. 333 requires withholding of certain Federal-Aid highways funds from states that do not enact legislation requiring revocation of driver's licenses for drug offenses. AS YOU CAN SEE BY THE ATTACHED FISCAL NOTE FROM THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES, failure to act on a bill or a resolution by APRIL 1, 1993 (BY FEDERAL REGULATION TO ALLOW TIME FOR CERTIFICATION) will result in the withholding of federal-aid funds in the amount of \$9,615,346 for FFY 94. The penalty remains the same for FFY 95 and increases to \$19,230,692 for each FFY thereafter. These funds are Intermodal Surface Transportation Efficiency Act (ISTEA) funds contained in our capitol budget.

Many states have opted for the resolution compliance method contained in HCR 10 in meeting these federal requirements; these states have indicated a strong resentment toward the bill option compliance method. Once a state has passed the resolution and the resolution has been approved, the Governor is required to send a letter stating this has occurred. The Hickel Administration will support the resolution compliance method.

I would like to encourage support and passage of this resolution to ensure there is will be no withholding of these funds this year AND these ISTFA funds in the future. The resolution compliance method contained in HCR 10 would allow us to CONTINUE addressing our drug and alcohol problems at a STATE LEVEL and eliminate FEDERAL COMPLIANCE/CONTROL.

The 18th Alaska State Legislature has several comprehensive pieces of legislation relating to drugs and alcohol being considered which address our State's problems at this time in more effective and cost beneficial ways than the 6-month revocation of a driver's license proposed by the bill compliance method.

Sponsor Statement - House Trans.

MEMORANDUM -

3/23/93 PAGE 2

TO: HOUSE HESS COMMITTEE MEMBERS
FROM: REP. FOSTER

I HAVE BRIEFLY OUTLINED THE COMPLIANCE METHODS BELOW:

BILL COMPLIANCE:

States must have enacted, and be enforcing a law that provides for a 6-month revocation or suspension of a driver's license upon any conviction of the Controlled Substances Act, or any drug offense. This law requires driver licensing actions against violators of drug offenses not limited to moving violations, not necessarily involving a motor vehicle at all. The State must prove that it is in compliance each year.

RESOLUTION COMPLIANCE: (ACCOMPLISHED THROUGH HCR 10)

The legislature adopts a resolution (HCR 10) expressing its opposition to such a law required in the bill compliance method, outlined above. The State will submit, to the Secretary of Transportation, a certification stating that the Governor is opposed to the enactment or enforcement of such a law. As indicated previously in this memo, the Hickel Administration will support this approach.



*Department of Transportation
and Public Facilities*

POSITION PAPER

BILL NO: HCR 10

APPROVED: 

TITLE: Federal-Aid Hy Funding/Drug
Enforcement

DATE: March 12, 1993

This bill fulfills an urgent federal mandate, that, if ignored, will result in the loss of millions of dollars in federal highway funding. It is based on Public Law 101-516, Nov. 5, 1990, which directs each state to enact a law which requires the revocation of driving privileges of those persons convicted of any type of drug offense, or alternatively, the state must indicate formal opposition to such a law in a manner defined below.

In responding to this federal mandate (some would say blackmail) the state has three options. First, on or before April 1, 1993, the state may enact legislation requiring the revocation of a person's driving privileges upon conviction for a drug offense. Enactment must be accompanied by enforcement, provided there have been circumstances calling for the law's penalties to be imposed. That is the intent of this bill.

Alternatively, on or before April 1, 1993, if the Governor and both houses of the Legislature indicate by certification and resolutions respectively, that they are opposed to the enactment or enforcement of such a law, then the fiscal sanctions will not be imposed on the state. Several other states have selected this option, in most instances as a symbolic act against federal intrusion into states' sovereignty.

Finally, in the absence of the state taking positive, timely action to either enact and enforce the mandatory license revocation law, or indicating formal opposition, a 5% withholding of highway federal-aid funds will begin in Federal Fiscal Year 1994. The penalty would remain the same in FFY '95. Further, funds withheld in these two years would be returned to the state if prior to September 30, 1995 the state achieves compliance with the federal act.

In subsequent federal fiscal years, the penalty rises to 10% and there is no further restoration provision for withheld funding. The approximate magnitude of these penalties is significant, and would be on the order of \$9.6 million in FFYs '95 & '96, and \$19.2 million thereafter. I would therefore urge favorable action on either approach to comply with Public Law 101-516.

For Further Information contact Katy McHugh at 465-3900.

Position Paper. DOT

BILL NO: HCR 10

DATE: March 15, 1993

TITLE: "Relating to certification of the Alaska State Legislature's opposition to requiring suspension of a driver's license for drug offenses"

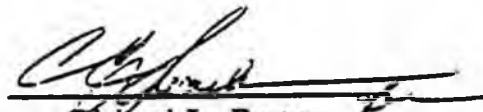
CONTACT: C.E. Swackhammer
Deputy Commissioner
465-4322

HCR 10 fulfills an urgent federal mandate that, if ignored, will result in the loss of millions of dollars in Federal Highway funding.

This bill ensures that the Department of Transportation and Public Facilities avoids federal penalty of the loss of highway funds in Federal Fiscal Years 1994 and 1995 of five percent, and ten percent in Federal Fiscal Years 1996 and beyond.

Federal law requires submission of laws requiring license revocation of drug offenders or a resolution stating they are opposed to the program by April 1, 1993, to avoid imposition of the penalty on October 1, 1993. Many of the states submitting laws are not meeting the requirements specified in the final Federal Rule published in August 1992.

The Department of Public Safety recommends the passage of any legislation which will ensure that the Department of Transportation funds are not penalized.


Richard L. Burton
Commissioner

STATE OF ALASKA

DEPARTMENT OF PUBLIC SAFETY

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

P.O. BOX 111200
JUNEAU, ALASKA 99811-1200
PHONE: (907) 465-4322

February 10, 1993

The Honorable Richard Foster
Chair, House Transportation
Alaska State House
State Capitol
Juneau, Alaska 99801-1182

Dear Representative Foster:

This letter is to advise you of a Federal public law designed to "encourage" the State of Alaska to pass certain public legislation.

Public Law 101-516, dated November 5, 1990 (enclosed), represents an attempt by the Federal Government to have all states revoke the driving privileges of those persons convicted of any type of drug offense. Presumably, the Federal Government hopes this will act as a further deterrent to those who sell and use illegal drugs.

States are given two options. First, the state may enact legislation requiring the revocation of a person's driving privileges upon conviction for a drug offense. Second, the Governor may certify that he is opposed to the enactment or enforcement of such a law. For this to be effective, the legislature must also adopt a resolution to the same effect.

Certification must be submitted on or before **April 1, 1993** to avoid the withholding of funds in FFY 94. Five percent of Federal highway funds will be withheld in FFY 94 - FFY 95 and ten percent in FFY 96.

Last session, the Department of Law drafted a Governor's bill (HB 422) that would bring the State into compliance. It was amended by the House Judiciary Committee, but failed to pass out of House Finance before the end of the session.

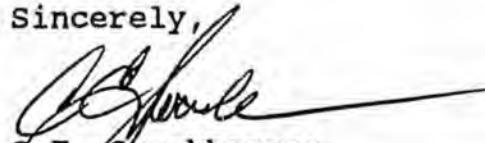
Governors of several states have already certified their opposition to enacting such a law and the necessary resolutions are pending before or have been passed by their legislatures. This opposition is premised on their conviction that the Federal government is improperly intruding upon states' sovereignty, which they believe includes the right to choose how to promote public safety.

The Honorable Richard Foster
February 10, 1993
Page 2

The Department of Public Safety respectfully requests that the House Transportation Committee consider introducing a resolution this session which will satisfy the Federal Government's directions.

A resolution adopted by the New Mexico Legislature is enclosed for your consideration. The resolution certifies, among other points, that the State of New Mexico currently revokes the driver's licenses of persons convicted of driving a motor vehicle under the influence of drugs; that it is opposed to revoking the driver's license of any person convicted of a drug offense if that person is not operating a motor vehicle; and that the New Mexico legislature will continue its efforts in drug abuse education and enforcement programs. This model resolution, if adopted, would bring the State of Alaska into compliance with Public Law 101-516.

Sincerely,



C.E. Swackhammer
Deputy Commissioner

Enclosures

cc: Keith Gerken, DOT/PF

SEC. 330. (a) **AUXILIARY FLIGHT SERVICE STATION PROGRAM.**—The Administrator of the Federal Aviation Administration shall develop and implement a system of manned auxiliary flight service stations. The auxiliary flight service stations shall supplement the services of the planned consolidation to 61 automated flight service stations under the flight service station modernization program. Auxiliary flight service stations shall be located in areas of unique weather or operational conditions which are critical to the safety of flight. Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall report to Congress with the plan and schedule for implementation of this section.

(b) **NATIONAL WEATHER GRAPHICS SYSTEM.**—None of the funds made available in this Act may be used by the Federal Aviation Administration for a new National Weather Graphics System.

SEC. 331. **NATIONAL 55 MPH SPEED LIMIT ENFORCEMENT PENALTIES.**—Notwithstanding sections 141(a) and 154 of title 23, United States Code, none of the funds in this or any previous or subsequent Act shall be used for the purpose of reducing or reserving any portion of a State's apportionment of Federal-aid highway funds as required by section 154(f) of title 23, United States Code, for reason of noncompliance with the criteria of that subsection during fiscal year 1989. The Secretary shall promptly restore any apportionments which, prior to enactment of this Act, were reduced or reserved from obligation for reason of noncompliance under section 154(f) during said fiscal year.

SEC. 332. Unless specifically provided in this Act, none of the funds in this Act shall be available to initiate multiyear contracts for a program which meets the criteria of a Level I or Level II major system acquisition as defined by Department of Transportation Order 4200.14 if the total value of procurement end items in the contract, including options, exceeds \$100,000,000: *Provided*, That for the purposes of this section, a multiyear contract is defined as one which provides for more than one year's requirements of systems, subsystems, or components within a single contract: *Provided further*, That none of the funds in this Act shall be available to initiate contracts for major systems acquisition which include procurement options where funding for those options is scheduled to be provided prior to delivery to the Federal Government of at least fifty per centum of all units previously ordered under that contract.

SEC. 333. For each fiscal year the Secretary of Transportation shall withhold five per centum of the amount required to be apportioned to any State under each of paragraphs (1), (2), (5), and (6) of section 104(b) on the first day of each fiscal year which begins after the second full calendar year following the date of enactment of this section if the State does not meet the requirements of paragraph (3) on such date.

Subsections (a)(2), (a)(3), (b), and (c) of section 104 of title 23, United States Code, are amended as follows:

"(2) The Secretary shall withhold 10 per centum (including any amounts withheld under paragraph (1)) of the amount required to be apportioned to any State under each of paragraphs (1), (2), (5), and (6) of section 104(b) on the first day of each fiscal year which begins after the fourth full calendar year following the date of enactment of this section if the State does not meet the requirements of paragraph (3) on the first day of such fiscal year.

"(3) A State meets the requirements of this paragraph if—

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paragraph if—

"(A) the State has enacted and is enforcing a law that re-
quires in all circumstances, or requires in the absence of
compelling circumstances warranting an exception—

"(i) the revocation, or suspension for at least 6 months, of
the driver's license of any individual who is convicted, after
the enactment of such law, of

"(I) any violation of the Controlled Substances Act, or
"(II) any drug offense, and

"(ii) a delay in the issuance or reinstatement of a driver's
license to such an individual for at least 6 months after the
individual applies for the issuance or reinstatement of a
driver's license if the individual does not have a driver's
license, or the driver's license of the individual is sus-
pended at the time the individual is so convicted, or

"(B) The Governor of the State—

"(i) submits to the Secretary no earlier than the adjourn-
ment sine die of the first regularly scheduled session of the
State's legislature which begins after the date of enactment
of this section a written certification stating that he is
opposed to the enactment or enforcement in his State of a
law described in subparagraph (A) relating to the revoca-
tion, suspension, issuance, or reinstatement of driver's li-
censes to convicted drug offenders; and

"(ii) submits to the Secretary a written certification that
the legislature (including both Houses where applicable)
has adopted a resolution expressing its opposition to a law
described in clause (i).

"(b)(1)(A) Any funds withheld under subsection (a) from appor-
tionment to any State on or before September 30, 1995, shall remain
available for apportionment to such State as follows:

"(i) If such funds would have been apportioned under section
104(b)(5)(A) but for this section, such funds shall remain avail-
able until the end of the fiscal year for which such funds are
authorized to be appropriated.

"(ii) If such funds would have been apportioned under section
104(b)(5)(B) but for this section, such funds shall remain avail-
able until the end of the second fiscal year following the fiscal
year for which such funds are authorized to be appropriated.

"(iii) If such funds would have been apportioned under para-
graph (1), (2), or (6) of section 104(b) but for this section, such
funds shall remain available until the end of the third fiscal
year following the fiscal year for which such funds are au-
thorized to be appropriated.

"(B) No funds withheld under this section from apportionment to
any State after September 30, 1995, shall be available for appor-
tionment to such State.

"(2) If, before the last day of the period for which funds withheld
under subsection (a) from apportionment are to remain available for
apportionment to a State under paragraph (1), the State meets the
requirements of subsection (a)(3), the Secretary shall, on the first
day on which the State meets the requirements of subsection (a)(3),
apportion to the State the funds withheld under subsection (a) that
remain available for apportionment to the State.

"(3) Any funds apportioned pursuant to paragraph (2) shall
remain available for expenditures as follows:

"(A) Funds originally apportioned under section 104(b)(5)(A)
shall remain available until the end of the fiscal year succeed-

ing the fiscal year in which such funds are apportioned under paragraph (2).

"(B) Funds originally apportioned under paragraph (1), (2), (5)(B), or (6) of section 104(b) shall remain available until the end of the third fiscal year succeeding the fiscal year in which such funds are so apportioned.

Sums not obligated at the end of such period shall lapse or, in the case of funds apportioned under section 104(b)(5), shall lapse and be made available by the Secretary for projects in accordance with section 118(b).

"(4) If, at the end of the period for which funds withheld under subsection (a) from apportionment are available for apportionment to a State under paragraph (1), the State does not meet the requirements of subsection (a)(3), such funds shall lapse or, in the case of funds withheld from apportionment under section 104(b)(5), such funds shall lapse and be made available by the Secretary for projects in accordance with section 118(b).

"(c) For purposes of this section—

"(1) The term 'driver's license' means a license issued by a State to any individual that authorizes the individual to operate a motor vehicle on highways.

"(2) The term 'drug offense' means any criminal offense which proscribes—

"(A) the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance the possession of which is prohibited under the Controlled Substances Act, or

"(B) the operation of a motor vehicle under the influence of such a substance.

"(3) The term 'convicted' includes adjudicated under juvenile proceedings."

(b) The table of contents for chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new item:

"159. Revocation or suspension of the driver's license of individuals convicted of drug offenses."

Sec. 334. Unobligated funds authorized to be appropriated by section 131(d)(2) of the Highway Improvement Act of 1982, Public Law 97-424, shall be available for obligation for the project described in section 149(a)(89) of the Federal-Aid Highway Act of 1987, Public Law 100-17, in the same manner and to the same extent provided in section 131(d)(3) of the Highway Improvement Act of 1982.

Sec. 335. Notwithstanding section 127 of title 23, United States Code, the State of Wyoming may permit the use of the National System of Interstate and Defense Highways located in Wyoming by vehicles in excess of 30,000 pounds gross weight, but meeting axle and bridge formula specifications in section 127 of title 23, United States Code: *Provided*, That this section shall remain in effect until December 31, 1991.

Sec. 338. 23 U.S.C. 410(e)(1)(C) is hereby amended by striking the words "within the time period specified in subparagraph (F)"; 23 U.S.C. 410(e)(2) is hereby amended by adding the words "a significant portion of" after the word "which", the first time it appears,

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apportioned under paragraph (1), (2), shall lapse or, in the event of such lapse, shall be deemed to have lapsed on the date of such lapse and be accorded the same effect as if such funds had not been so apportioned.

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and by striking the words "convicted of" and inserting in lieu thereof the words "apprehended and fined for".

SEC. 337. Within 180 days of the effective date of this Act, the Federal Aviation Administration shall undertake and complete a study on the classification of air traffic controllers at level IV limited radar approach facilities which includes airspace complexity as a factor in determining grade classification. The results of this study, along with an implementation plan, shall be provided to the House and Senate Committees on Appropriations.

SEC. 338. Notwithstanding any provision of the Urban Mass Transportation Act of 1964, as amended, the Urban Mass Transportation Administration shall not withhold fiscal year 1989, 1990 or 1991 funds for any section 3 and section 9 operating and capital assistance grants for the City of Phoenix, Arizona, based on the inclusion of a "preference in hiring" provision in the employee protective arrangements developed pursuant to 49 U.S.C. 1609(c).

SEC. 339. Notwithstanding subsection (d) of section 402 of the Surface Transportation Assistance Act of 1982 (Public Law 97-424, 96 Stat. 2155, 2156) for States which have received only a development grant for fiscal year 1989 under such section 402 and which have participated in the Commercial Motor Carrier Safety Inspection and Weighing Demonstration Program, the Secretary shall only approve a plan under such section 402 for fiscal year 1991 which provides that the aggregate expenditure of funds of the State and political subdivisions thereof, exclusive of Federal funds, for commercial motor vehicle safety programs will be maintained at a level which does not fall below the average level of such expenditure for the last two full fiscal years preceding fiscal year 1990.

SEC. 340. (a)(1) None of the funds appropriated by this Act may be obligated or expended to enter into any contract for the construction, alteration, or repair of any public building or public work in the United States or any territory or possession of the United States with any contractor or subcontractor of a foreign country, or any supplier of products of a foreign country, during any period in which such foreign country is listed by the United States Trade Representative under subsection (c) of this section.

(2) The President or the head of a Federal agency administering the funds for the construction, alteration, or repair may waive the restrictions of paragraph (1) of this subsection with respect to an individual contract if the President or the head of such agency determines that such action is necessary for the public interest. The authority of the President or the head of a Federal agency under this paragraph may not be delegated. The President or the head of a Federal agency waiving such restrictions shall, within 10 days, publish a notice thereof in the Federal Register describing in detail the contract involved and the reason for granting the waiver.

(b)(1) Not later than 30 days after the date of enactment of this Act, the United States Trade Representative shall make a determination with respect to each foreign country of whether such foreign country—

(A) denies fair and equitable market opportunities for products and services of the United States in procurement, or

(B) denies fair and equitable market opportunities for products and services of the United States in bidding, for construction projects that cost more than \$500,000 and are funded (in whole or in part) by the government of such foreign

request comments on the proposed regulation discussed in this notice.
DATES: Comments must be received by November 21, 1991.

ADDRESS: Written comments should refer to the docket number and the number of this notice and be submitted (preferably in ten copies) to: Docket Section, National Highway Traffic Safety Administration, room 5109, Nassif Building, 400 Seventh Street, SW, Washington, DC 20590. (Docket hours are from 8 a.m. to 4 p.m.)

FOR FURTHER INFORMATION CONTACT: In NHTSA: Mr. William Holden, Office of Alcohol and State Programs, Traffic Safety Programs, room 5130, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, telephone (202) 366-2722; or Ms. Heidi L. Coleman, Office of Chief Counsel, room 5219, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, telephone (202) 366-1834.

In FHWA: Mr. Warren Harper, Office of Highway Safety, Room 3407, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, telephone (202) 366-2172; or Mr. Wilbert Baccus, Office of Chief Counsel, room 4230, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, telephone (202) 366-0780.

SUPPLEMENTARY INFORMATION: The Department of Transportation and Related Agencies Appropriations Act for FY 1991, Public Law 101-518, was signed into law on November 5, 1990. Section 333 of the Act requires the withholding of certain Federal-aid highway funds from States that do not enact legislation requiring the revocation or suspension of an individual's driver's license upon conviction for any violation of the Controlled Substances Act (Pub.L. 91-513, as amended) or any drug offense. If a State decides not to enact such legislation, the section stipulates a procedure by which the state can avoid the withholding of funds.

This notice proposes the manner in which States would certify that they are not subject to this withholding and the disposition of funds that are withheld.

Adoption of Drug Offender's Driver's License Suspension

The legislation specifically provides that the Secretary must withhold a portion of Federal-aid highway funds from any State that does not meet certain statutory requirements. To avoid such withholding, a State must have enacted and be enforcing a law that provides for the revocation or suspension of the driver's license of any

individual who is convicted for any violation of the Controlled Substances Act or any drug offense. Alternatively, a State can avoid the withholding by submitting to the Secretary a written certification stating that the Governor is opposed to the enactment or enforcement of such a law and that the legislature has adopted a resolution expressing its opposition to such a law.

The requirements of the Commercial Motor Vehicle Safety Act of 1988 would remain unaffected by any such resolution. Specifically, a State may not waive the requirement of 49 CFR 383.51 that a person who is convicted of either driving a commercial motor vehicle (CMV) while under the influence of a controlled substance, or using a CMV in the commission of a controlled substance-related felony, be disqualified from operating a CMV for a period of from one year to life, depending on the specific offense(s), without facing a reduction in Federal-aid highway funds.

Any State that does not enact and enforce a law that provides for the revocation or suspension of the driver's license of drug offenders or submit to the Secretary written certification from the Governor that he or she is opposed to the enactment or enforcement of such a law in the State will be subject to withholding of a portion of its Federal-aid highway funds. In accordance with the statute, if a State does not meet the statutory requirements by October 1, 1993, five percent of its FY 1994 Federal-aid highway apportionment under 23 U.S.C. 104(b)(1), 104(b)(2), 104(b)(5) and 104(b)(6) shall be withheld. These sections relate to the apportionments for the primary, secondary, interstate (including interstate construction and interstate resurfacing, restoration, rehabilitation and reconstruction (4R) funds) and urban highway systems. Five percent will be withheld also in FY 1995 if the State does not meet the requirements by October 1, 1994. If the State does not meet the statutory requirements by October 1 of any subsequent fiscal year (beginning with FY 1996), ten percent of its Federal-aid highway apportionments under these sections will be withheld.

Compliance Criteria

To avoid the withholding of Federal-aid highway funds, a State has two alternatives, the first of which is to enact and enforce a law that meets the statutory criteria. Section 333 provides that:

A State meets the requirements of this paragraph if—

(a) The State has enacted and is enforcing a law that requires in all circumstances, or requires in the

absence of compelling circumstances warranting an exception—

(i) The revocation, or suspension for at least 6 months, of the driver's license of any individual who is convicted, after the enactment of such law, of—

(I) Any violation of the Controlled Substances Act, or

(II) Any drug offense, and

(ii) A delay in the issuance or reinstatement of a driver's license to such an individual for at least 6 months after the individual applies for the issuance or reinstatement of a driver's license if the individual does not have a driver's license, or the driver's license of the individual is suspended, at the time the individual is so convicted.

1. Statutory Definitions

The statute defines several terms, and the agencies are proposing to adopt these definitions. Section 333 defines the term "driver's license" to mean "a license issued by a State to any individual that authorizes the individual to operate a motor vehicle on highways." This definition would encompass licenses that permit individuals to operate any type of motor vehicle, including motorcycles and commercial motor vehicles.

The term "drug offense" is also defined in the statute. The term, as defined in the statute, would cover any criminal drug offense including "the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance the possession of which is prohibited under the Controlled Substances Act, or . . . the operation of a motor vehicle under the influence of such a substance." It should be noted that, while Section 333 requires that States take a driver's licensing action against violators of these drug offenses, the offenses covered by this definition are not limited to moving violations. In fact, to be covered, these offenses need not be motor vehicle-related at all.

The agencies do not believe that the Act requires a State to enact any particular drug offense law. The Act requires only that if a drug offense is proscribed and an individual is convicted for a violation of the offense that the State suspend, revoke or delay that individual's driver's license.

Since the statutory definition of "drug offense" includes manufacturing among the activities that are unlawful, the agencies believe this term should cover not only controlled and counterfeit substances but also listed chemicals, the possession of which was made unlawful by the Chemical Diversion and

proposed to be made, that the institution-affiliated party has violated or conspired to violate section 213, 214, 217, 1003, 1004, 1007, 1014, 1032, or 1344 of title 18 of the United States Code, or section 1341 or 1343 of such title affecting a federally insured financial institution as defined in title 18 of the United States Code.

(c) In making a determination under paragraph (b) of this section, the appropriate federal banking agency and the Corporation may consider:

(1) Whether, and to what degree, the institution affiliated party was in a position of managerial or fiduciary responsibility.

(2) The length of time the institution-affiliated party was affiliated with the insured depository institution or depository institution holding company, and the degree to which the proposed payment represents a reasonable payment for services rendered over the period of employment; and

(3) Any other factors or circumstances which would indicate that the proposed payment would be contrary to the intent of section 18(k) of the Act or this part.

(d) Notwithstanding paragraphs (a) and (b) of this section, a depository institution holding company that is a diversified holding company as defined in section 10(a)(1)(F) of the Home Owner's Loan Act (12 U.S.C. 1461 et seq.) may make a golden parachute payment if, and to the extent that, such depository institution holding company determines and can demonstrate that:

(1) The conditions delineated in paragraphs (b) (1), (2), (3) and (4) of this section have been satisfied; and

(2) The institution-affiliated party falls within the definition of "institution-affiliated party" solely because such person is a director, officer, employee or controlling stockholder of a diversified holding company.

§ 359.3 Indemnification payments prohibited.

No insured depository institution or depository institution holding company shall make or agree to make any indemnification payment, except as provided in § 359.5 of this part.

§ 359.4 Permissible golden parachute payments.

An insured depository institution or depository institution holding company may agree to make a golden parachute payment if:

(a) Such an agreement is made with respect to an institution-affiliated party who was hired by an insured depository institution or depository institution holding company at a time when that institution or holding company satisfied

any of the criteria set forth in § 359.1(d)(1)(ii) of this part and the institution's appropriate federal banking agency and the Corporation consented in writing to the amount and terms of the golden parachute payment; and

(b) At the time the payment is made, the factors delineated in § 359.2(b) (1), (2), (3), or (4) of this part have been satisfied, and the factors delineated in § 359.2(c)(3) of this part are not present.

§ 359.5 Permissible indemnification payments.

(a) An insured depository institution or depository institution holding company may make or agree to make reasonable indemnification payments to an institution-affiliated party if:

(1) The institution's or holding company's board of directors, in good faith, determines in writing that the institution-affiliated party has a substantial likelihood of prevailing on the merits;

(2) The institution's or holding company's board of directors, in good faith, determines in writing that the payment of such expenses will not adversely affect the institution's safety and soundness;

(3) At any time the institution's or holding company's board of directors believes, or should reasonably believe, that the conditions of paragraphs (a) (1) and (2) of this section are no longer being met, it ceases making or authorizing such payments;

(4) The indemnification payments are limited to the payment or reimbursement of reasonable legal or other professional expenses incurred in connection with an institution-affiliated party's involvement in an administrative proceeding or civil action instituted by the appropriate federal banking agency; but in no event shall such indemnification pay or reimburse an institution-affiliated party for the amount of, or any cost incurred in connection with, any settlement of any such claim, proceeding or action or any judgment or penalty imposed with respect to any such claim, proceeding or action;

(5) The institution-affiliated party agrees in writing to reimburse the institution for such indemnification payments in the event that the proceeding results in a final order under which the institution-affiliated party:

- (i) Is assessed a civil money penalty;
- (ii) Is removed from office or prohibited from participating in the conduct of the affairs of the insured depository institution; or
- (iii) Is required to cease and desist from or take any affirmative action described in section 8(b) of the Act with respect to such institution; and

(6) The institution or holding company provides the appropriate federal banking agency and the FDIC with prior written notice of its board of directors' authorization of such indemnification.

(b) An institution-affiliated party requesting indemnification payments shall not participate in any way in the board's discussion and approval of such payments; provided, however, that such institution-affiliated party may present his/her request to the board and respond to any inquiries from the board concerning his/her involvement in the circumstances giving rise to the administrative proceeding or civil action.

By order of the Board of Directors, dated at Washington, DC, this 24th day of September, 1991.

Federal Deposit Insurance Corporation

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 91-23747 Filed 10-4-91; 8:45 am]

GALLERIA CODE 6716-91-4

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Federal Highway Administration

23 CFR Part 1212

[NHTSA Docket No. 91-17; Notice 1]

RIN 2127-AE10

Drug Offender's Driver's License Suspension

AGENCY: National Highway Traffic Safety Administration (NHTSA) and Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This Notice of Proposed Rulemaking (NPRM) contains a proposal for implementing a new program enacted by the Department of Transportation and Related Agencies Appropriations Act for FY 1991. Section 333 of the Act requires the withholding of certain Federal-aid highway funds from States that do not enact legislation requiring the revocation or suspension of an individual's driver's license upon conviction for any violation of the Controlled Substances Act or any drug offense. This notice proposes the manner in which States would certify that they are not subject to this withholding, and the disposition of funds that are withheld. The agencies

These sections are virtually identical to those found in the National Minimum Drinking Age Act, as amended, 23 U.S.C. 158. For a full discussion of how these provisions have been applied in practice, interested parties are encouraged to read the agencies' joint final rule published in the Federal Register on August 18, 1988 (53 FR 31318).

Comments

Interested persons are invited to comment on this proposal. All comments must be limited to 15 pages in length. Necessary attachments may be appended to those submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

Written comments to the public docket must be received by November 21, 1991. The agencies have not provided a longer comment period in order to provide States with sufficient time to prepare their agendas for their upcoming legislative sessions. To expedite the submission of comments, simultaneous with the issuance of this notice, NHTSA and FHWA will mail copies to all Governors, Governors' Representatives for Highway Safety and State highway agencies.

All comments received before the close of business on the comment closing date will be considered and will be available for examination in the docket at the above address before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date. The agencies will continue to file relevant material in the docket as it becomes available after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons who wish to be notified upon receipt of their comments in the docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Copies of all comments will be placed in Docket 91-17; Notice 1 of the NHTSA Docket Section in room 5109, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

On April 29, 1991, the State of Alaska submitted some questions to FHWA regarding the agency's interpretation of section 333. FHWA acknowledged receipt of these questions, but declined to answer them since the agencies were in the process of developing this

proposed regulation. We believe the questions raised in Alaska's inquiry have all been addressed in this NPRM. The questions have been placed in the public docket for his rulemaking action, and are available for public examination.

Federalism Assessment

This rulemaking action has been analyzed in accordance with the principles and criteria contained in Executive Order 12812, and it has been determined that it would have no federalism implication that warrants the preparation of a federalism assessment. States can choose to enact and enforce a law that requires the suspension or revocation of driver's licenses for drug offenders in conformance with Public Law 101-518, and thereby avoid the withholding of Federal-aid highway funds. Alternatively, States can choose not to enact and enforce this type of law, and still avoid such withholding. To avoid the withholding of funds in such cases, the Governor would submit a certification that he or she is opposed to the enactment or enforcement in the State of such a law and that the State legislature has adopted a resolution expressing its opposition to such a law. While specific criteria that State laws must meet have been proposed in this NPRM, they are mandated by Public Law 101-518.

Economic and Other Effects

NHTSA has analyzed the effect of this action and has determined that it is not "major" within the meaning of Executive Order 12291, but that it is "significant" within the meaning of Department of Transportation regulatory policies and procedures. A preliminary regulatory evaluation of the impacts of this proposal has been prepared and placed in Docket 91-17; Notice 1. This preliminary evaluation provides information regarding the expected costs and benefits of the agencies' proposal and requests information demonstrating that license suspensions or revocations for drugged driving or illegal possession convictions deter drug use or reduce driver's future involvement in crashes. It also requests comments on methods that States could use and the costs to develop systems for providing Federal, out-of-State and juvenile records to State Departments of Motor Vehicles. Any interested person may obtain a copy of this preliminary evaluation by writing to NHTSA's Docket Section, room 5109, 400 Seventh Street, SW., Washington, DC 20590, or by calling the Docket Section at (202) 368-4949. Comments should be submitted to the NHTSA Docket, in

accordance with the procedures described earlier in this notice.

In compliance with the Regulatory Flexibility Act, the agency has evaluated the effects of this proposed rule on small entities. Based on the evaluation, we certify that this rule would not have a significant economic impact on a substantial number of small entities. Any withholding of funds under the regulation would be from States. Accordingly, the preparation of an Initial Regulatory Flexibility Analysis is unnecessary.

The requirements in this proposal that States certify that they conform to the statutory requirements to avoid the withholding of Federal-aid highway funds are considered to be information collection requirements as that term is defined by the Office of Management and Budget (OMB) in 5 CFR part 1320. Accordingly, the reporting and recordkeeping requirement associated with this rule is being submitted to the Office of Management and Budget for approval in accordance with 44 U.S.C. chapter 35 under DOT No. 3517; OMB No.: New; Administration: NHTSA. **NEED FOR INFORMATION:** To encourage States to enact and enforce drug offender's driver's license suspension; **PROPOSED USE OF INFORMATION:** To provide procedures to State highway construction grant recipients on how to certify compliance with the provision of Public Law 101-518. The law requires a driver's license suspension, or revocation, for individuals convicted of any drug-related offense; **FREQUENCY:** Annual; **BURDEN ESTIMATE:** 260 hours; **RESPONDENTS:** State/local government; **FORM(S):** None, but Forms HS-62, HS-62A and HS-217 may be used. OMB No. 2127-0003; **AVERAGE BURDEN HOURS PER RESPONDENT:** 5 hours. For further information contact: The Information Requirements Division, M-34, Office of the Secretary of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 368-4735, or Edward Clarke or Wayne Brough, Office of Management and Budget, New Executive Office Building, room 3223, Washington, DC 20503, (202) 395-7340.

Comments on the proposed information collection requirements should be submitted to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503. Attention: Desk Officer for NHTSA. It is requested that comments sent to OMB also be sent to the NHTSA rulemaking docket for this proposed action.

The agencies have also analyzed this proposed action for the purpose of the

National Environmental Policy Act. The agencies have determined that this action would not have any effect on the human environment.

List of Subjects in 23 CFR Part 1212

Driver licensing, Drugs, Highway safety.

In accordance with the foregoing, the agencies propose to add a new part 1212 to title 23 of the Code of Federal Regulations to read as follows:

PART 1212—DRUG OFFENDER'S DRIVER'S LICENSE SUSPENSION

Sec.

- 1212.1 Scope.
- 1212.2 Purpose.
- 1212.3 Definitions.
- 1212.4 Adoption of Drug Offender's Driver's License Suspension.
- 1212.5 Certification Requirements.
- 1212.6 Period of Availability of Withheld Funds.
- 1212.7 Apportionment of Withheld Funds After Compliance.
- 1212.8 Period of Availability of Subsequently Apportioned Funds.
- 1212.9 Effect of Noncompliance.
- 1212.10 Procedures Affecting States in Noncompliance.

Authority: Public Law 101-516; delegation of authority at 49 CFR 1.48 and 1.50.

§ 1212.1 Scope.

This part prescribes the requirements necessary to implement section 333 of Public Law 101-516, which encourages States to enact and enforce Drug Offender's Driver's License Suspensions.

§ 1212.2 Purpose.

The purpose of this part is to specify the steps that States must take in order to avoid the withholding of Federal-aid highway funds for noncompliance with section 333 of Public Law 101-516.

§ 1212.3 Definitions.

As used in this part:

- (a) Convicted includes adjudicated under juvenile proceedings.
- (b) *Driver's license* means a license issued by a State to any individual that authorizes the individual to operate a motor vehicle on highways.
- (c) *Drug offense* means:
 - (1) The possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance the possession of which is prohibited under the Controlled Substances Act, or
 - (2) The operation of a motor vehicle under the influence of such a substance.
- (d) *Substance the possession of which is prohibited under the Controlled Substances Act or substance* means a controlled or counterfeit substance or a

listed chemical, as those terms are defined in subsections 102 (b), (7) & (33) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802 (6), (7) & (33)) and listed in 21 CFR 1308.11-15 and 1310.02.

§ 1212.4 Adoption of Drug Offender's Driver's License Suspension.

(a) The Secretary shall withhold five percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(2), 104(b)(5) and 104(b)(6) of title 23 of the United States Code on the first day of fiscal years 1994 and 1995 if the State does not meet the requirements of this section on that date.

(b) The Secretary shall withhold ten percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(2), 104(b)(5) and 104(b)(6) of title 23 of the United States Code on the first day of fiscal year 1998 and any subsequent fiscal year if the State does not meet the requirements of this section on that date.

(c) A State meets the requirements of this section if:

(1) The State has enacted and is enforcing a law that requires in all circumstances, or requires in the absence of compelling circumstances warranting an exception:

(i) The revocation, or suspension for at least 6 months, of the driver's license of any individual who is convicted, after the enactment of such law, of

(A) Any violation of the Controlled Substances Act, or

(B) Any drug offense, and

(ii) A delay in the issuance or reinstatement of a driver's license to such an individual for at least 6 months after the individual applies for the issuance or reinstatement of a driver's license if the individual does not have a driver's license, or the driver's license of the individual is suspended, at the time the individual is so convicted, or

(2) The Governor of the State:

(i) Submits to the Secretary no earlier than the adjournment sine die of the first regularly scheduled session of the State's legislature which begins after November 5, 1990, a written certification stating that he or she is opposed to the enactment or enforcement in the State of a law described in paragraph (c)(1) of this section relating to the revocation, suspension, issuance, or reinstatement of driver's licenses to convicted drug offenders; and

(ii) Submits to the Secretary a written certification that the legislature (including both Houses where applicable) has adopted a resolution expressing its opposition to a law

described in paragraph (c)(1) of this section.

§ 1212.5 Certification requirements.

(a) Each State shall certify to the Secretary of Transportation by April 1, 1993 and by January 1 of each subsequent year that it meets the requirements of section 333, Public Law 101-516 and this regulation.

(b) If the State believes it meets the requirements of section 333 of Public Law 101-516 and this regulation on the basis that it has enacted and is enforcing a law that suspends or revokes the driver's license of drug offenders, the certification shall contain:

(1)(i) A statement by the Governor of the State, or an official designated by the Governor, that the State has enacted and is enforcing a Drug Offender's Driver's License Suspension law. The certifying statement shall be worded as follows:

(Name of certifying official), (position title), of the (State or Commonwealth) of _____ do hereby certify that the (State or Commonwealth) of _____ has enacted and is enforcing a Drug Offender's Driver's License Suspension law.

(ii) If the statement is made by an official other than the Governor, a copy of the document designating the official, signed by the Governor.

(2) Until a State has been determined to be in compliance with the requirements of section 333 of Public Law 101-516 and this regulation, the certification shall include also:

(i) A copy of the State law, regulation, or binding policy directive implementing or interpreting such law or regulation relating to the suspension, revocation, issuance or reinstatement of driver's licenses of drug offenders, and

(ii) A statement describing the steps the State is taking to enforce its law with regard to within State convictions, out-of-State convictions, Federal convictions and juvenile adjudications.

(c) If the State believes it meets the requirements of section 333 of Public Law 101-516 on the basis that it opposes a law that requires the suspension, revocation or delay in issuance or reinstatement of the driver's license of drug offenders, the certification shall contain:

(1)(i) A statement by the Governor of the State, or an official designated by the Governor, that he or she is opposed to the enactment or enforcement of such a law and that the State legislature has adopted a resolution expressing its opposition to such a law. The certifying statement shall be worded as follows:

(Name of certifying official), (position title), of the (State or Commonwealth) of _____ do

hereby certify that I am opposed to the enactment or enforcement of such a law and that the legislature of the (State or Commonwealth) of _____ has adopted a resolution expressing its opposition to such a law.

(ii) If the statement is made by an official other than the Governor, a copy of the document designating the official, signed by the Governor.

(2) Until a State has been determined to be in compliance with the requirements of section 333 of Public Law 101-518 and this regulation, the certification shall include also a copy of the resolution.

(d) The Governor, or an official designated by the Governor, each year shall submit the original and four copies of the certification to the local FHWA Division Administrator. The FHWA Division Administrator shall retain the original and forward two copies each to the Regional Administrator of NHTSA and FHWA. The Regional Administrators shall each retain one copy and forward one copy of the submission, with any pertinent comments, to their respective Washington Headquarters, attention of the Chief Counsel.

(e) Any changes to the original certification or supplemental information necessitated by the review of the certifications as they are forwarded, State legislative changes or changes in State enforcement activity shall be submitted in the same manner as the original.

§ 1212.5 Period of availability of withheld funds.

(a) Funds withheld under § 1212.4 from apportionment to any State on or before September 30, 1995, will remain available for apportionment as follows:

(1) If the funds would have been apportioned under 23 U.S.C. 104(b)(5)(A), but for this section, the funds will remain available until the end of the fiscal year for which the funds are authorized to be appropriated.

(2) If the funds would have been apportioned under 23 U.S.C. 104(b)(5)(B) but for this section, the funds will remain available until the end of the second fiscal year following the fiscal year for which the funds are authorized to be appropriated.

(3) If the funds would have been apportioned under 23 U.S.C. 104(b)(1), 104(b)(2) or 104(b)(6) but for this section, the funds will remain available until the end of the third fiscal year following the fiscal year for which the funds are authorized to be appropriated.

(b) Funds withheld under § 1212.4 from apportionment to any State after

September 30, 1995 will not be available for apportionment to the State.

§ 1212.7 Apportionment of withheld funds after compliance.

Funds withheld under § 1212.4 from apportionment, which remain available for apportionment under § 1212.5(a), will be made available to any State that conforms to the requirements of § 1212.4 before the last day of the period of availability as defined in § 1212.5(a).

§ 1212.8 Period of availability of subsequently apportioned funds.

(a) Funds apportioned pursuant to § 1212.7 will remain available for expenditure as follows:

(1) Funds originally apportioned under 23 U.S.C. 104(b)(5)(A) will remain available until the end of the fiscal year succeeding the fiscal year in which the funds are apportioned.

(2) Funds originally apportioned under 23 U.S.C. 104(b)(1), 104(b)(2), 104(b)(5)(B), or 104(b)(6) will remain available until the end of the third fiscal year succeeding the fiscal year in which the funds are apportioned.

(b) Funds apportioned to a State pursuant to § 1212.7 and not obligated at the end of the periods defined in § 1212.8(a), shall lapse or, in the case of funds apportioned under 23 U.S.C. 104(b)(5), shall lapse and be made available by the Secretary for projects in accordance with 23 U.S.C. 118(b).

§ 1212.9 Effect of noncompliance.

If a State has not met the requirements of section 333 of Public Law 101-518 at the end of the period for which funds withheld under § 1212.4 are available for apportionment to a State under § 1212.8, then such funds shall lapse or, in the case of funds withheld from apportionment under 23 U.S.C. 104(b)(5), shall lapse and be made available by the Secretary for projects in accordance with 23 U.S.C. 118(b).

§ 1212.10 Procedures affecting states in noncompliance.

(a) Every fiscal year, each State determined to be in noncompliance with section 333 of Public Law 101-518, based on NHTSA's and FHWA's preliminary review of its statutes, will be advised of the funds expected to be withheld under § 1212.4 from apportionment, as part of the advance notice of apportionments required under 23 U.S.C. 104(e), normally not later than ninety days prior to final apportionment.

(b) If NHTSA and FHWA determine that the State is not in compliance with section 333 of Public Law 101-518 based on the agencies' preliminary review, the State may, within 30 days of its receipt of the advance notice of

apportionments, submit documentation showing why it is in compliance. Documentation shall be submitted to the National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

(c) Every fiscal year, each State determined not to be in compliance with section 333 of Public Law 101-518, based on NHTSA's and FHWA's final determination, will receive notice of the funds being withheld under § 1212.4 from apportionment, as part of the certification of apportionments required under 23 U.S.C. 104(e), which normally occurs on October 1 of each fiscal year.

Issued on: October 1, 1991.

Jerry Ralph Curry,
Administrator, National Highway Traffic
Safety Administration.

Thomas D. Larson,
Administrator, Federal Highway
Administration.

[FR Doc. 91-23991 Filed 10-4-91; 8:45am]

BILLING CODE 4810-01-01

**DEPARTMENT OF HEALTH AND
HUMAN SERVICES**

Health Care Financing Administration

42 CFR Part 409

[BPD-628-P]

RIN: 0938-AE34

**Medicare Program: "Confined to the
Home" Requirements for Home Health
Services**

AGENCY: Health Care Financing
Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the current Medicare rules to clarify when a home health patient would be considered "confined to the home" in order to receive home health benefits. It would conform our regulations to changes made by section 4024 of the Omnibus Budget Reconciliation Act of 1987.

DATES: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on December 8, 1991.

ADDRESSES: Mail comments to the following address:

Health Care Financing Administration,
Department of Health and Human
Services, Attention: BPD-628-P, P.O.
Box 26878, Baltimore, Maryland 21207

If you prefer, you may deliver your comments to one of the following addresses:

**REGIONAL OPERATIONS
DRUG OFFENDER'S DRIVER'S LICENSE SUSPENSION RULE
SECTION 159**

DATE: March 19, 1993

STATE	DRAFT PRELIMINARY LEGISLATION SUBMITTED	DRAFT PRELIMINARY LEGISLATION APPROVED	DRAFT PLAN SUBMITTED	DRAFT PLAN APPROVED	DRAFT RESOLUTION SUBMITTED	DRAFT RESOLUTION APPROVED
Alabama						
Alaska						
Arizona	---	---	---	---	2/18/93	2/19/93
Arkansas	2/25/93	2/26/93	---	---	---	---
California	3/8/93 <small>NAT 2/2/93</small>		---	---	---	---
Colorado	2/25/93 <small>NAT 2/4/93</small>					
Connecticut	3/8/93	3/8/93				
Delaware	2/25/93 <small>NAT 2/1/93</small>					
Florida	1/22/92	9/22/92	11/25/92	2/18/93	---	---
Georgia	1/22/93 <small>NAT 2/8/93</small>	---	---			
Hawaii	---	---	---	---	2/11/93	2/18/93
Idaho						
Illinois	1/19/93 <small>NAT 2/1/93</small>		---	---	---	---
Indiana	10/27/92 <small>NAT 11/23/93</small>		---	---	---	---
Iowa	3/16/93 <small>CR/PL EN 6/16/93</small>		---	---	1/22/93	2/19/93

NAT = NHTSA RESPONDED WITH THE NEED FOR ADDITIONAL INFORMATION OR COMPLYING LEGISLATION.

--- = STATE HAS OFFICIALLY SUBMITTED AND HAS BEEN APPROVED FOR SATISFYING THE DUE.

03/19/93 11:52 2202 388 7384

REG. VI OPERATION REGION I

2003/005

Chart from NHTSA W/UP-TO-DATE INFO ON STATE-BY-STATE COMPLIANCE

STATE	DRAFT PRELIMINARY LEGISLATION SUBMITTED	DRAFT PRELIMINARY LEGISLATION APPROVED	DRAFT PLAN SUBMITTED	DRAFT PLAN APPROVED	DRAFT RESOLUTION SUBMITTED	DRAFT RESOLUTION APPROVED
Kansas						
Kentucky	PLANNING BOARD LEGIS					
Louisiana	1/15/93 NAI 2/18/93					
Maryland	INTRO LEG				PASSED RESOL.	
Massachusetts	11/10/92 NAI 11/16/93				3/2/93	3/4/93
Michigan	2/5/93	2/22/93				
Minnesota					1/19/93	2/8/93
Mississippi	11/24/92 NAI 1/16/93					
Missouri					1/28/93	1/28/93
Montana						
Nebraska	12/17/92 NAI 1/3/93					
Nevada					2/26/93	2/26/93
N Hampshire	10/28/92	2/16/93			3/5/93	3/9/93
N Jersey	2/2/93	2/18/93	2/2/93	2/18/93		
N York						
No Carolina						
No Dakota						

NAI = NITSA RESPONDED WITH THE NEED FOR ADDITIONAL INFORMATION OR COMPLYING LEGISLATION.

• -- STATE HAS OFFICIALLY SUBMITTED AND HAS BEEN APPROVED FOR SATISFYING THE RULE.

STATE	DRAFT PRELIMINARY LEGISLATION SUBMITTED	DRAFT PRELIMINARY LEGISLATION APPROVED	DRAFT PLAN SUBMITTED	DRAFT PLAN APPROVED	DRAFT RESOLUTION SUBMITTED	DRAFT RESOLUTION APPROVED
Ohio	INTRO 120					
Oklahoma	3/8/93 <small>NAT 3/16/93</small>		---	---	---	
Oregon	9/18/92 <small>NAT 11/13/92</small>		---	---	---	---
Pennsylvania	3/5/93	3/8/93	---	---	---	---
Rhode Island	INTRO 180					
So Carolina	10/2/92 <small>NAT 11/13/92</small>		---	---	---	---
Tennessee						
Texas	3/1/93	3/5/93	---	---	---	---
Washington						
W Virginia	12/10/92	2/18/93	---	---	---	---
Wisconsin	10/27/92 <small>NAT 11/13/92</small>		---	---	---	---
Dist Columbia	3/2/93	3/10/93	---	---	---	---
Puerto Rico	9/10/92	2/16/93	---	---	---	---
TOTAL	27	12	3	3	8	8

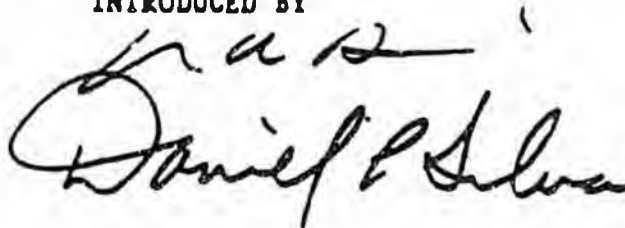
NAT = NHTSA RESPONDED WITH THE NEED FOR ADDITIONAL INFORMATION OR COMPLYING LEGISLATION.

--- = STATE HAS OFFICIALLY SUBMITTED AND HAS BEEN APPROVED FOR SATISFYING THE RULE.

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HOUSE JOINT RESOLUTION //
40TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1991

INTRODUCED BY



A JOINT RESOLUTION

CERTIFYING THE NEW MEXICO LEGISLATURE'S OPPOSITION TO SECTION 333 OF THE FEDERAL DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT FOR FISCAL YEAR 1991.

WHEREAS, Section 333 of the federal Department of Transportation and Related Agencies Appropriations Act for Fiscal Year 1991 mandates the withholding of certain federal-aid highway funds from states that by October 31, 1993, fail to either:

A. enact legislation requiring suspension of an individual's driver's license upon conviction of any violation of the federal Controlled Substances Act or any drug offense; or

B. certify that the governor is opposed to the enactment of such a law and that the legislature has adopted written certification expressing its opposition to such a law; and

WHEREAS, failure of this legislature to take either mandated

underscored material = new
[bracketed material] = deletion

1 action will result in the withholding of federal-aid highway funds;
2 and

3 WHEREAS, the state of New Mexico is concerned with drug abuse by
4 its citizens and has enacted numerous laws and initiated programs
5 aimed at reducing both the demand for and supply of illegal drugs;
6 and

7 WHEREAS, the state of New Mexico currently revokes the driver's
8 licenses of persons convicted of driving a motor vehicle under the
9 influence of drugs; and

10 WHEREAS, the revocation of a drug offender's driver's license
11 has not been shown to deter drug use; and

12 WHEREAS, congress' actions to coerce states into passing
13 ineffective laws is inappropriate; and

14 WHEREAS, the New Mexico legislature has and will continue to
15 address illegal drugs in effective and cost beneficial ways;

16 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE
17 OF NEW MEXICO that the New Mexico legislature certifies that it is
18 opposed to revoking the driver's license of any person convicted of a
19 drug offense if that person is not operating a motor vehicle; and

20 BE IT FURTHER RESOLVED that the New Mexico legislature will
21 continue its efforts in drug abuse education and enforcement programs
22 and will commit its limited resources to programs that, based on New
23 Mexico's experience, have a reasonable chance of reducing drug abuse.

underscored material = new
~~(bracketed material)~~ = deletion

ORIGINAL SIGNED BY
PRESIDENT AND SPEAKER)

SIGNED BY GOVERNOR

DATE: 2-21-91

CHAPTER NO: Three

ORIGINAL SENATE
JOINT RESOLUTION
NO. 0021

ENROLLED JOINT RESOLUTION NO. 5, SENATE

FIFTY-FIRST LEGISLATURE OF THE STATE OF WYOMING
1991 GENERAL SESSION

A JOINT RESOLUTION requesting Congress to allow each state the right to determine and impose appropriate sanctions upon the driving privileges of drug offenders within state boundaries.

WHEREAS, Congress has imposed sanctions upon the several states through the withholding of apportioned federal aid highway funds in an attempt to strengthen and encourage state efforts in preventing drug abuse through penalizing drug offenders; and

WHEREAS, while drug abuse remains to be a paramount and priority national problem, the imposition of federal highway fund sanctions upon states does not appropriately address or respond to the problem; and

WHEREAS, state officials are eminently more qualified to regulate and control the privilege of operating motor vehicles on roadways within their respective state jurisdictions.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE LEGISLATURE OF THE STATE OF WYOMING:

Section 1. That the legislature opposes enactment or enforcement in this state of a federally mandated law relating to revocation, suspension, issuance or reinstatement of driver's licenses to convicted drug offenders as described in 23 U.S.C. 104(a)(3)(A).

Section 2. That Congress repeal 23 U.S.C. 104(a)(2) and (3) and allow states the right to determine and impose appropriate sanctions upon driving privileges of drug offenders within state boundaries.

Section 3. That this resolution is intended to satisfy the requirement under 23 U.S.C. 104(a)(3)(B)(ii) which will protect

ORIGINAL SENATE
JOINT RESOLUTION
NO. 0021

ENROLLED JOINT RESOLUTION NO. 5, SENATE
FIFTY-FIRST LEGISLATURE OF THE STATE OF WYOMING
1991 GENERAL SESSION

the state of Wyoming from the loss of federal highway funds
under 23 U.S.C. 104(a)(3).

~~Section 4. That the Secretary of State of Wyoming transmit~~
copies of this resolution to the President of the United States,
to the President of the Senate and the Speaker of the House of
Representatives of the United States Congress, to the United
States Secretary of Transportation and to the Wyoming Congres-
sional Delegation.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

**(ORIGINAL SIGNED BY
PRESIDENT AND SPEAKER)**

SIGNED BY GOVERNOR

DATE: 2-21-91

CHAPTER NO: None



STATE OF UTAH
OFFICE OF THE GOVERNOR
SALT LAKE CITY
84114

NORMAN H. BANGERTER
GOVERNOR

March 16, 1992

Mr. Andrew H. Card
Secretary of Transportation
U.S. Department of Transportation
400 7th Street, S.W.
Washington, D.C. 20590

Dear Secretary Card:

Section 333 of the FY-1991 U.S. Department of Transportation Appropriations Act (Public Law 101-516, Sec. 333) requires withholding of certain Federal-aid Highway Funds if certain legislation is not passed by individual states. However, this same act provides for exclusion from the penalties if the State Legislature and Governor certify that they oppose enactment of the specified legislation.

This letter is to inform you that the Utah State Legislature considered legislation which would have required the revocation or suspension of a person's driver's license if convicted on any drug-related offense. The legislation was not passed by either house. The Legislature passed a resolution, in which I concurred, which outlined our opposition to the suggested legislation. A copy is enclosed for your inspection and record.

I would like to point out that our failure to enact the legislation suggested by Congress does not indicate any laxness on our part in fighting drug and alcohol use and their impacts on traffic safety. Utah has some of the most stringent DUI laws in the country and very aggressive enforcement of them. We also have a law which revokes or suspends the driver's license of juveniles convicted of any drug-related offense. We feel that our current laws provide for sufficient deterrence of drug abuse.

Sincerely,

Norman H. Bangarter
Norman H. Bangarter
Governor

NHB/ehf

Enclosure

cc: Don Steinke, Federal Highway Administration
Doug Bodrero, Department of Public Safety

Utah

RESOLUTION TO THE SECRETARY OF TRANSPORTATION

ON REVOCATION OF DRIVER LICENSES

1992

GENERAL SESSION

Enrolled Copy

S. C. R. No. 7

By Dix H. McMullin

A CONCURRENT RESOLUTION OF THE LEGISLATURE AND THE GOVERNOR EXPRESSING
OPPOSITION TO A FEDERAL REQUIREMENT FOR THE STATE TO PASS A LAW
REQUIRING REVOCATION OR SUSPENSION OF A PERSON'S DRIVER LICENSE FOR
ANY DRUG-RELATED OFFENSE.

Be it resolved by the Legislature of the state of Utah, the Governor
concurring therein:

WHEREAS Section 333 of the Fiscal Year 1991 United States Department
of Transportation Appropriation Act entitled "Revocation or Suspension of
the Driver's License of Individuals Convicted of Drug Offenses" requires
states to enact legislation requiring the revocation or suspension of an
individual's driver license upon conviction of any drug-related offense;

WHEREAS Section 333 requires withholding 5% of certain federal-aid
highway funds in Fiscal Year 1994 and 1995 and 10% in subsequent years
from states that fail to enact legislation;

WHEREAS Section 333 provides the following procedure to avoid the
sanctions without enacting the legislation:

"(B) The Governor of the State --

(i) submits to the Secretary no earlier than the adjournment sine
die of the first regularly scheduled session of the state's legislature
which begins after the date of enactment of this section a written
certification stating that he is opposed to the enactment or enforcement

S. C. R. No. 7

in his state of a law described in subparagraph (A) relating to revocation, suspension, issuance, or reinstatement of driver's licenses to convicted drug offenders; and

(ii) submits to the Secretary a written certification that the legislature (including both Houses where applicable) has adopted a resolution expressing its opposition to a law described in clause (i)";

WHEREAS S.B. 102, "Suspension of Driver License", providing for the revocation or suspension of an individual's driver license upon conviction of any drug-related offense, has been introduced during the 1992 General Session of the Legislature and has failed to pass;

WHEREAS the federal government should not dictate policy or legislation of this kind for the state; and

WHEREAS the Tenth Amendment to the Constitution of the United States provides that: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people";

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the governor concurring therein, certify opposition to the enactment or enforcement in this state of a law requiring the revocation or suspension of an individual's driver license upon conviction of any drug-related offense.

BE IT FURTHER RESOLVED that this resolution be prepared and delivered to the governor of the state of Utah and that the governor submit to the United States Secretary of Transportation:

S. C. R. No. 7

(1) a written certification that he is opposed to the enactment or enforcement of a law related to revocation of a person's driver license for any drug-related offense; and

(2) a written certification that the legislature has adopted this resolution.

BE IT FURTHER RESOLVED that a copy of this resolution be prepared and delivered to the United States Secretary of Transportation.



STATE OF MAINE
OFFICE OF THE GOVERNOR
MOUNTAIN, MAINE
04803

JOHN R. MCKERNAN, JR.
GOVERNOR



August 13, 1991

Samuel K. Skinner, Secretary
U. S. Department of Transportation
400 Seventh Street, S.W.
Washington, D.C. 20590

Dear Mr. Secretary:

I write to you regarding P.L. 101-516 of the FY '91 U.S. DOT Appropriations Act. This section of law concerns revocation or suspension of the driver licenses for individuals convicted of drug offenses. I am opposed to the enactment or enforcement in the State of Maine of such a law described in sub-paragraph (A) of the above cited Section 333.

Further, I take this opportunity to submit this written certification that the 1st Regular Session of the 115th Maine Legislature recently adopted a resolution opposing the same sub-paragraph (A) of Section 333. I have attached a true copy of that resolution which was passed on June 4, 1991 by the 115th Legislature. The session adjourned on July 18, 1991.

I believe that the State of Maine is now in compliance with P.L. 101-516, Section 333. Thank you for your attention to this matter.

Sincerely,

John R. McKernan, Jr.
Governor

JRM/lba

cc: Dana P. Connors, MDOI
William B. Richardson, FHWA



Maine

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND NINETY-ONE

JOINT RESOLUTION EXPRESSING THE LEGISLATURE'S OPPOSITION
TO FEDERAL LEGISLATION REQUIRING SUSPENSION OF
LICENSES FOR INDIVIDUALS CONVICTED OF VIOLATIONS OF
THE FEDERAL CONTROLLED SUBSTANCES ACT

WHEREAS, the Federal Government has enacted legislation to withhold federal aid to highways in this State unless the Legislature and the Governor consider and act upon state legislation related to the suspension or revocation of the driver's license of any person convicted of drug offenses; and

WHEREAS, the Joint Standing Committee on Legal Affairs has considered proposed legislation consistent with the federal requirement and has voted to recommend that the legislation ought not to pass; and

WHEREAS, the reasons for the negative recommendation include a belief that the granting or withholding of driving privileges is and always has been a prerogative of the states to decide for themselves, not the Federal Government; and

WHEREAS, the federal law provides that a state may avoid loss of federal highway funds if the legislature enacts a resolution expressing its opposition to such legislation and the governor conveys the governor's disapproval and the legislature's resolution to the United States Secretary of Transportation; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Fifteenth Legislature, now assembled in the First Regular Session, express our opposition to the enactment of legislation required by the Federal Government to revoke or suspend the drivers' licenses of individuals convicted of violations of the Controlled Substances Act or any drug offense or to delay the issuance or reinstatement of a driver's license for a person so convicted; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable John R. McKernan, Jr., Governor, for conveyance to the United States Secretary of Transportation.

5277.32

HOUSE OF REPRESENTATIVES
READ AND ADOPTED

JUN 5 1991
IN CONCURRENCE

Edwin R. ...
CLERK

IN SENATE CHAMBER
READ AND ADOPTED

JUN 4 1991

JAY J. O'BRIEN
SECRETARY

SENT DOWN FOR CONCURRENCE

9503W-LR2723(1)

HOUSE COMMITTEE REPORT

(7)

Date Referred: February 24, 1993

FURTHER REFERRALS:

HESS
Judiciary

Date of Committee Action: 3-23-93

• The STATE AFFAIRS Committee considered:

HCR 10

• HOUSE CONCURRENT RESOLUTION NO. 10 FEDERAL-AID HY FUNDING/DRUG ENFORCEMENT

Relating to certification of the Alaska State Legislature's opposition to requiring suspension of a driver's license for drug offenses.

- RECOMMENDATIONS: the same title
 be replaced with _____ a new title
 have attached amendments(s)
 do pass
 do not pass
 no recommendations
 individual recommendations
 additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): _____ (Dept)

APPROVES PREVIOUS: _____ (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) _____

SIGNING <u>DO PASS</u>	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>	X	<i>Jerry Sanders</i>	✓		
<i>[Signature]</i>	X				
<i>B. Davis</i>	X				
<i>Wagley Oldberg</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				

[Signature]

 CHAIRMAN'S SIGNATURE