

HB

13

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 3/27/97

FURTHER:

DATE TURNED
 IN TO OFFICE: 4-28-97

Finance Committee considered CS FOR HOUSE BILL NO. 13(FIN) am

"An Act relating to marine safety training and education programs."

and recommends:

- be replaced with _____ CS _____
- adopt previous _____ CS _____
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical change
 - new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Roll Et Roll</i>	✓				
<i>Le Adams</i>	X				
<i>Wade Guley</i>	X				
Co-Chair: <i>[Signature]</i>		Co-Chair: <i>Pearce</i>	✓		
Co-Chair: <i>[Signature]</i>		Co-Chair: <i>Bestling</i>	✓		

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
DCRA	4/28		150.0

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
#2 DOL			

APR 24 1997

FISCAL NOTE

Revision Date: _____ Dept. Affected: Community & Regional Affairs
 Title: Marine Safety Training and Education BRU: Administration & Support
 Component: Administrative Services
 Sponsor: Rep. Ivan Austerman
 Requestor: (S) FIN COMPONENT SERIAL NO. 684

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	150.0	150.0	150.0	150.0	150.0	150.0
MISCELLANEOUS						
TOTAL OPERATING	150.0	150.0	150.0	150.0	150.0	150.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0

REVENUE FUND SOURCE: _____

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	150.0	150.0	150.0	150.0	150.0	150.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	150.0	150.0	150.0	150.0	150.0	150.0

POSITIONS:

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

Estimate of current (FY97) impact \$ _____

ANALYSIS: (Attach a separate page if necessary)

ANALYSIS:
 This bill would allow for appropriating up to one-half of the interest that currently goes to the General Fund to be used for marine safety and education programs.

ASSUMPTION:
 Current balance is approx \$9 million. The money in the fund is currently earning at a rate that equates to over \$400,000 per year in income to the general fund. Although the bill allows up to 50% of this income to be appropriated, DCRA has been asked to assume only \$150,000 will be needed in FY98.

Prepared by: Remond Henderson, Director *Remond Henderson* Phone: 465-4708
 Division: Division of Administrative Services Date: *4/28/97*
 Approved by Commissioner: *[Signature]* Date: *4.28.97*
 Agency: Mike Irwin, Dept. of Community & Regional Affairs

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FISCAL NOTE

No. 2

Bill Version: HB 13

(H) Publish Date: 2/21/97

STATE OF ALASKA
1997 LEGISLATIVE SESSION

REPORTED OUT OF
APR 24 1997

BILL NO. _____

Revision Date: _____
 Title: Marine Safety Training & Education
 Sponsor: Representative Austerman
 Requestor: House STA

Department Affected: Labor
 BRU: Fishermen's Fund
 Component: Fishermen's Fund
 COMPONENT SERIAL NO. 343

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
---------	--	--	--	--	--	--

CHANGE IN REVENUE FUND SOURCE #						
------------------------------------	--	--	--	--	--	--

FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY97) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)

A Bill to identify the interest earned off the fisherman's fund as a source of revenue to fund marine safety training and education.

Prepared by: Paul Grossl, Director *Paul Grossl* Phone: 465-2790
 Division: Workers' Compensation Date: 1/21/97

Approved by Commissioner: Tom Cashen, Commissioner *Tom Cashen*
 Agency: Department of Labor Date: 1/21/97

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COMMITTEE COPY



SPONSOR STATEMENT

CSHB 13(FSH)

"An Act relating to marine safety training and education programs."

Safety training is required by the Commercial Fishing Vessel Safety Act of 1988 to communities throughout Alaska. The Act, which took effect in 1991, requires a minimum in safety training and equipment for commercial fishing vessels.

Although the AMSEA organization is no longer specified in this legislation. It is anticipated that they will receive the funds provided by this bill as they are the only statewide marine safety organization and have an exemplary reputation.

The Alaska Marine Safety Education Association (AMSEA) has been operating in the State of Alaska for 12 years. The primary purpose of this organization is to reduce the loss of life and injury in the Alaskan marine environment by providing education through a statewide network of qualified marine safety instructors.

AMSEA also helps Alaskans by training marine safety instructors, some of whom teach drill instructor courses. Other marine safety instructors also train the Alaska boating and fishing public, including many children and adults, in marine safety. Of the 7300 people AMSEA trained in 1995, 2000 were from the commercial fishing industry, 3700 were Alaskan children, and the remaining 1600 were from all walks of life.

The Fishermen's Fund (AS 23.35.060) was created before statehood. One hundred percent of the fishermen's fund is funded by commercial fishing license fees. Sixty percent of license fees are dedicated to this fund. Since commercial fishermen are often the beneficiaries of the required marine safety training, it is appropriate to allow part of the interest on the fund to be used to fund marine safety programs.

It is estimated that the Fishermen's Fund generates approximately \$450,000 in interest a year. By way of this legislation, I am requesting up to approximately \$225,000 a year to maintain a minimum of water and boating safety in our state.

Alaska Marine Safety Education Association

*Dedicated to Providing Quality
Marine Safety Education*



AMSEA Membership Information

Newsletter Subscription Only	\$15.00	Group	\$100.00
Individual	\$20.00	Sustaining	\$500.00

Name _____

Address _____

City, ZIP _____

Amount enclosed \$ _____



All members receive the quarterly newsletter, *Marine Safety Update*. Group and Sustaining members receive recognition in the publication. The membership year runs from January 1 through December 31. Those paying dues between October 1 and December 31 will be paid through the following year.

Send membership to: AMSEA, P.O. Box 2592, Sitka, Alaska 99835 (907) 747-3287

As a NON-PROFIT ORGANIZATION, AMSEA is funded by public grants and private donations. We are also supported by a dedicated group of volunteers and by a cooperative effort between a number of organizations concerned about marine safety and survival in Alaska. Support members include:

- United States Coast Guard
17th District
- Alaska Department of Health
and Social Services,
Emergency Medical Services Section
- State of Alaska
Department of Education
Alaska Vocational Technical Center
- Alaska Department of Public Safety
- Northstar Survival, Inc.
- Southeast Alaska Regional
Health Corporation
- Southeast Region Emergency
Medical Services Council
- University of Alaska
Marine Advisory Program
- Alaska Native Health Service

Alaska Marine Safety Education Association (AMSEA) provides training without discrimination because of race, color, age, sex, national origin, religious beliefs, or handicapping conditions.



University of Alaska Fairbanks

SFOS Highlights

School of Fisheries and Ocean Sciences

RII-92-5 May 1992

AMSEA: ALASKA'S MARINE SAFETY NET

Henry (Hank) Pennington

Since 1971 the University of Alaska Fairbanks, Marine Advisory Program (MAP) and the Alaska Sea Grant College Program have worked with the fishing industry to reduce high accident rates and loss of life in the industry. Much of this effort has taken the form of marine safety training. Recognizing that the scope of the problem far exceeded their resources, MAP Marine Safety program personnel enlisted the aid of the U.S. Coast Guard in 1982 to help with training efforts and ultimately to produce the award-winning Fisheries Safety and Survival video series.

Encouraged by the success of that joint effort, I joined representatives of state and federal agencies and private organizations in 1985 to develop a training program that would address the safety needs of commercial fishermen and other marine users. At that time no safety regulations existed for commercial fishing vessels. Although agencies involved in marine activities recognized the need for safety training, especially in regions with extreme conditions, like Alaska, funding and expertise were lacking in any one agency. The Alaska Marine Safety Education Association (AMSEA) was formed as a result of the cooperative effort among agencies. It was the first program of its kind and has played a leading role in training instructors from throughout the country to develop marine safety programs in their home regions.

AMSEA is a nonprofit, community-based information and training network with headquarters in Sitka; it is funded by public grants and supported by volunteers. The association takes a unique approach for an education program: curricula are developed by committees comprising representatives from the agencies involved, depending on the expertise required. Training programs are conducted by agency personnel, and the Board of Directors is made up of agency representatives. Supporting organizations include the School of Fisheries and Ocean Sciences Marine Advisory Program; the Alaska Department of Health and Social Services, Emergency Medical Services Section; the Alaska Department of Public Safety; Northstar Survival, Inc.; the Southeast Alaska Regional Health Corporation; the Southeast Regional Emergency Medical Services Council; the U.S. Coast Guard; and the Alaska Department of Education Alaska Vocational Technical School. Grants have been obtained from the Alaska Department of Health and Social Services, the U.S. Department of Commerce, and the U.S. Coast Guard.

A major goal is to teach instructors to train others in their communities. Instructors are versed not only in the specifics of the marine safety and survival curriculum, but also in methods of instruction; they are given practice teaching opportunities and hands-on reinforcement of subject material. Training supplies and materials are available at no cost to AMSEA instructors for use in their own marine safety classes. Equipment includes marine survival gear, videos, and other educational materials.

Participation in marine safety programs in Alaska increased dramatically after passage of the National Commercial Fishing Vessel Safety Act by Congress in 1988. The Act, which took effect in 1991, delineates the minimum safety training and equipment requirements for commercial vessels, with regional differences depending on conditions. Since passage of the Act, requests for AMSEA classes have more than tripled.



Hank Pennington demonstrates the proper and safe method of getting into a survival suit during a safety workshop. (Photo: D. Mercy)

ALASKA MARINE SAFETY EDUCATION ASSOCIATION BOARD MEMBERS

P.O. Box 2592 Sitka, AK. 99835 ph. (907) 747-3287 fax (907) 747-1406 Feb. 1997

Dolly Garza (Vice-Chair)

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Hank Pennington

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Public Safety Academy

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Paula Cullenberg

North Pacific Fisheries Observer Training Center 707 "A" Street, Suite 207 Anchorage, Ak.

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ph 257-2770 fax 257-2774

e-mail mpic@uaa.alaska.edu



Alaska Marine Safety Education Association

P.O. Box 2592, Sitka, Alaska 99835 PH (907) 747-3287 FAX (907) 747-1406

AMSEA FUNDING FACT SHEET

1. The State of Alaska has never funded a statewide marine safety program. Federal funds that are available for state boating safety programs are unavailable to Alaska since we have no safe boating act.
2. The State of Alaska is the only state without a safe boating program.
3. The state of Alaska has the highest drowning rate in the nation.
4. It's commercial fishing fleet also has the highest fatality rate in the nation.
5. AMSEA has filled in the states' marine safety void for the last ten years through its port based instructor network which has been funded by several small federal grants. This void has been filled at no cost to the state.
6. In FY 1995, AMSEA's budget from federal sources was cut by 20%. Due to recent Congressional action, in FY 1996, AMSEA's budget will be cut by another 75%. This will result in a budget that will not sustain AMSEA's marine safety efforts at even a basic level.
7. It is past time for the State of Alaska to assume responsibility for one of the leading cause of unintentional death in the state.
8. The interest on Alaska's Fishermen's Fund is approximately \$350,000 a year. This interest has been put into the state's general fund every year.
9. The State of Alaska can be categorically responsible by "earmarking" 50% of the interest from the Fishermen's Fund to AMSEA in FY 1996 for AMSEA's proven effective injury prevention program.
10. The cost to society of a human life is estimated at one million dollars. This does not include the additional costs injuries and fatalities add to fishing businesses every year. Not to mention the pain and suffering associated with these losses.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 1, 1996

SUBJECT: Fishermen's Fund (CSHB 366(HES))

TO: Representative Alan Austerman
Attn: Amy Daugherty

FROM: George Utermohle *GU*
Legislative Counsel

You have asked whether CSHB 366(HES) alters or impairs the present dedication of certain revenues to the fishermen's fund (AS 23.35.060).

The answer is no.

The fishermen's fund is composed of 60 percent of money received by the state from commercial fishermen's licenses and money appropriated to the fund by the legislature. AS 23.35.060. The dedication of commercial fishermen's license fees is valid under art. IX, sec. 7 of the Constitution of the State of Alaska because the dedication existed at the time the constitution was ratified by the voters of the Territory of Alaska.¹ Dedicated funds in existence at the time of ratification are allowed to continue. The Attorney General on numerous occasions has stated that such grandfathered dedicated funds may be destroyed if the purpose or terms of the dedication are altered. 1959 Alaska Att'y Gen. Op. No. 7; 1959 Alaska Att'y Gen. Op. No. 14; 1985 Inf. Alaska Att'y Gen. Op. (366-071-85) October 31; among several others.

¹ Article IX, sec. 7, Constitution of the State of Alaska states (emphasis added):

SECTION 7. DEDICATED FUNDS. The proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in section 15 of this article or when required by the federal government for state participation in federal programs. This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification of this section by the people of Alaska.

Representative Alan A. Erman

February 1, 1996

Page 2

CSHB 366(HES) does not alter the purpose or the terms of the dedication of certain revenue to the fishermen's fund. The bill provides that interest earned on the principal of the fishermen's fund may be appropriated by the legislature for marine safety training and education programs. The interest earned on the principal of the fund is not dedicated to the fund. The interest is deposited into the general fund and is available for appropriation by the legislature for any public purpose. See, 1982 Alaska Att'y Gen. Op. No.13, at 14 - 18, November 30; 1985 Inf. Alaska Att'y Gen. Op. (366-071-85) October 31. The bill does not alter this arrangement in the least. All the bill does is to state that the legislature may appropriate some of this interest to certain programs if the legislature so decides.

Thus the bill does not alter or impair the current dedication of commercial fishermen's license fees to the fishermen's fund or the use of those fees to provide benefits to injured fishermen.

If I may be of further assistance, please advise.

GU:glc

96-077.glc

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

December 28, 1994

SUBJECT: Fisherman's fund (AS 23.35)(Work Order No. 9-LS0362)

TO: Representative Ben Grussendorf
Attn: Katherine

FROM: Michael F. Ford *M.F.*
Legislative Counsel

You have asked if the fisherman's fund (AS 23.30.060) could be used to fund a program to teach safety to commercial fishermen. As explained in this memo, I believe that using the fund to teach safety could only be done if this purpose was added as a statutory purpose of the fund.

The existing benefits provided by the fund, those under AS 23.35.070 - 23.35.140, are all intended to treat fishermen who become disabled. There are no funds provided for prevention of injuries, or safety training. It could certainly be argued that prevention of accidents is directly related to the general purpose of the fund, but without statutory authority this type of expenditure would be beyond the scope of the benefits provided under existing law.

I should also point out that if the legislature alters the fund this would raise dedicated fund issues. As a fund in existence at statehood, the fisherman's fund is exempt from the prohibition against dedicated funds contained in Article IX, section 7, of the Alaska Constitution. However, the Attorney General has taken the position that no change to a grandfathered fund is permitted without destroying the legal dedication and making the fund subject to the dedicated fund clause. In short, you could modify the purpose of the fisherman's fund to permit funding for a safety program but by doing so you run the risk of destroying the dedicated fund exemption presently enjoyed by the fund.

If you have further questions on this matter please contact me.

MFF:lmb
95-063.lmb

AMSEA Proposed Budget

**Secured FY 96 Funding
NIOSH**

**Requested Funding
State of Alaska**

AMSEA Proposed Budget		Secured FY 96 Funding NIOSH	Requested Funding State of Alaska
Personnel			
Director/Training Coordinator FTE	52,216.32	20,927.00	31,289.32
Administrative Assistant FTE	38,582.58	15,425.00	23,137.56
Training Assistant PTE	21,330.27	0.00	21,330.27
Trainers PTE-seasonal	7,890.85	0.00	7,890.85
	120,000.00	36,352.00	83,648.00
Travel			
Travel/accomodation/food	10,000.00	0.00	10,000.00
	10,000.00	0.00	10,000.00
Facility			
telephone	3,500.00	0.00	3,500.00
postage	2,750.00	0.00	2,750.00
rent	3,750.00	0.00	3,750.00
	10,000.00	0.00	10,000.00
Supplies			
office	2,000.00	0.00	2,000.00
training	4,000.00	0.00	4,000.00
	6,000.00	0.00	6,000.00
Equipment			
	3,000.00	0.00	3,000.00
	3,000.00	0.00	3,000.00
Other			
audit	1,000.00	0.00	4,000.00
freight	1,000.00	0.00	1,000.00
insurance	4,000.00	0.00	4,000.00
printing	1,000.00	0.00	1,000.00
	10,000.00	0.00	10,000.00
Total	159,000.00	36,352.00	122,648.00

rev. 4-18-95

February 11, 1997

Senator Sean Parnell
Alaska State Legislature
State Capitol (MS3100)
Juneau, AK 99811-1182

Dear Senator Parnell,

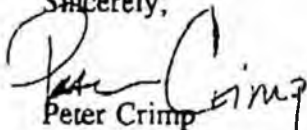
I am writing in support of HB 13, designed to use some of the interest from the Fishermen's Fund to support the educational activities of the Alaska Marine Safety Education Association (AMSEA).

I am a constituent of yours. My family have held a commercial salmon permit in Bristol Bay since 1998. Before that, we fished on the Yukon River. Each year, we hire at least two crewmembers who are required by law to purchase a crewmember's license. Sixty percent of that money goes into the Fishermen's Fund, designed to pay medical costs of uninsured, injured fishermen up to \$2,500.

AMSEA proposes that a percentage of the interest on this fund be used to educate fishermen and crewmembers about safety and survival. I can think of no better use for this money. The majority of our crew are new to fishing when they are hired by us. The training that we have received from AMSEA has enabled us to set safety guidelines and teach these young people how to prepare and how to react on board fishing vessels. AMSEA's training is excellent, and is geared to adults and children, commercial and recreational boat users.

They are a small, but extremely effective group that makes a big difference. Please support this bill.

Sincerely,


Peter Crimp
5100 E 142nd Ave.
Anchorage, AK 99516



UNIVERSITY OF ALASKA ANCHORAGE

211 West 7th Avenue
Anchorage, Alaska 99501
(907) 272-2704
FAX: (907) 272-5269

North Pacific Fisheries
OBSERVER TRAINING PROGRAM
COLLEGE OF COMMUNITY AND
CONTINUING EDUCATION

February 11, 1997

Senator Sean Parnell
Alaska State Legislature
State Capitol (MS3100)
Juneau, AK 99811-1182

Dear Senator Parnell,

I am writing on behalf of the approximately 350 groundfish and shellfish observers working in Alaska's commercial fisheries, in support of HB 13. The bill directs a percentage of the annual interest from the Fishermen's fund toward the educational activities of the Alaska Marine Safety Education Association. The Fishermen's Fund is in support of this bill.

The Observer Training Center is a subset of the University of Alaska Anchorage. Annually, we train over 150 observers for either the National Marine Fisheries Service's groundfish program or the Alaska Department of Fish and Game's crab and scallop program. Following training, observers head out to sea for approximately 90 days, collecting biological information about target fisheries, bycatch, birds and marine mammals. Approximately 25% of the observers trained in Anchorage are Alaska residents.

Safety training encompasses a full day of our training and is critical to the well being of our observers, many of whom have never been to sea before. Both of our instructors have gone through AMSEA's safety instructor training program. AMSEA's curriculum materials, including videos and handouts are used in all of our training classes.

Without reservation, I can say that AMSEA's training and materials are top notch. Their program has been instrumental in ensuring the safety of observers. AMSEA's staff is approachable and flexible; their materials are affordable and are clearly in touch with Alaska's commercial fishing industry.

I urge you to support AMSEA in face of their financial cuts from Congress. They are undoubtedly one of the most valuable programs to the State's commercial fishing industry.

Sincerely,
A handwritten signature in black ink, appearing to read "Paula Cullenberg".

Paula Cullenberg, Director
North Pacific Fisheries Observer Training Center

9727 Wren Lane
Eagle River, AK. 99577

Constituent

September 26, 1995

Representative Pete Kott
State Capitol
Juneau, AK. 99801-1182

Dear Representative Kott:

You frequently send newsletters asking for my views on a variety of topics, and today I have some input for you. I have worked for the U.S. Public Health Service for the past 24 years, 16 of which have been in Alaska. I have a Bachelors and a Masters degree in Public Health. I recently completed a research project that might be of interest to you. The research project evaluated a marine safety training program that is conducted by the Alaska Marine Safety Education Association (AMSEA). This research paper will be published in the national peer review journal, Public Health Reports, in the November/December issue in 1995. The paper was also selected as one of 300 out of 900 papers for oral presentation at the World Injury Control Conference in Melbourne, Australia in February 1996.

The bottom line according to my research is that the AMSEA program is very effective in preventing deaths among the fishermen who took the course. The distressing point is that AMSEA relies entirely on short term grants for their funding. We need to support this effective program with recurring funding from the State. The funding could and should come from excess revenues of the Fishermen's Fund. This money originally came from the fishermen and AMSEA directly benefits the fishermen.

I realize there are obstacles to overcome in order to be able to use this excess funding but please see if it can be accomplished.

Thank you for your time and interest. If I can answer any questions, please call.

Ron Perkins

Ron Perkins, MPH
Tel. 273-0102



SOUTH EAST ALASKA REGIONAL HEALTH CONSORTIUM

MT. EDGE CUMBE HOSPITAL • 222 TONGASS DRIVE • SITKA, ALASKA 99835 • (907) 966-2411

RECEIVED

MAR 11 1997

March 6, 1997

And:.....

A

File
HB 13

Representative Ben Grussendorf
Alaska State Legislature
State Capital (MS 3100)
Juneau, AK 99801-1182

Dear Representative Grussendorf,

I am writing to seek your support of HB 13 "An Act relating to marine safety training and education programs." This bill is being sponsored by Rep. Al Austerman.

Experiential marine safety training for fishermen has been shown to be effective in lowering the drowning rate for that group. We are convinced that, with the support provided by HB13, the same results will one day be shown for recreational and subsistence boaters.

Even though Alaska does not have a Safe Boating Act, we are very fortunate to have a statewide marine safety training organization known as the Alaska Marine Safety Education Association (AMSEA) that could realize immediate benefit from HB13. AMSEA stresses experiential education and uses Alaska-specific curricula. Furthermore, they provide technical and equipment support for a state-wide network of AMSEA-certified Marine Safety Instructors.

AMSEA has been instrumental in getting our organization to recognize the public health impact of drowning in Alaska. Without exception, each member of our staff that has completed AMSEA training agrees that it was more than just a class -- it effectively changes a person's boating behavior for life !

HB13 is a reasonable and responsible effort to reduce the drowning rate for the people of this state. I will be following the progress of HB13 and I hope to see evidence of your support. Thank you for your consideration of this issue.

Sincerely,

David E. Robbins, Director
SEARHC Office of Environmental Health

cc: Representative Austerman ✓

Sec. 16.05.480. Commercial fishing license.

(a) A person engaged in commercial fishing shall obtain a commercial fishing license. The fee for the license is \$30 for residents, and \$90 for nonresidents. Except for those which are also entry or interim-use permits, all commercial fishing licenses are nontransferable. The commercial fishing license shall be retained in the possession of the licensee, readily accessible for inspection at all times. No more than one fee may be charged annually against a person. For the purposes of this section, "commercial fishing license" includes entry permits and interim-use permits issued under AS 16.43 and crewmember fishing licenses.

(b) A person applying for a resident commercial license under this section shall provide the proof of residence that the department requires by regulation.

(c) [Repealed, sec. 12 ch 123 SLA 1978].

History -

(sec. 6 art III ch 94 SLA 1959; am sec. 19 ch 131 SLA 1960; am sec. 1 ch 93 SLA 1966; am sec. 2 ch 42 SLA 1968; am sec. 8 ch 105 SLA 1977; am sec. 1, 2, 12 ch 123 SLA 1978; am sec. 1 ch 79 SLA 1982)

Editors Notes -

→ Sixty percent of the fees collected under this section is deposited in the fishermen's fund, AS 23.35.060. For opinions of the Attorney General regarding constitutional limits on altering the amount of a license fee upon which a dedicated fund is based, see annotations following art. IX, sec. 7 in the Alaska Constitution pamphlet.

AG Opinions -

Discrimination against aliens and nonresidents in issuance of fishing licenses. See 1959 Op. Att'y Gen. No. 15.

Employees of shore-based floating canneries are not required to have a commercial fishing license, but employees of floating canneries are required to have a commercial fishing license. February 22, 1984 Op. Att'y Gen.

Decisions -

Constitutionality of fee differential. - The issue of the constitutionality of the fee differential for resident and nonresident licenses does not implicate the Commerce Clause of the United States Constitution. *Carlson v. State*, Sup. Ct. Op. No. 4356 (File No. S-6590), P.2d (1996).

The constitutionality of the fee differential for resident and nonresident licenses under the Privileges and Immunities Clause of the United States Constitution turns on whether there is a sufficient relationship between the higher fees charged nonresidents and the state's interest in imposing on nonresidents their share of the costs for managing the state's commercial fisheries; the disparate fees charged to nonresidents are not unconstitutional if the differential does not exceed the contribution made by residents, because the differential will be justified as imposing on nonresidents their share of the costs of commercial fisheries. *Carlson v. State*, Sup. Ct. Op. No. 4356 (File No. S-6590), P.2d (1996).

Constitutionality of former provisions. - See *Anderson v. Mullaney*, 13 Alaska 332, 191 F.2d 123 (9th Cir. 1951), *aff'd*, 342 U.S. 415, 72 S. Ct. 428, 96 L. Ed. 458 (1952).

Failure to consider native's inability to speak English. - Where the failure of the Commercial Fisheries Entry Commission to consider a non-English speaking Alaska native's dependence on others had the potential to result in unjust discrimination, the case was remanded to the commission for explicit determination as to whether the factual circumstances relating to the native's application for crewing points warranted granting an exception in her case to the

commission's licensure requirement. *Arkanakyak v. State, Com. Fisheries Entry Comm'n*, 759 P.2d 513 (Alaska 1988).

States have a right to exact a higher license fee from nonresidents than from residents - for the privilege of hunting game within its borders. *Anderson v. Smith*, 71 F.2d 493 (9th Cir. 1934).

Principle upon which such right is based. - This right to discriminate is based upon the principle that the state owns the wild fish and game within its borders and therefore has a right to determine the conditions upon which persons may reduce the same to possession and ownership. *Anderson v. Smith*, 71 F.2d 493 (9th Cir. 1934).

Discrimination between resident and nonresident fishermen in prescribing license fees. - See *Anderson v. Smith*, 8 Alaska 470 (9th Cir. 1934), *aff'd*, 71 F.2d 493 (9th Cir. 1934).

Applied in *Commercial Fisheries Entry Comm'n v. Apokedak*, 606 P.2d 1255 (Alaska 1980).

Sec. 23.35.060. Creation and administration of fishermen's fund.

There is created a fund, designated as the "fishermen's fund." The Department of Revenue is the custodian of the fund and the Department of Labor shall administer it. The fund shall be composed of 60 per cent of the money derived by the state from all commercial fishermen's licenses and money appropriated to carry out the purpose of this chapter.

History -

(sec. 4 ch 100 SLA 1951; am sec. 1 ch 99 SLA 1955; am sec. 16 ch 105 SLA 1977; am sec. 11 ch 123 SLA 1978)

Sec. 37.05.146. Definition of program receipts and non-general fund program receipts.

In AS 37.05.142 - 37.05.146 and AS 37.07.080, "program receipts" means fees, charges, income earned on assets, and other state money received by a state agency in connection with the performance of its functions; all program receipts except the following are general fund program receipts:

- (1) federal receipts;
- (2) University of Alaska receipts (AS 14.40.491);
- (3) individual, foundation, or corporation gifts, grants, or bequests that by their terms are restricted to a specific purpose;
- (4) receipts of the following funds:
 - (A) highway working capital fund (AS 44.68.210);
 - (B) correctional industries fund (AS 33.32.020);
 - (C) loan funds;
 - (D) international airport revenue fund (AS 37.15.430);
 - (E) funds managed by the Alaska Housing Finance Corporation (AS 18.56.020), the Alaska Railroad Corporation (AS 42.40.010), the Municipal Bond Bank Authority (AS 44.85.020), the Alaska Aerospace Development Corporation (AS 14.40.821), or the Alaska Industrial Development and Export Authority (AS 44.88.020);
 - (F) fish and game fund (AS 16.05.100);
 - (G) school fund (AS 43.50.140);
 - (H) training and building fund (AS 23.20.130);
 - (I) retirement funds (AS 14.25, AS 22.25, AS 26.05.222, AS 39.35, and former AS 39.37);
 - (J) permanent fund (art. IX, sec. 15, Alaska Constitution);

- (K) public school fund (AS 37.14.110);
(L) second injury fund (AS 23.30.040);
(M) fishermen's fund (AS 23.35.060); ←
(N) FICA administration fund (AS 39.30.050);
(O) receipts of the employee benefits program established under AS
39.30.150 - 39.30.180;
(P) receipts of the deferred compensation program established under AS
39.45;
(Q) clean air protection fund (AS 46.14.260);
(R) receipts of the group insurance programs established under AS
39.30.090;
(S) mental health trust fund (AS 37.14.031);
(5) receipts of or from the trust established by AS 37.14.400 - 37.14.450, except
reimbursements described in AS 37.14.410.

History -

(sec. 1 ch 36 SLA 1990; am sec. 8 ch 14 SLA 1991; am sec. 5 ch 66 SLA 1991; am sec. 8 ch 88 SLA 1991; am sec. 11 ch 31 SLA 1992; am sec. 3 ch 1 FSSLA 1992; am sec. 115 ch 4 FSSLA 1992; am sec. 64 ch 63 SLA 1993; am sec. 10 ch 74 SLA 1993)

Revisors Notes -

Subparagraph (4)(Q) was enacted as (R); relettered in 1993.

Amendment Notes -

The first 1991 amendment, effective January 1, 1992, in subparagraph (4)(E), deleted "the medical indemnity corporation of Alaska (AS 21.88.020)" preceding "the Alaska Railroad Corporation."

The second 1991 amendment, effective December 16, 1994, added subparagraph (4)(S).

The third 1991 amendment, effective July 2, 1991, inserted "the Alaska Aerospace Development Corporation (AS 14.40.821)" in subparagraph (4)(E).

The first 1992 amendment, effective July 1, 1993, added subparagraphs (4)(O) and (4)(P) and made a related stylistic change.

The second 1992 amendment, effective June 19, 1992, added paragraph (5).

The third 1992 amendment, effective July 1, 1992, deleted a reference to the Alaska State Housing Authority in subparagraph (4)(E).

The first 1993 amendment, effective January 1, 1993, added subparagraph (4)(R).

The second 1993 amendment, effective June 26, 1993, added subparagraph (4)(Q).

Effective Date Notes -

Under sec. 58(a), ch. 66, SLA 1991, as amended by sec. 37, ch. 5, FSSLA 1994 and sec. 2, ch. 1, SSSLA 1994, this section, as set out above, took effect December 16, 1994.

Editors Notes -

Section 87, ch. 63, SLA 1993 provides "[i]f any section of this bill is found to violate the single subject rule it is severed from the rest of the bill."

Decisions -

Building renovation funds not program receipts. - Funds placed in escrow for the renovation of a building that was the subject of a lease-purchase agreement between the Department of Natural Resources and Alaska Court System did not constitute unrestricted "program receipts" for deposit in the state treasury and did not violate Alaska Const., art. IX, sec. 13. Carr-Gottstein Properties v. State, 899 P.2d 136 (Alaska 1995).

Cited in *Hickel v. Cowper*, 874 P.2d 922 (Alaska 1994).

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Peg Barry was right

By Brad Matsen
Pacific Editor

In the summer of 1985, Peggy and Robert Barry lost their son Peter, a fisherman on the F/V Western Sea out of Kodiak. Like so many others who walk the docks looking for a berth, he wasn't beginning a career on the grounds, just enjoying a summer's work and adventure that might pay a few bucks. In the fall of that year, he planned to return to his junior year of college and then the rest of his life.

The news of the Western Sea's sinking and Peter's death rolled by us in the fishing press as a sad but brief news item, as do so many others. News of a fisherman lost at sea was as common as sunrise to most of us. That year alone, 49 others had died just on the grounds of the Northwest coast and Alaska; 102 had died nationwide.

Nobody goes to sea expecting never to return, and in those days, we somehow were able to ignore the grim statistical realities of our business. Commercial fishing is the most dangerous occupation in America, a truth most of us really just ignored to get on with the work. To be sure, most skippers and their crews were not cavalier about going to sea, but no systematic training, gear regs or constant awareness of the danger were available to add an extra measure of security. Weather, of course, was and is the big killer. For hundreds of years before 1985, though, safety was more of an instinctive afterthought than the energetic preoccupation it is now.

The investigation into the sinking of the Western Sea revealed a deplorable absence of safety gear and training. Peter Barry, it turns out, would have had a much better chance for survival if the volume on safety awareness had been turned up just a few notches.

Peggy Barry demanded reform. At first, when she testified at a well-publicized congressional hearing, many fishermen dismissed her pain and outrage as a reaction to business as usual. Fishing, some reasoned, was dangerous and not a place for some college kid who would make the mistake of climbing aboard a dangerous boat. And besides, she was proposing more government regulation for the fleets, rules that would cost everybody a bundle and bring Coast Guard inspections down on us trip after trip. Worse, a lot of people in the fishing community figured no amount of gear or training was really going to make that much of a difference.

But Peggy Barry was right. She and hundreds of others formed a grassroots revolution that, in 10 years, has dramatically increased our chances for survival on the grounds. Though not without the controversy that always surrounds increased regulation of fiercely independent people, Barry has saved lives. In 1994, only 75 sons and daughters died on the fishing grounds; in 1995, only 68. Thanks Peggy.

Section 9.7 - DEDICATED FUNDS.

The proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in section 15 of this article or when required by the federal government for state participation in federal programs. This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification of this section by the people of Alaska.

Cross References -

For an exception to the prohibition against dedicated funds, see Sec. 15 of this article which establishes the permanent fund.

Amendment Notes -

The amendment effective February 21, 1977 (9th Legislature's SCS CSSSHJR 39 (Res) am S (1976)) inserted "as provided in section 15 of this article or" in the first sentence.

AG Opinions -

Among the reasons such a prohibition, as is found in this section, was recommended are the following: (1) flexibility of budgeting; (2) financial control; and (3) lack of relationship between the tax and purpose. 1959 Op. Att'y Gen. No. 7.

Delegates to the constitutional convention were desirous of eliminating dedications so that the legislature would have the greatest flexibility in allocating tax revenues on a basis of need. 1959 Op. Att'y Gen. No. 7.

A dedication encompasses (1) proceeds or part of the proceeds of a tax or license (2) set aside at a certain rate (3) for a particular purpose. 1959 Op. Att'y Gen. No. 7.

As a matter of compromise, a grandfather clause was included in this section to permit all dedications existing on the date of ratification of the constitution (April 24, 1956) to continue. 1959 Op. Att'y Gen. No. 7.

The intent of the drafters of the state constitution was to permit the continuance of existing dedications at the then existing rates until the legislature saw fit to exercise the only power retained in relation to them: That is, the power to repeal. 1959 Op. Att'y Gen. No. 7.

This section had two interrelated purposes: (1) to prevent any future dedication of revenues for special purposes, and (2) to prevent the creation of new special funds separate from the general fund. May 2, 1975 Op. Att'y Gen.

This section of the state constitution can be given its intended effect and serve its repeatedly expressed purpose only if the words "proceeds of any tax or license" are interpreted to mean what their framers clearly intended, i.e., the sources of any public revenues. May 2, 1975, Op. Att'y Gen.

The dedication of any source of public revenue: tax, license, rental, sale, bonus-royalty, royalty, or whatever, is limited by the state constitution to those existing when the constitution was ratified or required for participation in federal programs. May 2, 1975 Op. Att'y Gen.

The real concern at the constitutional convention was about earmarked funds, not taxes or licenses, but funds. May 2, 1975 Op. Att'y Gen.

Dedication of the revenues from the lease or sale of state natural resources offends the state constitutional prohibition against dedicated funds. May 2, 1975 Op. Att'y Gen.

The practice of appropriating to a separate fund an amount to be ascertained by reference

to receipts from a specified source does not violate the dedication prohibition of the constitution. November 30, 1982 Op. Att'y Gen.

Language of this section prohibiting dedication of proceeds of any state tax or license must be read as embodying certain implied exceptions, specifically, pension contributions, proceeds from bond issues, sinking fund receipts, revolving fund receipts, contributions from local government units for state-local cooperative programs, and tax receipts which the state might collect on behalf of local government units. November 30, 1982 Op. Att'y Gen.

There is no unlawful dedication involved in the return to a revolving loan fund of principal payments on loans. The initial appropriation would suffice to authorize the use of that money for other loans until the legislature reappropriates the unobligated assets of the fund or abolishes the fund. November 30, 1982 Op. Att'y Gen.

For discussion of issues involved in question of whether dedication prohibition applies to interest or other income earned by money appropriated to revolving funds and other funds and accounts, see November 30, 1982 Op. Att'y Gen.

If the moneys in the general fund must be applied in a particular way and the amount to be applied is determined by a set formula, rather than by each legislature's judgment, the intent of this section has been thwarted. The legislature's hands are tied as effectively as in the case where the proceeds of a particular tax are dedicated. 1969 Op. Att'y Gen. No. 5, overruled in part on other grounds, May 2, 1975 Op. Att'y Gen.

As to constitutionality of requiring a portion of the general fund to be allocated to local governments each year in accordance with a fixed formula, see 1969 Op. Att'y Gen. No. 5, overruled in part on other grounds, May 2, 1975 Op. Att'y Gen.

The prohibition of this section is against new dedications, i.e., those dedications of revenues which did not exist on April 24, 1956, the date of the constitution's ratification. June 2, 1978 Op. Att'y Gen.

Existing dedications may be continued but may not be revised upward or downward by means of altering the tax, the rate of dedication or the purpose for which the dedication will be used. 1959 Op. Att'y Gen., No. 9; 1959 Op. Att'y Gen. No. 7; 1959 Op. Att'y Gen. No. 14.

No action of the legislature is permissible which would (1) tend to increase or decrease the percentage of the total tax and license proceeds which are dedicated, or (2) which would tend to increase or decrease the amount of proceeds which are dedicated. 1959 Op. Att'y Gen. No. 7; 1959 Op. Att'y Gen. No. 14.

Reducing a dedication makes it different from that which existed, i.e., and existing dedication is not continued when it is reduced any more than it is when it is increased. June 2, 1978 Op. Att'y Gen.

Any attempted alteration short of repeal is a nullity. 1959 Op. Att'y Gen., No. 7.

Legislation developed to eliminate the double fee paid by commercial fishermen who are also holders of limited entry permits, which in effect, exempted permit holders from license fees and provided for payment into the fishermen's fund from moneys collected for permit fees of an amount equal to the amount which would have been paid into the fund from collections for commercial fishing licenses offends this section since it did not continue an existing dedication. June 2, 1978, Op. Att'y Gen.

The 1957 amendment to AS 43.40.010, which reduced the tax on motor fuel used in commercial fishing crafts for purposes of commercial fishing from five cents to two cents per gallon, effected no change in the dedication inasmuch as the reduction in the tax is coupled with an exemption from the refund of three cents per gallon formerly allowed to users of fuel in

commercial fishing craft for commercial purposes. Nothing has been done which increases or decreases the dedication. 1959 Op. Att'y Gen. No. 14.

When the tax is lowered the entire dedication falls and all tax proceeds are covered into the general fund. This result is compelled by a realization that the lowering of the tax irretrievably lowers the dedication because insufficient revenues are available to maintain the present rate of the dedication. Since the only power retained by the legislature with respect to a dedication (other than administrative alterations in the management of the dedication) is the power of repeal, such irretrievable action is tantamount to a repeal of the dedication. 1959 Op. Att'y Gen., No. 14.

When the legislature raises the tax, the excess tax simply goes into the general fund. 1959 Op. Att'y Gen. No. 14.

A dedication is not repealed in its entirety by the partial elimination of its source but rather that it is reduced to provide for a dedication solely from all that is left of the source. June 2, 1978 Op. Att'y Gen.

The prohibition against dedications should be read in conjunction with Alaska Const., art. XI, Sec. 7, which deals with restrictions on the initiative and referendum. Therein it is stated that the initiative and referendum shall not be used to create or apply to dedications of "revenue." 1959 Op. Att'y Gen., No. 7.

Pre-existing dedications of revenue established by statute to satisfy trust obligations imposed by federal law are excluded from the reach of Alaska Const., art. IX, Sec. 17. That section applies to proceeds net of dedications otherwise permitted under this section, which permits dedications that are required for participation in a federal program. 1993 Op. Att'y Gen. No. 1.

Any attempted dedication of funds after April 26, 1956, which was not absolutely required for participation in federal programs, had to be covered into the general fund, any statute notwithstanding. 1959 Op. Att'y Gen. No. 7, issued prior to the 1977 amendment of this section.

Although fourth class cities may now be incorporated cities within the intent of AS 43.70.080, they would not be entitled to any refunds under such section, since if this were the case, the effect of ch. 79, SLA 1959 would be to make a new dedication of a state tax or license for a special purpose. Any such dedication would be invalid under the provisions of this section. 1960 Op. Att'y Gen., No. 5.

Any repeal or repeal and re-enactment of a dedication during the 1957 session takes the dedication from under the protection of the grandfather clause, and a re-enactment either in 1957 or later is a nullity unless the dedication is required by the federal government for participation in federal programs. 1959 Op. Att'y Gen., No. 7, issued prior to the 1977 amendment of this section.

Employees' retirement system and emoluments of office for all commissioners, heads of state agencies and the members of the judiciary and legislature are authorized by the Alaska Constitution and are implied exceptions to the prohibition of this section. 1969 Op. Att'y Gen., No. 5 overruled in part on other grounds, May 2, 1975 Op. Att'y Gen.

The Violent Crimes Compensation Board is authorized by statute to recover, receive, and collect receipts; however, under the Alaska Constitution, all receipts must revert to the general fund. September 25, 1980 Op. Att'y Gen.

The provisions of AS 16.43.310 and 16.43.320, which authorize the Commercial Fisheries Entry Commission to establish and administer a buy-back program, offend the state constitutional prohibition against dedicated funds. May 23, 1985 Op. Att'y Gen.

Decisions -

This clause prohibiting dedicated funds seeks to - preserve an annual appropriation model which assumes that not only will the legislature remain free to appropriate all funds for any purpose on an annual basis, but that government departments will not be restricted in requesting funds from all sources. *Sonneman v. Hickel*, 836 P.2d 936 (Alaska 1992).

Assessments authorized by former AS 16.10.530 were "proceeds of a state tax or license." - Since the constitution prohibits the dedication of any source of revenue, including both "taxes" and "special assessments," the assessments authorized by former AS 16.10.530 were "proceeds of a state tax or license," within the meaning of this section, whether or not the salmon assessments fit the definition of "special assessments." *State v. Alex*, 646 P.2d 203 (Alaska 1982).

Coastal protection fund held invalid. - As provided for in ch. 266, SLA 1976, the coastal protection fund in former AS 30.25, which regulated the transfer of crude oil, refined petroleum products, or by-products of oil terminal facilities, was a dedication of the proceeds of a tax or license and invalid under this section. *Chevron U.S.A., Inc. v. Hammond* (A77-195 Civil), F. Supp. (D. Alaska 1978).

Risk charges for each classification of certificate issued under former AS 30.25, which were deposited in the coastal protection fund, were the proceeds of a license or tax within the meaning of this section, which prohibits the dedication of any state tax or license to any special purpose with certain exceptions. *Chevron U.S.A., Inc. v. Hammond* (A77-195 Civil), F. Supp. (D. Alaska 1978).

Attorney general could not save provisions of former AS 30.25 from unconstitutionality under this section by directing promulgation of regulations inconsistent with statute. - See *Chevron U.S.A., Inc. v. Hammond* (A77-195 Civil), F. Supp. (D. Alaska 1978).

Deposit of Alaska Power Authority revenues into state general fund. - Net proceeds from the Alaska Power Authority's operations in excess of actual debt payments are deposited into the state general fund, the Authority receiving money for maintenance and operation of its facilities from legislative appropriations. *M-K Eng'g Co. v. Alaska Power Auth.*, 662 F. Supp. 303 (D. Alaska 1986).

Based upon this article, funds left over from Alaska Power Authority projects are lapsed into the state's general fund for later reappropriation. *M-K Eng'g Co. v. Alaska Power Auth.*, 662 F. Supp. 303 (D. Alaska 1986).

Cited in *State v. Anthony*, 810 P.2d 155 (Alaska 1991).

FISCAL NOTE

No. 3Bill Version: CSHB 13(FIN)(H) Publish Date: 3/6/97STATE OF ALASKA
1997 LEGISLATIVE SESSION*Not Adopted*Title: Marine Safety Training & EDept. Affected: RevenueBRU: Revenue OperationsSponsor: Rep. Alan AustermanComponents: Treasury

Requestor: _____

Serial # 121**EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)**

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants, Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE	0.0	0.0	0.0	0.0	0.0	0.0
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FUNDING: (THOUSANDS OF DOLLARS)

General Fund	0.0	0.0	0.0	0.0	0.0	0.0
Federal Fund	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	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

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

see attached analysis

Prepared by: House Finance CommitteeDate: 3/5/97

Approved by: _____

Phone: 465-4797

Co-Chair Mark Hanley

Co-Chair Gene Therriault

Phone: _____

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