

BILLS 1981 - 1982
HB 180 cont. - CSHB 188

LAG. FINANCE

1475

1475

I must again emphasize a point that I have made time and time again on this subject. No law could be passed on the subject of drug enforcement that would be too strong for me to support. However, to be effective the law must be enforceable. Penalties must be uniform and certain. That is the approach taken in drafting this legislation.

I believe that this bill represents a carefully thought through focal point for a comprehensive examination of the drug laws of the state which, as I have indicated, are badly in need of revision. I urge your serious consideration of the bill during this legislative session. Attached is a section-by-section analysis which explains each provision of the bill in more detail.

Sincerely,

S/SSH

Jay S. Hammond
Governor

SECTION-BY-SECTION ANALYSIS

* Section 1. DECLARATION OF LEGISLATIVE PURPOSE.

This section makes it clear that the purpose of the bill is to consolidate and revise Alaska's laws pertaining to drugs in a manner patterned after the Uniform Controlled Substances Act and the federal Controlled Substances Act of 1970 (P.L. 91-513). The bill provides for a uniform scheme of penalties for all drug offenses in conformity with the 1978 revision of the criminal code and establishes a regulatory scheme pertaining to registration, record keeping and the legitimate manufacturing, prescribing, and dispensing of controlled substances identical to that provided for under federal law.

* Sec. 2. Adds chapter 71 to Title 11, entitled Controlled Substances.

ARTICLE 1. OFFENSES RELATING TO CONTROLLED SUBSTANCES.

Sec. 11.71.010. Misconduct Involving a Controlled Substance in the First Degree. Prohibits the unauthorized delivery of a Schedule IA controlled substance to a minor, who is at least three years younger than the defendant; also prohibits engaging in a "continuing criminal enterprise" which is derived from federal law and defined as a felony violation of AS 11.71 which is part of a continuing series of five or more violations involving five or more persons where the defendant occupies a managerial position from which he obtains substantial income. Violation of this provision is an unclassified felony punishable the same as murder in the second degree and kidnapping.

Sec. 11.71.020. Misconduct Involving a Controlled Substance in the Second Degree. Prohibits the unauthorized manufacture or delivery of a Schedule IA controlled substance; possession of a Schedule IA controlled substance with intent to manufacture or deliver; and delivery of a Schedule IIA or IIIA controlled substance to a minor who is at least three years younger than the defendant. A violation of this provision is a class A felony.

Sec. 11.71.030. Misconduct Involving a Controlled Substance in the Third Degree. Prohibits the unauthorized manufacture or delivery of a Schedule IIA or IIIA controlled substance; possession of a Schedule IIA or IIIA controlled substance with intent to manufacture or deliver; delivery of a Schedule IVA, VA or VIA controlled substance to a minor who is at least three years younger

than the defendant; and possession by an adult of a Schedule IA or IIA controlled substance on school grounds which are not closed to organized activities for minors. A violation of this provision is a class B felony.

Sec. 11.71.040. Misconduct Involving a Controlled Substance in the Fourth Degree. Prohibits the unauthorized manufacture or delivery of a Schedule IVA, VA or VIA controlled substance; possession of a Schedule IVA, VA or VIA controlled substance with intent to manufacture or deliver; possession of a Schedule IA or IIA controlled substance; possession by an adult of a Schedule IIIA, IVA, VA or VIA controlled substance on school grounds; possession of specified amounts of a Schedule IIIA, IVA, VA or VIA controlled substance including one pound or more of marijuana; maintaining an unauthorized place for the storage or sale of controlled substances; fraudulent use of a controlled substance registration number; falsifying a document required to be kept under AS 17.30; the forging of drugs, drug containers or labels; and the obtaining of a controlled substance by deception. Violations of this provision are a class C felony.

Sec. 11.71.050. Misconduct Involving a Controlled Substance in the Fifth Degree. Prohibits the possession of a Schedule IIIA, IVA or VA controlled substance in amounts less than specified in Sec. 11.71.040; possession of eight ounces or more of marijuana; and failure to maintain or furnish records required under AS 17.30. A violation of this section is a class A misdemeanor.

Sec. 11.71.060. Misconduct Involving a Controlled Substance in the Sixth Degree. Prohibits the use or display of marijuana in public; the possession of one ounce or more of marijuana in public; the possession of marijuana while operating a propelled vehicle; the possession of marijuana by a person under nineteen years of age; the possession of four ounces or more of marijuana; and a refusal to permit inspections of premises as required under AS 17.30. A violation of this section is a class B misdemeanor.

Sec. 11.71.070. Misconduct Involving a Controlled Substance in the Seventh Degree. Prohibits the possession of less than one ounce of marijuana on a public street or sidewalk or on the premises of a public carrier or business establishment. An offense under this section is a violation, does not indicate criminality and is punishable by a maximum fine of \$300.

Article 2: STANDARDS AND SCHEDULES.

Sec. 11.71.100. Controlled Substances Advisory Committee. Establishes the Controlled Substances Advisory Committee and provides for its composition.

Sec. 11.71.110. Duties of Controlled Substances Advisory Committee. Establishes the procedures for adding new substances to the schedules; requires the committee to advise the governor as to the need to delete or re-schedule substances by legislation; and empowers the committee to make recommendations to enforcement agencies with respect to enforcement practices and programs including the regulation of the legitimate distribution of controlled substances.

Sec. 11.71.120. Authority to Schedule Controlled Substances. Specifies the procedures surrounding the addition of new substances to the controlled substances schedules in conformity with the Administrative Procedure Act (AS 44.62) and delineates a series of specified criteria by which rescheduling decisions are made both under the bill and with respect to the addition of new substances by the Controlled Substances Advisory Committee. These criteria include: (1) the actual or probable abuse of a substance; (2) the biomedical hazard of a substance; (3) whether a substance is an immediate precursor of a substance already controlled; (4) the current state of scientific knowledge concerning a substance; and (5) the relationship between use of a substance and other criminal activity. Scheduling decisions are based on findings made under these criteria viewed as a whole without one of the criteria being given more weight than the other

Sec. 11.71.130. Nomenclature. Provides that a substance may not be excluded from the schedules if it is known by another name; for example, where the trade name differs from the chemical designation set out in a schedule. It should be noted that under the bill the respective schedules are followed by the suffix "A" so that the state schedules are distinguished from the federal schedules.

Sec. 11.71.140. Schedule IA. Establishes Schedule IA substances as those having the highest degree of danger; Schedule IA includes, among others, opium, codeine, heroin, morphine, methadone and their derivatives.

Sec. 11.71.150. Schedule IIA. Provides that Schedule IIA substances are those less dangerous than substances classified, in Schedule IA and more dangerous than those in other schedules. Schedule IIA presently includes amphetamines, cocaine, LSD, mescaline, methamphetamines, PCP and the more serious depressants including methaqualone.

Sec. 11.71.160. Schedule IIIA. Establishes Schedule IIIA substances as those more dangerous than substances classified in Schedule IVA but not as dangerous as the substances included in Schedule IIA. Schedule IIIA presently includes barbiturates and their derivatives, amo-, seco-, and pentobarbital; moderately serious stimulants and depressants; hashish and hashish oil; and small amounts of codeine, morphine, and opium combined with other ingredients in recognized therapeutic amounts.

Sec. 11.71.170. Schedule IVA. Provides that Schedule IVA substances are less dangerous than Schedule IIIA substances but more dangerous than substances included in Schedule VA. Schedule IVA includes less serious depressants and stimulants including barbital, phenobarbital, and valium, which are often obtained by prescription.

Sec. 11.71.180. Schedule VA. Provides that Schedule VA substances are less dangerous than Schedule IVA substances but more dangerous than substances included in Schedule VIA. Schedule VA includes very small amounts of codeine, morphine sulphate and opium combined with other ingredients in recognized therapeutic amounts with medicinal qualities.

Sec. 11.71.190. Schedule VIA. Establishes Schedule VIA as the least dangerous of the controlled substances and includes marijuana.

Sec. 11.71.195. Exempted Drugs. Provides that if controlled substances are specifically exempt from criminal penalty under federal law they will be exempt under AS 11.71 and AS 17.30.

Article 3. MISCELLANEOUS PROVISIONS

Sec. 11.71.300. Penalties under other Laws. This section specifies that penalties for offenses involving controlled substances are in addition to any other civil or administrative penalty or sanction that may be imposed by law.

Sec. 11.71.310. Bar to Prosecution. A conviction or an acquittal under federal law or another state's law precludes a prosecution under state law for the same offense.

Sec. 11.71.320. Defense Exempted. Provides that it is not a defense in a prosecution for controlled substances offenses that the amount possessed is less than a usable quantity or that a particular substance has been misclassified under a subsection within a schedule.

Sec. 11.71.330. Liability of Public Servants. This section makes it clear that a public servant acting within the scope and authority of his or her employment is not criminally or civilly liable for misconduct involving a controlled substance. However, the conduct in question must be within the scope and authority of employment.

Sec. 11.71.340. Offenses Defined By Amounts. This section provides that if there are different penalties for acts involving a controlled substance and these penalties depend upon the amount of the substance involved, a person may be convicted of a lesser offense even if his act involved an amount of the controlled substance which makes him subject to a higher penalty.

Sec. 11.71.350. Burden of Proof. This section provides that it is the defendant's burden to prove, by a preponderance of the evidence, any exemption or exception claimed by him. The state is not required to disprove, beyond a reasonable doubt, any exemption or exception provided for under AS 11.71.

Sec. 11.71.360. Unprivileged Communications. This section nullifies any physician-patient privilege when a patient attempts to procure, unlawfully, any controlled substance. Under this provision, the doctor or other practitioner will be able to testify in court against the patient about any communication made while the patient unlawfully procured or attempted to procure a controlled substance.

Article 4. DEFINITIONS

Sec. 11.71.900. Definitions. This section defines words and phrases that are used throughout AS 11.71. Many of these definitions are similar or identical to those contained in the federal Controlled Substances Act of 1970 (P.L. 91-513). Some of the definitions distinguish between acts performed by practitioners in the course of their medical practice and acts performed by persons who are not authorized to manufacture, distribute, or dispense controlled substances. For example, the words "administer" and "dispense" refer to acts performed by a practitioner; "deliver" is the "actual, constructive, or attempted transfer from one person to another of a controlled substance," and "distribute" is the delivery of a controlled substance by a person other than a practitioner who dispenses or administers.

The definition of "manufacture" provides that "the growing of marijuana for personal use is not manu-

facturing". The definition of "marijuana" includes "leaves, stems, flowers, and seeds of the plant (genus) Cannabis," and is not limited to the plant Cannabis Sativa L.

* Sec. 3. Adds chapter 30 to Title 17, entitled Controlled Substances.

Article 1. REGULATION OF MANUFACTURE, DISTRIBUTION, PRESCRIPTION, AND DISPENSING OF CONTROLLED SUBSTANCES.

Sec. 17.30.010. Regulations. Establishes the Board of Pharmacy as the agency responsible for the administration of laws pertaining to the legitimate manufacture, distribution and dispensing of controlled substances and requires the board to adopt regulations for the administration of AS 17.30. This section also allows the imposition of reasonable fees for registration. This chapter and the regulations to be adopted under it are required to be patterned after federal law, so that there is consistency between state and federal requirements placed upon persons required to register, keep records, and handle prescription and other order forms.

Sec. 17.30.020. Registration Requirements. Requires persons who manufacture, distribute, dispense or conduct research with controlled substances to be registered annually with the state; permits these persons to handle controlled substances as permitted by their registration; exempts from registration employees and agents of registered persons acting in the normal course of their business; exempts warehousemen and ultimate users in lawful possession from registration; allows the board to waive registration requirements if the waiver is in the public interest; requires a separate registration for each principal place of business or professional practice for each registrant; and allows the board to inspect the premises of a registrant or an applicant for registration.

Sec. 17.30.030. Registration. Requires the Board of Pharmacy to register applicants unless the registration is inconsistent with the public interest, and sets out the standards used in determining whether issuance of a registration to manufacture, distribute or dispense a controlled substance is in the public interest; it requires the board to register researchers who are registered as researchers under federal law; and provides that manufacturers and distributors who have complied with federal registration requirements are entitled to registration under state law.

Sec. 17.30.040. Denial, Revocation and Suspension of Registration. This section sets forth the standards under which a registration may be denied, revoked or suspended, and the procedure for disposition of the registrant's controlled substances during denial, revocation or suspension proceedings.

Sec. 17.30.050. Order to Show Cause. Establishes procedures the board must follow before denying, suspending, revoking or refusing to renew a registration; provides that the board may suspend a registration without complying with these procedures if imminent danger to the public health or safety warrants immediate suspension.

Sec. 17.30.060. Records of Registrants. This provision sets out the requirements for record keeping by registrants.

Sec. 17.30.070. Order Forms; Prescriptions. This provision specifically adopts federal law dealing with order forms and prescriptions to insure that legitimate handlers of controlled substances are not subjected to different requirements under state law as a result of differences between state and federal schedules for controlled substances.

Sec. 17.30.080. Unlawful Administration, Prescription and Dispensation of Controlled Substances. This section provides that no controlled substance in any state or federal schedule may be administered, prescribed, dispensed, or distributed other than for a medical purpose.

Article 2. ENFORCEMENT AND ADMINISTRATIVE PROVISIONS.

Sec. 17.30.100. Cooperative Arrangements. This section authorizes the commissioner of public safety to cooperate with other state and federal agencies in data collection, information exchange and training.

Sec. 17.30.110. Forfeitures. This section sets out in considerable detail the forfeiture provisions contained in the bill. It specifies property which may be forfeited, and the conditions and procedures for seizure of property which may be forfeited. It also sets out the procedures to be followed in disposing of forfeited property.

Sec. 17.30.130. Judicial Review. This section provides for review by the superior court of administrative decisions made under the Controlled Substances Act in accordance with the provisions of the Alaska Administrative Procedure Act (AS 44.62).

Sec. 17.30.140. Education and Research. Requires the commissioner of health and social services to encourage education and research in the field of drug abuse, and empowers the commissioner to establish research projects and educational programs.

Sec. 17.30.150. Confidentiality. This section provides that information supplied by the Drug Enforcement Administration of the United States Department of Justice may be presumed to be valid by the Board of Pharmacy when it exercises its regulating powers under AS 17.30. Additionally, the section prohibits the disclosure of either the names or identities of patients who are participating in drug research programs.

Sec. 17.30.160. Definitions. This section provides that the definitions set out in AS 11.71.900 are to be used in the Controlled Substances Act (AS 17.30).

* Sec. 4. Adds chapter 35 to Title 17, entitled Alaska Controlled Substances Therapeutic Research Act.

Sec. 17.35.010. Legislative Purpose. This section makes it clear that the intent of this chapter is to enable cancer patients who are undergoing chemotherapy and radiology to receive marijuana to alleviate nausea associated with chemotherapy and radiology. Glaucoma patients are also eligible for treatment by the use of marijuana. This section establishes that there is a need for further research regarding the use of marijuana under strictly controlled conditions, and this chapter is enacted for that purpose.

Sec. 17.35.020. Therapeutic Research Program. This section establishes the research program within the Board of Pharmacy, and provides that the board shall administer the program. It provides for regulations of federal agencies to be taken into consideration; that only persons suffering from certain diseases and undergoing particular types of treatment are eligible, and that they must be certified to the patient qualification review committee. The section provides that full disclosure of the risks must be made to the patient. The board shall provide for registration of therapeutic research projects.

Sec. 17.35.030. Patient Qualification Review Committee. This section establishes the Patient Qualification Review Committee and provides for its membership and duties. It also provides for expansion of the program to other disease groups, after approval by the Board of Pharmacy

and consistent with applicable federal regulations.

Sec. 17.35.040. Sources and Distribution of Marijuana. This section provides that the Board of Pharmacy is responsible for ensuring that marijuana used in the research program is made available according to applicable federal regulations.

Sec. 17.35.050. Report to the Governor and Legislature. This section provides for the board to make findings and recommendations to the governor and the legislature regarding the effectiveness of the program by March 1, 1984.

Sec. 17.35.060. Definitions. This section defines words and phrases used in AS 17.35.

* Sec. 5. Amends AS 08.64.380(3)(B). Includes as unprofessional or dishonorable conduct habitual overuse of controlled substances.

* Sec. 6. Amends the definition of "unprofessional or dishonorable conduct" in the licensing provisions for physicians (AS 08.80.040) to conform to the provisions of the Controlled Substances Act.

* Sec. 7. Amends AS 08.80.470 to change the reference to "Narcotic Drug Act" to "Alaska Controlled Substances Act" to conform to the provisions of AS 17.30.

* Sec. 8. Amends the definition of "controlled substance" set out in AS 08.80.480(20) to be consistent with the definition set out in AS 11.71.900(4).

* Sec. 9. Amends AS 11.31.100(d)(1), the section on attempt, to include controlled substances offenses.

* Sec. 10. Amends AS 11.31.110(c)(1), the section on solicitation, in the same manner as Sec. 9, above.

* Sec. 11. Amends the definition set out at AS 11.-81.900(b)(4) in order to be consistent with AS 11.71.900.

* Sec. 12. Amends the definition set out at AS 11.-81.900(b)(6) for the same reason as Sec. 11 above.

* Sec. 13. Amends the definition set out at AS 11.-81.900(b)(16) for the same reason as in Secs. 11 and 12 above.

* Sec. 14. Amends AS 12.30.040(b). This section on bail expands the present provision not only to include offenses involving controlled substances which are the most serious offenses (unclassified and class A felonies), but to also include any criminal offense which is an unclassified or class A felony. The section provides that a person who is convicted of committing an unclassified or class A felony offense is not eligible for bail pending sentencing or pending appeal.

* Sec. 15. Adds a new section to chapter 45 of Title 12.

Sec. 12.45.155. Laboratory Report of Controlled Substances. Allows for the introduction of an official laboratory report at trial after notice has been given to the defendant or at a preliminary hearing or grand jury instead of requiring the production of the laboratory technician who performed the analysis. The report will be evidence of the contents, identity and weight of the substance analyzed. In addition, a procedure is included by which the defendant can demand the testimony of the laboratory technician in court.

* Sec. 16. Amends AS 12.55.035(b)(1). Fines. Specifies that a fine upon conviction for misconduct involving a controlled substance in the first degree may not exceed \$75,000.

* Sec. 17. Amends AS 12.55.125(b). Sentences of Imprisonment for Felonies. This section adds misconduct involving a controlled substance in the first degree to the crimes which are classified as unclassified felonies.

* Sec. 18. Adds new paragraphs to AS 12.55.155(c). Factors in Aggravation and Mitigation. To the factors in aggravation which are specified within the presumptive sentencing provisions of the new criminal code, this section adds: delivering a controlled substance as part of a commercial enterprise; smuggling a controlled substance into the state; misconduct involving a large amount of a controlled substance; and the distribution of a controlled substance which has been adulterated with a toxic substance.

* Sec. 19. Adds new paragraphs to AS 12.55.155(d). Factors in Aggravation and Mitigation. This section is a corresponding section to Sec. 18 of the bill, and adds to the list of factors in mitigation which are specified within the presumptive sentencing provisions of the revised criminal code, the following factors: involvement

with only a small quantity of a controlled substance; the distribution of controlled substance, other than a schedule IA controlled substance to an adult who is a personal acquaintance, for no profit; and the possession of a small amount of a substance for personal use in the defendant's home.

* Sec. 20. Amends AS 28.35.030 to change the reference to depressant, hallucinogenic, stimulant or narcotic drugs in the driving while intoxicated statute to controlled substances, and to change the statutory reference for these drugs to the statutory reference for controlled substances to conform this provision to the Alaska Controlled Substances Act.

* Sec. 21. Adds a new subsection to AS 28.35.030 to provide for prima facie evidence of the defendant's knowledge of the effect of a controlled substance, available by prescription, when the defendant is accused of operating a motor vehicle while under the influence of that controlled substance.

* Sec. 22. Provides that offenses committed before January 1, 1982 are not void if this bill is enacted; that forfeiture and administrative procedures filed before enactment of the bill are not affected; and requires the Board of Pharmacy to initially register persons presently licensed under state law.

* Sec. 23. Provides that all administrative orders and regulations adopted under a law in effect before January 1, 1982 which do not conflict with the Act continue in effect until amended or repealed.

* Sec. 24. Establishes the staggered terms for the members initially appointed to the Controlled Substances Advisory Committee.

* Sec. 25. Provides that AS 17.10, AS 17.12, and AS 17.15 are repealed.

* Sec. 26. Provides that the effective date of the Act is January 1, 1982.

FISCAL NOTE

REQUEST

Bill/Resolution No. HOUSE BILL #180 (No. 1)

Title Revising the Drug Laws and making amendments to criminal laws

Requested by Bill Cook Legislative Counsel Date Jan. 8, 1982

I. FISCAL DETAIL

Agency Affected Department of Public Safety

Program Category Affected State Troopers

BRU, Program, or Subprogram(s) Affected Narcotics Unit

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
00 PERSONAL SERVICES			0	0		
00 TRAVEL			0	0		
00 - CONTRACTUAL			0	0		
00 COMMODITIES			0	0		
00 EQUIPMENT			0	0		
00 LAND & STRUCTURES			0	0		
00 GRANTS, CLAIMS, ETC.			0	0		
TOTAL			0	0		

FUNDING (Thousands of Dollars)

GENERAL FUND			0	0		
FEDERAL FUNDS			0	0		
OTHER (Specify Fund Source)			0	0		

POSITIONS

William Nix

FULL TIME			0	0		
PART TIME			0	0		
TEMPORARY			0	0		

ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Basically this Bill consolidates and revises the Alaska Drug Laws and patterns them after the Uniform Controlled Substances Act and the Federal Controlled Substances Act of 1970. It also enacts uniform penalties to conform with the 1978 Revision of Alaskas Criminal Code. Passage of this Bill will not impact the Department of Public Safety fiscally.

DATE January 12, 1982

PREPARED BY

L. D. Lawson
Captain Lowell Parker

Agency: Legislative Finance
Budget and Management
Prime Sponsor (First Legislator Named)

AGENCY
PHONE

Alaska State Troopers D.P.S.
269-5620

Rec'd January 20, 1982
WDF

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE - AMENDED

I. REQUEST

Bill/Resolution No. CS HB 180 " An Act revising the drug laws and making
Title amendments to the criminal laws of the State; and providing for an effective
Requested by Governor Date 1-25-82 date."

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development
Program Category Affected Public Protection
BRU, Program, Or Subprogram(s) Affected Regulation & licensing of professions.
(Note: If more than one budget component is affected, separate line-item
amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	124.0	132.7	141.9	151.8	162.4	173.7
200 TRAVEL	19.5	21.8	24.4	27.3	30.6	34.2
300 CONTRACTUAL	167.9	179.6	192.2	205.7	220.1	235.5
400 COMMODITIES	.0	.0	.0	.0	.0	.0
500 EQUIPMENT	5.9	.0	.0	.0	.0	.0
600 LAND & STRUCTURES	8.1	8.1	8.1	8.1	8.1	8.1
700 GRANTS, CLAIMS, ETC.	.0	.0	.0	.0	.0	.0
TOTAL	325.4	342.2	366.6	392.9	421.2	451.5

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	325.4	342.2	366.6	392.9	421.2	451.5
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	3	3	3	3	3	3
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

PERSONAL SERVICES - FY'82 Salary Schedule. 7% inflation factor projected.

2 investigators, range 18, 12 mos., Gen.Govt.	\$ 80,696.00
1 regulation specialist, range 16, 12 mos., Gen.Govt.	35,252.00
	\$ 115,948.00
	8,100.00 +7%
Total	\$ 124,048.00

TRAVEL - 12% inflation factor projected.

Patient Qualification Review Committee, 4 members; 3 meetings per year (1 ea. in Anch, Fbks, Juneau), 3 days each	\$ 4,188.00
Board of Pharmacy, travel & per diem for 2 hearings in Anchorage, 7 members (this is in addition to monies budgeted for regular board meetings)	3,022.00

IV. DATE 1-25-82

PREPARED BY Marjorie Odland, Regulations Specialist
AGENCY Occupational Licensing

Original: Legislative Finance PHONE 465-2535

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

CS HB 180 Fiscal Note continued. . .

Staff, 2 investigators and regulations specialist to attend hearings and meetings of the Board of Pharmacy as necessary due to additional regulatory and enforcement duties required by HB 180. Estimate 3 trips per year (1 ea. in Anch, Fbks, Juneau), 3 days each , 3,186.00

2 investigators, travel & per diem to perform inspections throughout the state (approx. 90 facilities) 7,000.00

17,396.00

2,088.00 +12%

Total \$ 19,484.00

CONTRACTUAL - 7% inflation factor projected.

Duplication and distribution costs of registration forms, legal notices for regulation hearings, and general operating costs \$ 7,000.00

Disciplinary hearings - costs estimated at \$50,000 per hearing; avg. 3 hearings/yr; hearing officer @ \$55.00/hour plus travel and per diem; court report @ \$20.00/hour; judicial process approx. \$1,000.00/hearing 150,000.00

157,000.00

10,900.00 +7%

Total \$167,900.00

EQUIPMENT - one time expense in FY'82

3 Desks, double pedestal (60x30) \$ 1,280.76

3 Chairs, Exec. swivel with arms 706.62

2 Typewriters, correcting selectric, dual pitch 2,057.66

2 File cabinets, 5 drawer, legal with lock 617.66

1 File cabinet, 4 drawer, legal without lock 252.60

2 Typewriter tables 203.84

3 Chairs, side without arms (contour) 285.48

3 Calculators, desk, printing 10-digit 534.78

Total \$ 5,939.40

LAND & STRUCTURES

3 positions, FY'82 -

150 sq.ft. X 1.50 X 3 = 8,100

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill 180

Title An Act Revising the Drug Laws and Making Amendments to the Criminal Laws of
Requested by House Judiciary Committee Date 1/18/82 the state

II. FISCAL DETAIL

Agency Affected Department of Law

Program Category Affected Administration of Justice

BRU, Program, Or Subprogram(s) Affected Prosecution

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		137.5	178.2	192.5	207.9	224.5
200 TRAVEL		46.2	27.8	30.0	32.4	35.0
300 CONTRACTUAL		59.7	47.2	51.0	55.1	59.5
400 COMMODITIES		11.3	3.7	4.0	4.3	4.6
500 EQUIPMENT		15.7	0	0	0	0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		270.4	256.9	277.5	299.7	323.6

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		270.4	256.9	277.5	299.7	323.6
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME		4.0	4.0	4.0	4.0	4.0
PART TIME		1.0	1.0	1.0	1.0	1.0
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Three distinct fiscal impacts will occur as a result of passage of this bill, and are reflected in this fiscal note.

First, because the bill constitutes a complete and comprehensive revision of existing drug laws, it will be necessary to conduct a statewide training program for law enforcement officers, prosecutors and other effected members of the criminal justice system prior to the effective date of the bill. The training program for law enforcement officers will include an updated review of the law of search and seizure in addition to the substantive changes in the criminal law made by this bill. A similar program was conducted by the criminal division of the department prior to the effective

IV. DATE January 18, 1982

PREPARED BY Daniel W. Hickey, Chief Prosecutor

AGENCY Department of Law

PHONE 465-3428

Original: Legislative Finance
cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

Bill/Resolution No. House Bill 180

Title: An Act Revising the Drug Laws and Making Amendments to the Criminal Laws of the State

Requested by: House Judiciary Committee

Date: January 18, 1982

ANALYSIS (continued)

date of the revised criminal code. This program involved 3 day training sessions for in excess of 1300 police officers throughout the state. In addition, separate training sessions were conducted for judges, prosecuting attorneys, probation officers and members of the Alaska Bar Association. The program was very successful and resulted in fully preparing persons involved in the criminal justice system for the many wide-ranging changes which were made by the code.

The training program envisioned under this bill will not be as complex nor require as many sessions as that required for the revised criminal code. Sessions will be restricted to between eight and twelve principal locations in the state and it is assumed that both state and municipal agencies will provide whatever funds are necessary to send personnel to one of the sessions. Direct training costs include travel expenses for instructors for the sessions, the preparation of materials and those costs associated with conducting the sessions themselves. Those costs are as follows:

100	Personal Services	-0-
200	Travel	20.5
300	Contractual	16.0
400	Commodities	4.0
500	Equipment	-0-
		<u>40.5</u>

Second, the department has requested two additional support positions to assist in its efforts to vigorously prosecute offenses involving the unlawful trafficking in controlled substances. Last legislative session, as a consequence of increased funding recommended by the House Task Force on Violent Crime, the department was able to fund an attorney position whose primary emphasis and expertise is in the area of prosecuting complex drug offenses. In addition for the ongoing prosecution of major drug cases, the position provides assistance to law enforcement agencies throughout the state during the course of complex drug investigations and assists in developing ongoing training programs and investigative procedures.

This fiscal note includes funding for a paralegal and secretarial position assigned to the drug attorney position. The paralegal will be responsible for assisting the attorney in case preparation and appellate research, for presenting public education programs on controlled substance offenses and abuse upon request by interested civic groups and schools, and for assisting in the effort to provide continuing legal education programs for police officers on drug offenses, particularly in rural Alaska. The secretarial position will provide support services for the attorney and paralegal and will be responsible for preparing complex legal briefs for the appellate courts.

The department has not requested any additional attorney positions to handle the increase in prosecution that is likely to result from enactment of this bill. This increase will result primarily from the fact that cases that had previously been viewed as not prosecutable because of defects in current law can be prosecuted under this bill. We will closely monitor the actual effect of the bill on our caseload during the initial two year period it is effective, and should our caseload increase significantly it may become necessary to request additional positions in future years.

Bill/Resolution No. House Bill 180

Title: An Act Revising the Drug Laws and Making Amendments to
the Criminal Laws of the State

Requested by: House Judiciary Committee

Date: January 18, 1982

ANALYSIS (Continued)

It also should be noted that no new positions have been requested to handle pre-trial diversion of appropriate cases under this bill. Existing positions in the pre-trial diversion component will be adequate to handle any increase in workload attributable to this legislation.

Costs for the positions are:

	<u>Paralegal Asst.</u>	<u>Legal Secretary I</u>
100 Personal Services	28.9	22.8
200 Travel	6.0	3.6
300 Contractual	11.0	.6
400 Commodities	2.5	2.7
500 Equipment	1.2	12.9
TOTALS:	<u>49.6</u>	<u>42.6</u>

Included in the foregoing are single-time new position purchases of \$14.1 in equipment and \$2.4 in commodities. The largest expense is 12.2 for an IBM word processor.

The final area of fiscal impact under the bill relates to the work of the Controlled Substances Advisory Committee under proposed Secs. 11.71.100, 11.71.110 and 11.71.120. Under the bill, the committee is charged with the responsibility of providing policy coordination for all activities relating to drug use and abuse. At present, these activities are not coordinated and law enforcement programs, treatment programs and legitimate industry enforcement efforts are often pursuing competing goals and objectives.

Minimal staff resources will be required to support the work of the committee concerning the classification of controlled substances and the development of policy and program coordination in the area of drug abuse. A Criminal Justice Planner (PFT), a Research Analyst II (PFT), and a parttime Clerk Typist III would provide the necessary staff to the committee in meeting the statutory duties specified in AS 11.70.110.

The Committee would meet quarterly alternating between Anchorage and Juneau.

Costs for the positions and the Committee would be reflected as additions to the Office of Justice Assistance's FY 83 Budget.

	<u>Committee</u>	<u>Staff</u>
100 Personal Services	-0-	85.8
200 Travel	11.1	5.0
300 Contractual	-0-	32.1
400 Commodities	-0-	2.1
500 Equipment	-0-	1.2
TOTAL:	<u>11.1</u>	<u>126.2</u>

Included in the foregoing are single-time new position costs of 1.2 for equipment and 1.5 for commodities.

FY 83 new position costs have been calculated on the basis of 10 month funding. Consequently, cost projections for FY 84 and beyond have been calculated on the basis of full year funding and through our annual inflation adjustment of 8%, after removing single-time non-salary new position costs and single-time training expenses.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill 180
Title "An Act revising the drug laws and making amendments to the criminal laws of
Requested by Representative Barnes Date 1/8/82 the State

II. FISCAL DETAIL
Agency Affected Department of Health & Social Services, Division of Adult Corrs.
Program Category Affected Offender Confinement, Reformation and Supervision
BRU, Program, Or Subprogram(s) Affected Adult Confinement; Probation & Community
(Note: If more than one budget component is affected, separate line-item Programs amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		112.5	737.2	788.8	844.1	903.1
200 TRAVEL		2.6	8.4	12.6	18.4	20.1
300 CONTRACTUAL		18.7	122.7	171.9	204.9	242.2
400 COMMODITIES		23.9	111.9	122.0	132.9	144.9
500 EQUIPMENT		4.0	12.0			
600 LAND & STRUCTURES	6076.5					
700 GRANTS, CLAIMS, ETC.						
TOTAL	6180.2	6,400.9	992.2	1,095.3	1,200.3	1,310.3

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	-0-	6,400.9	992.2	1,095.3	1,200.3	1,310.3
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	-0-	3	19	19	19	19
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

A. Program Impact

It is predicted that enactment of this proposed legislation would have a significant fiscal impact on the Division of Adult Corrections. It is impossible to estimate the fiscal impact from historical data alone. This fiscal note was developed by using Department of Law estimates for projected rates of arrest and conviction and by analysis of the limited data of the Division of Adult Corrections. The current building program is capable of housing inmates projected under current statutes and policies. In-state facilities are currently operating at close to emergency levels and beds made available by the Federal Bureau of Prisons are essentially full, therefore new beds and staff would be required in order to care for the predicted additional inmates.

IV. DATE January 19, 1982 PREPARED BY Roger C. Lange
AGENCY Division of Adult Corrections
Original: Legislative Finance PHONE 465-3376
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

The net effect of this assessment is that 88 new beds would be required. Institutional staffing requirements will be 11 Correctional Officers II, 1 Correctional Officer III, 2 Psychological Counselors II and 2 Clerk III's. Two additional Probation Officer II positions would be required to assume the workload increase of pre-sentence reports and street supervision of probationers and parolees, with one Clerk Typist III for necessary clerical support. The projected impact is in three program areas: increased sentenced felons; increased bookings and sentenced misdemeanants; and increased probation/parole workloads.

INCREASED SENTENCED FELONS:

Attachment 1 is a matrix displaying a representative assessment of felony drug offenders as affected by current law, and as impacted by provisions of H.B. 180. This comparison projects need for 86 additional beds (man years) if H.B. 180 is enacted.

It is noted that the first year impact is predicted to be 16; second year impact raises the total to 55; fourth year to 80, and long term impact a total of 86. See graph attachment 2. Planning and fiscal realities indicate need for all 86 beds to be funded in the first fiscal year. Considering the approximate three year planning-construction cycle, the impracticality of adding a small number of cells at a time, and considering the overall inflationary impact, all beds should be funded at one time.

INCREASED BOOKINGS AND MISDEMEANANTS:

The equivalent of two beds (man years) would be necessitated in order to house those additional numbers of persons booked for drug offenses and for those who would now be sentenced to misdemeanor offenses as a result of this proposed legislation. This two bed increase (full time equivalent of two offenders) would accommodate the expected increase of up to 250 arrestees per year, and up to 100 misdemeanants serving an average of five days each.

INCREASED PROBATION/PAROLE WORKLOADS:

Probation/parole workloads would be impacted. It is assumed that two additional probation officers would be required to complete the 86 additional pre-sentence reports, plus additional caseload supervision, related reports and other activities.

B. Fiscal Impact

1. Capital Costs

Construction of 88 additional beds. The fiscal note has been developed with the assumption that the 88 beds would be added to the 300 bed facility in the Division's FY 1983 capital budget. By adding the beds to an existing project, the cost per bed is estimated to be \$70,900 rather than the estimated \$136,600 per bed when all core facilities (heating plant, kitchen, administration, recreation, etc.) are included in a totally new institution. Therefore, the estimated capital costs would be \$6,239,200.

2. Operating Costs

a. Personnel

- 1 - Correctional Officer III
- 11 - Correctional Officer II
- 2 - Psychological Counselor II
- 2 - Probation Officer II
- 2 - Clerk III
- 1 - Clerk Typist III

Personal Services costs are based on the FY 1982 salary schedule, with an annual inflation rate of 7%. The staff for probation/parole activities would be required in FY 1983. The institutional staff would be hired upon completion of the new beds, estimated to be in FY 1984.

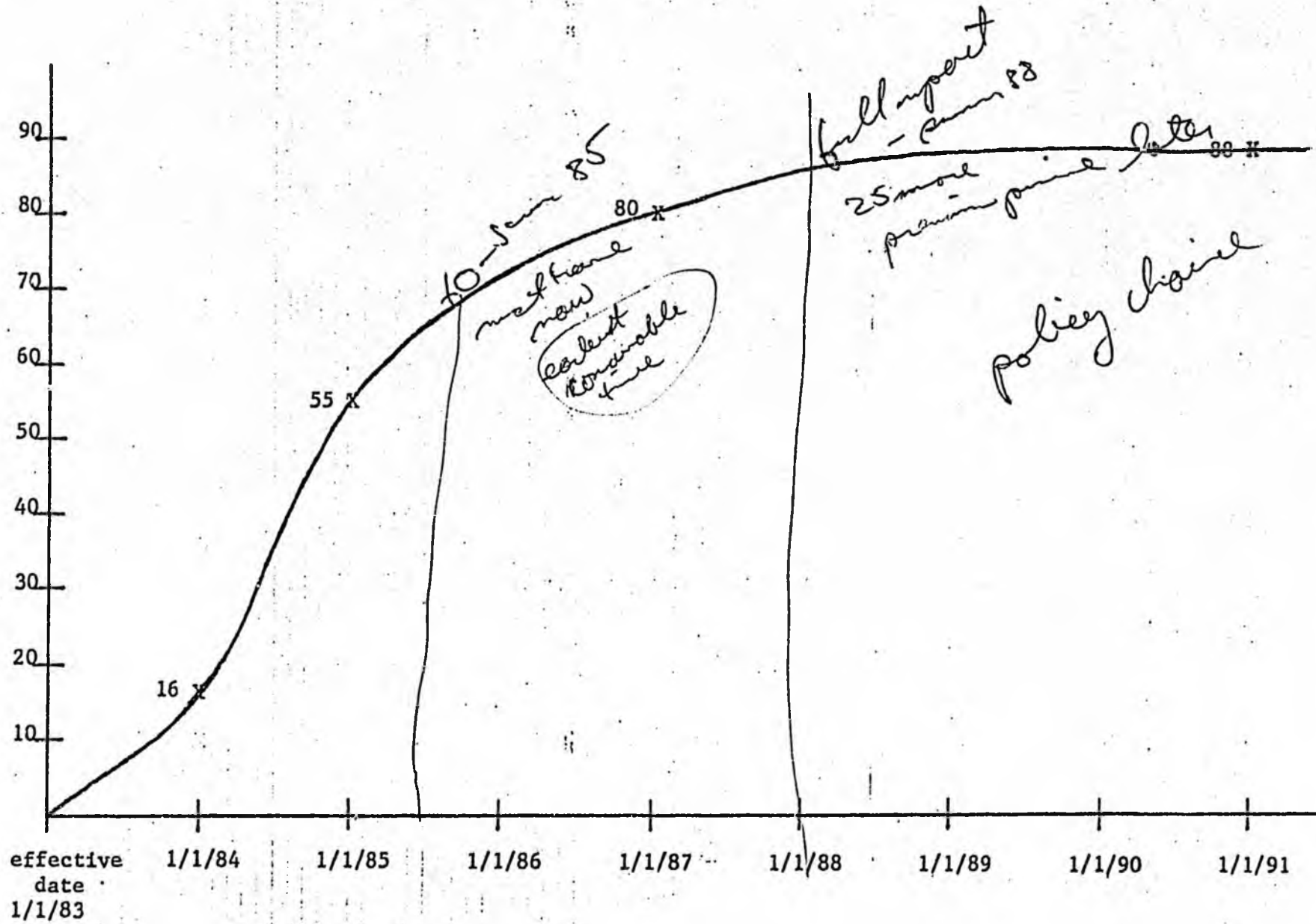
- b. Other costs included are those related directly to the physical and health needs of the additional inmate case-load. These costs reflect the increase in the inmate population over the period covered by this fiscal note. An inflation factor of 9% was used for costs included in the categories of travel, contractual services, commodities and grants.
- C. Caution should be taken when considering the fiscal impact identified in this fiscal note. It is impossible to predict with any certainty the course of each of the variables resulting from this proposed legislation. Any changes in the variables or the assumptions could significantly change the fiscal impact of H.B. 180.

Class of Felony	Present Law # Convicted	% To Jail	# To Jail	Avg. Sent. Length	Avg. Sent. Served	H.B. 180 # Convicted	% To Jail	# To Jail	Avg. Sent. Length	Avg. Sent. Served	Present	H.B. 180
Unclassified	1	100%	1	10	7	2	100%	2	10	7	7	14
A	7	70%	5	3	2	10	90%	9	6	4	10	36
B	74	25%	19	2	1	82	40%	33	3	1.75	19	58
C	43	15%	6	1	.5	66	25%	17	1.5	1.0	3	17
	<u>125</u>					<u>160</u>					<u>39</u>	<u>125</u>


 86 Additional
 Beds Needed

HB 180
PHASED-IN PRISON POPULATION INCREASE

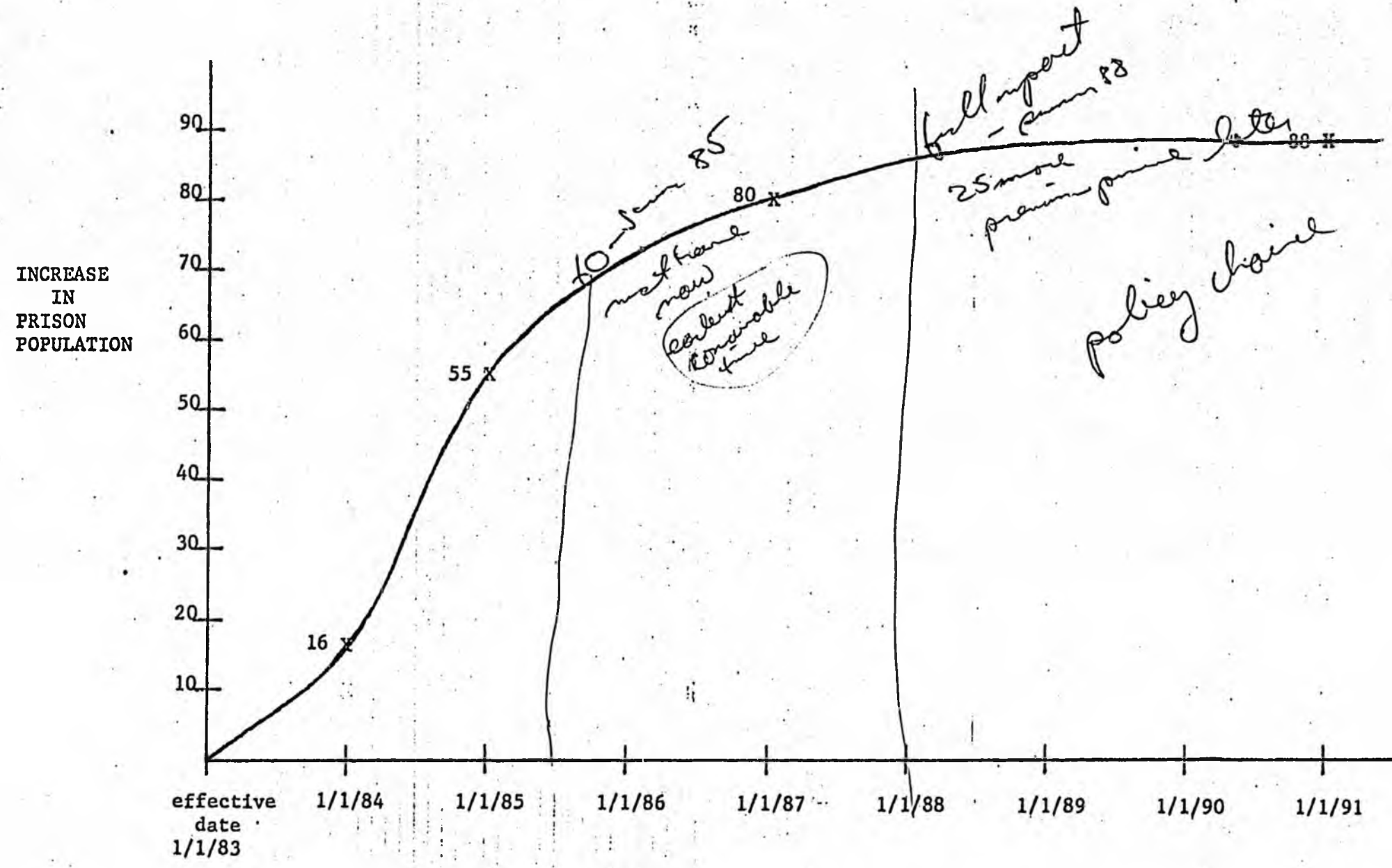
INCREASE
IN
PRISON
POPULATION



CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

HB 180
PHASED-IN PRISON POPULATION INCREASE



THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE - UPDATE

I. REQUEST

Bill/Resolution No. CSHB 180 "An Act revising the drug laws and making
Title amendments to the criminal laws of the State; and providing for an effective
Requested by House Finance Committee Date 2-2-82 date."

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development
Program Category Affected Public Protection
BRU, Program, Or Subprogram(s) Affected Regulation & licensing of professions; admn
(Note: If more than one budget component is affected, separate line-item boards &
amounts and funding for each component in the analysis section.) investigation

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	115.9	115.9	80.7	80.7	80.7	80.7
200 TRAVEL	17.4	19.1	18.4	20.2	22.2	24.4
300 CONTRACTUAL	12.7	13.8	15.0	16.4	17.9	18.5
400 COMMODITIES	0	0	0	0	0	0
500 EQUIPMENT	5.9	0	0	0	0	0
600 LAND & STRUCTURES	3.7	3.7	2.4	2.4	2.4	2.4
700 GRANTS, CLAIMS, ETC.						
TOTAL	155.6	152.5	116.5	119.7	123.2	126.0

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	155.6	152.5	116.5	119.7	123.2	126.0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	3	3	2	2	2	2
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

PERSONAL SERVICES - FY'82 salary schedule. (according to budget directions, no inflation factor to be projected)

2 Investigators, (1 in Anch, 1 in Southeast), range 18, 12 mos.
gen. govt. (costs are if investigators are hired by Dept. of Commerce,
rather than if hired by Public Safety) \$ 80,969.00

1 Regulations Specialist, range 16, 12 mos. gen. govt. (FY'82 - FY'83
only, as needed to research and formulate necessary regulations with
the Board of Pharmacy) 35,252.00

Total \$ 115,948.00

TRAVEL - 10% inflation factor projected.

Patient Qualification Review Committee, to be appointed by Board of
Pharmacy. 4 members (2-Anch, 1-Fbks, 1-Southeast), 3 meetings per yr.,
(1 ea. in Anch, Fbks, & SE), 3 days ea., travel costs plus per diem \$ 4,188.00
@ \$80/day

IV. DATE 2-2-82

PREPARED BY Marionie Odland

AGENCY Division of Occupational Licensing
PHONE 465-2535

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

(Cont...)

Board of Pharmacy, 7 members, travel costs and per diem @ \$80/day for 2 licensing/disciplinary hearings in Anchorage (this is in addition to appropriated funds budgeted for regular board meetings and hearings in FY'82 detail budget)	3,022.00
Investigators - travel costs and per diem @ \$80/day to attend Board of Pharmacy meetings and licensing/disciplinary hearings as necessary due to additional regulatory and enforcement activities of the Board of Pharmacy as mandated by CSHB 180. Estimate 3 trips per year for each investigator, 1 day ea.	2,486.00
Investigators - travel costs and per diem @ \$80/day to perform inspections throughout the State (approx. 90 facilities)	7,000.00
Regulations Specialist - travel costs and per diem @ \$80/day, to attend Board of Pharmacy meetings and proposed regulation hearings as necessary due to additional regulatory and enforcement activities of the board. Estimate 3 trips per year in FY'82-FY'83, 1 day each (Anch, Fbks, and Southeast)	700.00
Total	<u>\$17,396.00</u>

CONTRACTUAL - 9% inflation factor projected.

Duplication and mailing costs of new registration forms and regulations; publication costs for proposed regulations and hearings, and general operating and computer costs to implement new registration process. \$ 7,000.00

Licensing/Disciplinary Hearings - Costs estimated from past Guide Board hearings held in December 1981. Anticipate 3 hearings per year. In estimating one day hearings, the following costs are considered:

*Average 6 hour days.	
·Hearing Officer @\$75/hour	450.00
Court Reporter @ \$25/hour	150.00
10 exhibits, .45 ea	4.50
3 witnesses, 1/2 day ea., @12.50	37.50
1 expert witness, 2 hours@\$150/hr	300.00
Transcript, avg. 210 pages @ 4.50/page	945.00
	<u>1,887.00</u>

** Other costs such as transportation of witnesses, taking of depositions and other special handling can increase cost. \$ 5,661.00

EQUIPMENT - one time expense in FY'82

3 desks, double pedestal (60x30)	\$ 1,280.76
3 chairs, exec., swivel with arms	706.62
2 typewriters, correcting selectric, dual pitch	2,057.62
2 file cabinets, 5 drawer, legal with lock	617.56
1 file cabinet, 4 drawer, legal without lock	252.60
2 typewriter tables	203.84
3 chairs, side without arms (contour)	285.48
3 calculators, desk, printing 10-digit	534.78

** Initial equipment needed for 3 Positions. Total \$ 5,939.40

LAND & STRUCTURES

3 positions, FY'82-FY'83, 60 sq.ft @ \$1.70/mo. X 3 positions, 12 mos.	\$ 3,672.00
2 positions, FY'84-FY'87, 60 sq.ft @ \$1.70/mo. X 2 positions, 12 mos.	\$ 2,448.00

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE - UPDATE

I. REQUEST

Bill/Resolution No. CSHB 180 "An Act revising the drug laws and making
Title amendments to the criminal laws of the State; and providing for an effective
Requested by House Finance Committee Date 2-2-82 date."

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development
Program Category Affected Public Protection
BRU, Program, Or Subprogram(s) Affected Regulation & licensing of professions; admini
(Note: If more than one budget component is affected, separate line-item boards &
amounts and funding for each component in the analysis section.) investigation

EXPENDITURES (Thousands of Dollars)

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100 PERSONAL SERVICES	115.9	115.9	80.7	80.7	80.7	80.7
200 TRAVEL	17.4	19.1	18.4	20.2	22.2	24.4
300 CONTRACTUAL	12.7	13.8	15.0	16.4	17.9	18.5
400 COMMODITIES	0	0	0	0	0	0
500 EQUIPMENT	5.9	0	0	0	0	0
600 LAND & STRUCTURES	3.7	3.7	2.4	2.4	2.4	2.4
700 GRANTS, CLAIMS, ETC.						
TOTAL	155.6	152.5	116.5	119.7	123.2	126.0

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	155.6	152.5	116.5	119.7	123.2	126.0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	3	3	2	2	2	2
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

PERSONAL SERVICES - FY'82 salary schedule. (according to budget directions, no inflation factor to be projected)

2 Investigators, (1 in Anch, 1 in Southeast), range 18, 12 mos.
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Total \$ 115,948.00

TRAVEL - 10% inflation factor projected.

Patient Qualification Review Committee, to be appointed by Board of
Pharmacy. 4 members (2-Anch, 1-Fbks, 1-Southeast), 3 meetings per yr.,
(1 ea. in Anch, Fbks, & SE), 3 days ea., travel costs plus per diem \$ 4,188.00
@ \$80/day

IV. DATE 2-2-82

PREPARED BY Mariorie Odland

AGENCY Division of Occupational Licensing
PHONE 465-2535

Original: Legislative Finance
cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

(Cont...)

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Total	\$17,396.00

CONTRACTUAL - 9% inflation factor projected.

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Licensing/Disciplinary Hearings - Costs estimated from past Guide Board hearings held in December 1981. Anticipate 3 hearings per year. In estimating one day hearings, the following costs are considered:

*Average 6 hour days.	
Hearing Officer @\$75/hour	450.00
Court Reporter @ \$25/hour	150.00
10 exhibits, .45 ea	4.50
3 witnesses, 1/2 day ea., @12.50	37.50
1 expert witness, 2 hours@\$150/hr	300.00
Transcript, avg. 210 pages @ 4.50/page	945.00
	<u>1,887.00</u>

** Other costs such as transportation of witnesses, taking of depositions and other special handling can increase cost. X3
\$ 5,661.00

EQUIPMENT - one time expense in FY'82

3 desks, double pedestal (60x30)	\$ 1,280.76
3 chairs, exec., swivel with arms	706.62
2 typewriters, correcting selectric, dual pitch	2,057.62
2 file cabinets, 5 drawer, legal with lock	617.56
1 file cabinet, 4 drawer, legal without lock	252.60
2 typewriter tables	203.84
3 chairs, side without arms (contour)	285.48
3 calculators, desk, printing 10-digit	534.78

** Initial equipment needed for 3 Positions. Total \$ 5,939.40

LAND & STRUCTURES

3 positions, FY'82-FY'83, 60 sq.ft @ \$1.70/mo. X 3 positions, 12 mos. \$ 3,672.00

2 positions, FY'84-FY'87, 60 sq.ft @ \$1.70/mo. X 2 positions, 12 mos. \$ 2,448.00

HB 180

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 180
 Title An Act Revising the Drug Laws and Making Amendments to the Criminal Laws of the State
 Requested by Office of the Governor Date February 17, 1981

II. FISCAL DETAIL

Agency Affected Department of Law
 Program Category Affected Administration of Justice
 BRU, Program, or Subprogram(s) Affected Prosecution
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		89.2	96.3	104.0	116.8	126.1
200 TRAVEL		22.5	5.4	5.8	6.3	6.8
300 CONTRACTUAL		28.3	14.4	15.6	16.8	18.1
400 COMMODITIES		5.0	1.6	1.7	1.8	1.9
500 EQUIPMENT		3.9	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES		-0-	-0-	-0-	-0-	-0-
700 GRANTS, CLAIMS, ETC.		-0-	-0-	-0-	-0-	-0-
TOTAL	0	148.9	117.7	127.1	141.7	152.9

FUNDING (Thousands of Dollars)

	0	148.9	117.7	127.1	141.7	152.9
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	2.0	2.0	2.0	2.0	2.0	2.0
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

The Department of Law anticipates two distinct fiscal impacts which will occur as a result of passage of this bill.

Because this bill constitutes a complete and comprehensive revision of existing drug laws, the department proposes to conduct a statewide training program for prosecutors, law enforcement officers and other effected members of the criminal justice system prior to the effective date of the bill. The training program for law enforcement officers will include an updated review of the law of search and seizure in addition to the substantive changes in the criminal law made by this bill. A similar program was conducted by the criminal division of the department prior to the effective

IV. DATE February 17, 1981 PREPARED BY Richard I. Pegues, Director, Admin. Services
 AGENCY Department of Law
 PHONE 465-3695

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

Bill/Resolution No. _____

Title: An Act Relating the Drug Laws and Making Amendments to the Criminal Laws of the State

Requested by: Office of the Governor Date: Februarv 17, 1981

ANALYSIS (continued)

date of the revised criminal code. This program involved 3 day training sessions for in excess of 1300 police officers throughout the state. In addition, separate training serious were conducted for judges, prosecuting attorneys, probation officers and members of the Alaska Bar Association. The program was very successful and resulted in fully preparing persons involved in the criminal justice system for the many wide-ranging changes which were made by the code.

The training program envisioned under this bill will not be as complex nor require as many sessions as that required for the revised criminal code. Sessions will be restricted to between eight and twelve principal locations in the state and it is assumed that both state and municipal agencies will provide whatever funds are necessary to send personnel to one of the sessions. Direct training costs include travel expenses for instructors for the sessions, the preparation of materials and those costs associated with conducting the sessions themselves. Those costs are as follows:

100	Personal Services	-0-
200	Travel	17.5
300	Contractual	15.0
400	Commodities	3.5
500	Equipment	-0-
		<u>36.0</u>

The department has additionally requested an Attorney V position and a Legal Secretary I position in its FY82 operating budget to provide additional support for police and prosecution efforts relating to major drug offenses. These positions along with this bill are part of the Governor's program to provide emphasis on the prosecutions of major drug offenses. The positions will then be responsible for the ongoing prosecution of major drug cases and for providing assistance to law enforcement agencies throughout the state during the course of complex drug investigations and in developing ongoing training programs and investigative procedures.

Costs for the positions, as reflected in the Criminal Appeals and Special Prosecutions component of the Prosecutions BRU for FY 82, are:

	<u>Attorney V</u>	<u>Legal Secretary I</u>	
100	Personal Services	63.3	25.4
200	Travel	5.0	-0-
300	Contractual	10.0	3.3
400	Commodities	1.0	.5
500	Equipment	2.4	1.5
	TOTALS:	<u>82.2</u>	<u>30.7</u>

In the event that this bill passes and this fiscal note is approved, the new position requests for these two positions, which are contained in the Governor's FY 82 operating budget request, should be deleted to avoid duplicate funding.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 180 "An Act revising the drug laws and making amend-
Title ments to the criminal laws of the state and providing for an effective date."
Requested by Governor Date 2-10-81

II. FISCAL DETAIL
Agency Affected Department of Commerce & Economic Development
Program Category Affected Public Protection
BRU, Program, or Subprogram(s) Affected Regulation & licensing of professions (Boards, Admin., & Investigations)
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)
EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	115.9	124.0	132.7	141.9	151.8	162.4
200 TRAVEL	17.4	19.5	21.8	24.4	27.3	30.6
300 CONTRACTUAL	157.0	167.9	179.6	192.2	205.7	220.1
400 COMMODITIES	.0	.0	.0	.0	.0	.0
500 EQUIPMENT	5.9	.0	.0	.0	.0	.0
600 LAND & STRUCTURES	8.1	8.1	8.1	8.1	8.1	8.1
700 GRANTS, CLAIMS, ETC.	.0	.0	.0	.0	.0	.0
TOTAL	304.5	319.5	342.2	366.6	392.9	421.2

FUNDING (Thousands of Dollars)

	304.3	319.5	342.2	366.6	392.9	421.2
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	3	3	3	3	3	3
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

PERSONAL SERVICES - FY'82 Salary Schedule

2 Investigators, Range 18, 12 mos., Gen. govt. \$ 80,696.00
1 Reg. Specialist II, Range 16, 12 mos., Gen. govt. 35,252.00
*7% inflation factor used Total \$ 115,948.00

TRAVEL * 12% inflation factor used

Patient Qualification Review Committee, 4 members; travel & per diem;
3 meetings per year, Anchorage, Fbks, Juneau; 3 days ea. \$ 4,188.00
Staff - 2 investigators, 1 Reg. Specialist, travel & per diem;
3 meetings per year, Anchorage, Fbks, Juneau; 3 days ea. 3,186.00

IV. DATE 2-10-81 PREPARED BY Marjorie Odland, Regulations Specialist
AGENCY Division of Occupational Licensing
Original: Legislative Finance PHONE 465-2535
cc: Budget and Management
Prime Sponsor (First Legislator Named)

Travel continued. . .

Board of Pharmacy, travel & per diem for 2 hearings in Anchorage (additional costs to Board of Pharmacy travel budgeted in FY'82 detail budget)	3,022.00
2 Investigators, travel & per diem to perform inspections throughout the state (approx. 90 facilities)	7,000.00
Total	\$ 17,396.00

CONTRACTUAL

Duplication and distribution costs of registration forms; legal notices for regulations; operating costs	\$ 7,000.00
---	-------------

Hearings - costs estimated at 50,000 per hearing; avg. 3 hearings per year; Hearing Officer @ \$55.00/hour & travel & Per diem; court reporter @ \$20.00/hour; Judicial process approx. \$1,000.00 per hearing	150,000.00
Total	\$157,000.00

EQUIPMENT - one time expense in FY'82

3 Desks, double pedestal (60x30)	\$ 1,280.76
3 Chairs, Exec. swivel with arms	706.62
2 Typewriters, correcting selectric, dual pitch	2,057.66
2 File cabinets, 5 drawer, legal with lock	617.66
1 File cabinet, 4 drawer, legal without lock	252.60
2 Typewriter tables	203.84
3 Chairs, side without arms (contour)	285.48
3 Calculators, desk, printing 10-digit	534.78
Total	\$ 5,939.40

LAND & STRUCTURES

3 positions, FY'82 -

150 sq.ft. X 1.50 X 3 = 8,100

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 180

Title An Act revising the drug laws and making amendments to the criminal laws

Requested by Governor Date of the state

II. FISCAL DETAIL

Agency Affected Public Safety

Program Category Affected Administration of Justice

BRU, Program, or Subprogram(s) Affected Detachments and CIB, Narcotics Unit

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		- 0 -	- 0 -	- 0 -		

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

The bill will not have fiscal impact upon the Department of Public Safety.

IV. DATE 2/6/81

PREPARED BY

Walter P. Lawson
Walter P. Lawson

AGENCY

Public Safety

PHONE

465-4336

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 180

Title "An Act revising the Drug Laws"

Requested by Governor's Office.

Date February 13, 1981

II. FISCAL DETAIL

Agency Affected Health & Social Services

Program Category Affected Drug, Corrections, Public Health

BRU, Program, or Subprogram(s) Affected _____

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 COMMODITIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC.	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Fund Source)	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

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

As currently drafted, DHSS foresees no additional cost resulting from passage of this bill.

IV. DATE February 16, 1981 PREPARED BY Gail Shortell, Coordinator

AGENCY Health & Soc. Svcs. for Drug Abuse

PHONE 465-3030

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

Marsha Hubbard 2/17/81

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSHB 183 (Res)
Title Special appropriation for reindeer stock improvement for Lawrence Island
Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Commerce and Economic Development
Program Category Affected Development
BRU, Program, or Subprogram(s) Affected Economic Enterprise - Special Industrial Projects
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL	25.75					
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND	25.75					
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	0					
PART TIME	0					
TEMPORARY	0					

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE 4/17/81 PREPARED BY Richard H. Eakins
AGENCY Commerce and Economic Development
PHONE 465-2018
Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

Funding Information
General Fund \$137,450
Other Funds -0-
\$137,450

Introduced: 2/19/81
Referred: Resources and
Finance

1 IN THE HOUSE

BY FULLER AND ADAMS

2

HOUSE BILL NO. 183

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

TWELFTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act making special appropriations for the repair
7 and renovation of the Nome slaughterhouse facility and
8 for reindeer stock improvement for St. Lawrence
9 Island; and providing for an effective date."

10

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11

* Section 1. The sum of \$117,050 is appropriated from the general fund
12 to the division of economic enterprise, Department of Commerce and Economic
13 Development, for repair and renovation of the Nome slaughterhouse facility.

14

* Sec. 2. The sum of \$20,400 is appropriated from the general fund to
15 the division of economic enterprise, Department of Commerce and Economic
16 Development, for reindeer stock improvement for St. Lawrence Island.

17

* Sec. 3. The appropriation made by sec. 1 of this Act is for a capital
18 project and is subject to AS 37.25.020.

19

* Sec. 4. The unexpended and unobligated portion of the appropriation
20 made by sec. 2 of this Act lapses into the general fund on June 30, 1982.

21

* Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-
22 070(c).

23

24

25

26

27

28

29

Original Sponsors: Fuller and Adams

Offered: 4/14/81
Referred: Finance

Funding Information

General Fund	\$25,750
Other Funds	-0-
	<u>\$25,750</u>

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2

CS FOR HOUSE BILL NO. 183 (Resources)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

TWELFTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act making a special appropriation for reindeer

7

stock improvement for St. Lawrence Island; and provid-

8

ing for an effective date."

9

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10

* Section 1. The sum of \$25,750 is appropriated from the general fund to

11

the Department of Commerce and Economic Development, division of economic

12

enterprise, for reindeer stock improvement for St. Lawrence Island.

13

* Sec. 2. The unexpended and unobligated portion of the appropriation

14

made by of this Act lapses into the general fund on June 30, 1982.

15

* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-

16

070(c).

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COMMITTEE REPORT

HOUSE

4/14

FURTHER: FINANCE

2/19/81

(11)

Date: 4/10/81

Mr. Speaker:

The Committee on RESOURCES has had HR 183

"An Act making special appropriations for the repair and renovation of the Nome slaughterhouse facility and for reindeer stock improvement for St. Lawrence Island; and providing for an effective date."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass [] do not pass
- [] do pass with attached amendments(s)
- replace with CS for HR 183 (Res) [] same title
[x] new title
- and recommends DO PASS
- [] AND attaches a "Letter of Intent" [x] New Fiscal Note
- [] reports it back without recommendation
- [] referred to the _____ Committee

MEMBERS SIGNING DO PASS

And P. Zhanoff
R. Bismuth
Rich Halford
D. Sakas
Ben Dussan
Eric G. Sutcliffe
Jerry Kaska

MEMBERS HAVING OTHER RECOMMENDATIONS:

And P. Zhanoff
 CO-CHAIRMAN

Request Juggle
12-0712

Original Sponsors: Fuller and Adams

Offered: 4/14/81
Referred: Finance

Funding Information

General Fund	\$25,750
Other Funds	-0-
	<u>\$25,750</u>

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 183 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act making a special appropriation for reindeer
7 stock improvement for St. Lawrence Island; and provid-
8 ing for an effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. The sum of \$25,750 is appropriated from the general fund to
11 the Department of Commerce and Economic Development, division of economic
12 enterprise, for reindeer stock improvement for St. Lawrence Island.

13 * Sec. 2. The unexpended and unobligated portion of the appropriation
14 made by of this Act lapses into the general fund on June 30, 1982.

15 * Sec. 3 This Act takes effect immediately in accordance with AS 01.10.-
16 070(c).

17
18
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29
COMMITTEE COPY

Request/Juggle
12-0712

Funding Information
General Fund \$137,450
Other Funds -0-
\$137,450

Introduced: 2/19/81
Referred: Resources and
Finance

1 IN THE HOUSE

BY FULLER AND ADAMS

2 HOUSE BILL NO. 183

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act making special appropriations for the repair
7 and renovation of the Nome slaughterhouse facility and
8 for reindeer stock improvement for St. Lawrence
9 Island; and providing for an effective date."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 * Section 1. The sum of \$117,050 is appropriated from the general fund
12 to the division of economic enterprise, Department of Commerce and Economic
13 Development, for repair and renovation of the Nome slaughterhouse facility.

14 * Sec. 2. The sum of \$20,400 is appropriated from the general fund to
15 the division of economic enterprise, Department of Commerce and Economic
16 Development, for reindeer stock improvement for St. Lawrence Island.

17 * Sec. 3. The appropriation made by sec. 1 of this Act is for a capital
18 project and is subject to AS 37.25.020.

19 * Sec. 4. The unexpended and unobligated portion of the appropriation
20 made by sec. 2 of this Act lapses into the general fund on June 30, 1982.

21 * Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-
22 070(c).

COMMITTEE REPORT
SENATE

FURTHER: None

6/20/81

Date: 2/23/82

Mr. President:

The Committee on FINANCE has had HB 187 am
tax credits and penalties

under consideration and (a majority of the committee) (the committee)
reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with ^SCS for HB 187 same title
 new title
- and recommends DO PASS
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

[Signature]

[Signature]

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

CHAIRMAN

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. 6CSHB 187 (Fin)
Title An Act relating to computation of tax penalties; effective date.
Requested by _____ Date 2/23/82

II. FISCAL DETAIL
Agency Affected Department of Revenue
Program Category Affected Revenue Collection and Management
BRU, Program, Or Subprogram(s) Affected _____
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars) NONE

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)



IV. DATE 2/23/82 PREPARED BY Senator Don Bennett, Chairman
AGENCY Senate Finance Committee
Original: Legislative Finance PHONE 465-3714
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

DRAFT

2/22/82

2 SENATE CS FOR HOUSE BILL NO. 187 (Finance)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to computation of tax penalties; and
7 providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 43.05.220(a) is amended to read:

10 (a) Five percent shall be added to a tax for each 30-day period or
11 fraction of the period during which the taxpayer fails to file at the
12 time or times required by law or regulation a return or report, or pay
13 the full amount of the tax, or a portion or a deficiency of the tax, as
14 finally determined by the department and required by this title, unless
15 it is shown that the failure is due to a reasonable cause and not to
16 wilful neglect. The penalty shall not exceed 25 percent in the aggregate.
17 The penalty is computed only on the unpaid balance of the tax
18 liability as determined by the department. The department shall pre-
19 scribe by regulation circumstances which constitute reasonable cause for
20 purposes of this section.

21 * Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-
22 070(c).

DRAFT

2/22/82

2 SENATE CS FOR HOUSE BILL NO. 187 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to computation of tax penalties; and
7 providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 43.05.220(a) is amended to read:

10 (a) Five percent shall be added to a tax for each 30-day period or
11 fraction of the period during which the taxpayer fails to file at the
12 time or times required by law or regulation a return or report, or pay
13 the full amount of the tax, or a portion or a deficiency of the tax, as
14 finally determined by the department and required by this title, unless
15 it is shown that the failure is due to a reasonable cause and not to
16 wilful neglect. The penalty shall not exceed 25 percent in the aggre-
17 gate. The penalty is computed only on the unpaid balance of the tax
18 liability as determined by the department. The department shall pre-
19 scribe by regulation circumstances which constitute reasonable cause for
20 purposes of this section.

21 * Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-
22 070(c).

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 187 am

Title An Act relating to tax credits and penalties; and providing for an
amendment by effective date Date February 22, 1982

Requested by: Senate Finance

II. FISCAL DETAIL

Agency Affected Department of Revenue

Program Category Affected Revenue Collection and Management

BRU, Program, Or Subprogram(s) Affected Audit Division

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars) None

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars) None

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS None

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

See attached memo to R. D. Stevenson dated February 22, 1982.

IV. DATE February 22, 1982

PREPARED BY Robert R. Kessel

AGENCY Audit Division

Original: Legislative Finance

PHONE 465-2320

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

MEMORANDUM

State of Alaska

Department of Revenue

TO: R. D. Stevenson
Legislative Assistant

DATE: February 22, 1982

FILE NO:

TELEPHONE NO:

FROM: Robert R. Kessel
Director, Audit Division *RRK*

SUBJECT: HB 187 am

The amended version of HB 187 retains (in section 1) the language which would restrict the civil penalty for failing to file a tax return to a percentage of "the unpaid balance of the tax liability as determined by the Department." The Department's objection to this statutory change is explained in detail in Gary Jenkins' memo of February 27, 1981.

Section 2 of this amended version was adopted verbatim, section 1 of SLA 81, Chapter 117 (copy attached) and should be removed from this bill.

RRK/EJ/gb

MEMORANDUM

State of Alaska

TO: R. D. Stevenson
Legislative Assistant

DATE February 27, 1981

FILE NO:

TELEPHONE NO:

FROM: Gary L. Jenkins
Director
Audit Division

SUBJECT HB 187

This bill would make two changes to AS 43.05.220(a) which would significantly alter the functioning of the penalty provision. The first change would give all delinquent taxpayers an additional 30 days in which to file a return or pay a tax before either a failure to file penalty or a failure to pay penalty could be assessed. If for some reason the Legislature feels the filing deadline for filing any particular tax return is not appropriate, then the specific filing deadline should be amended and not permit a carte blanche extension of 30 days before any penalties can be assessed.

The second proposed change in the section would limit either the failure to file or the failure to pay penalty to being computed using only the unpaid balance as a computational base. Our current regulations provide that the failure to pay penalty is computed on the unpaid balance so the only penalty affected by this provision is the failure to file penalty. This provision would seriously thwart our efforts to obtain proper and timely filings of tax returns. This penalty is in the law to insure that taxpayers will meet the statutory requirements to file sufficient information with the department in order that we might ascertain the correctness of the amount of tax which they have paid. All of our statutes have adequate lead times for the filing of returns as well as provisions for obtaining an extension of time to file, most of which are up to six months. If this provision is enacted into law, a taxpayer could pay us a tax, take the position that that is all the tax that was due and refuse to file a return. To ascertain whether he was correct or not, we would be required to expend hundreds of manhours to gather enough information to determine if his original ascertainment was correct. If it was correct, then we would not be able to assert any penalty because there would be no additional tax liability. The end result would be that taxpayers could completely destroy any attempt that we might make at effective tax administration by employing these kind of tactics.

MEMORANDUM

State of Alaska

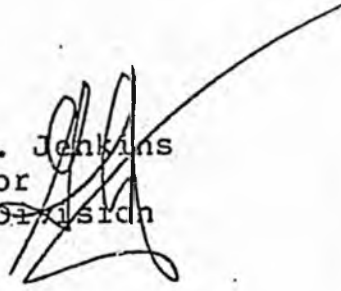
TO: R. D. Stevenson
Legislative Assistant

DATE: March 26 1981

FILE NO:

TELEPHONE NO:

FROM: Gary L. Jenkins
Director
Audit Division



SUBJECT: CS HB 187

The amended version of HB 187 deletes one of the proposals in the original bill regarding which we had expressed concern in my memorandum of February 27, 1981. The second area of concern which I mentioned in that memorandum has been retained in the committee substitute and my original comments are still applicable.

AGO 787378 +

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 187 am
Title An Act relating to tax credits and penalties
Requested by Senate Finance Committee Date 02/22/82

II. FISCAL DETAIL

Agency Affected Department of Revenue
Program Category Affected _____
BRU, Program, Or Subprogram(s) Affected _____
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)
The second paragraph of this bill appears to replicate SCS CS HB 460 (Fin) passed last session as Chapter No. 117 SLA 81. A copy of that chapter and the fiscal note analyzing SCS CS HB 460 are attached.

IV. DATE 02/22/82 PREPARED BY Vince Wright
AGENCY Department of Revenue
Original: Legislative Finance PHONE 465-2173
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SCS CS HB 460 (Fin)
Title An Act relating to taxes
Requested by Resources Committee Date June 22, 1981

II. FISCAL DETAIL
Agency Affected Department of Revenue
Program Category Affected _____
BRU, Program, or Subprogram(s) Affected _____
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)
EXPENDITURES (Thousands of Dollars) NONE

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND	(15,530.0)	(7,000)	(7,500.0)	(7,930.0)
FEDERAL FUNDS				
OTHER (Specify Fund Source)				

POSITIONS

NONE

FULL TIME					
PART TIME					
TEMPORARY					

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

This investment credit provisions of this bill will primarily benefit multistate/multinational corporations as well as larger domestic corporations. The estimated loss of revenue for the credit is 5 to 7 million dollars of corporate income tax per year. The effect is so large in FY 82 because of the retroactive provision back to 1/1/79.

The total includes what the state would have obtained if the property exempted under this bill is taxed under AS 43.56. The lost revenue constitutes 2% of assessed value of the property less that amount (about 16%) which is credited for municipal levies. Municipalities could tax the exempted property under local law.

IV. DATE June 22, 1981 PREPARED BY Gary L. Jenkins
AGENCY Department of Revenue
PHONE 465-2320
Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)



LAWS OF ALASKA

1981

Source

Chapter No.

SCS_GSHB 460(Fin) am S (efd am H)

117

AN ACT

Relating to taxes; and providing for an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

THE ACT FOLLOWS ON PAGE 1, LINE 9

UNDEPLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: July 30, 1981
Actual Effective Dates: Secs. 1 - 9, and 11 - 23 take effect July 31, 1981. Sec. 10 takes effect July 1, 1982.
Secs. 24 - 25 take effect October 28, 1981.

AGO 787381 +

AN ACT

Relating to taxes; and providing for an effective date.

* Section 1. AS 43.20.036(b) is amended to read:

(b) For purposes of calculating the income tax payable under this chapter, the taxpayer may apply as a credit against his tax liability the [JOB DEVELOPMENT] investment credit allowed as to federal taxes under Internal Revenue Code sec. 38 (26 U.S.C. 38) [50] upon only the first \$20,000,000 [\$500,000] of qualified investment put into use in the state for each taxable year [(26 U.S.C. SEC. 50)]. This limitation does not apply to the amounts invested in equipment which meets the definition of a certified pollution control facility as defined under Internal Revenue Code sec. 169 (26 U.S.C. sec. 169) as in effect on June 19, 1975, [THE EFFECTIVE DATE OF THIS ACT] except that the date specified in Internal Revenue Code [THAT] section 169(d) as a condition of qualifying a certified pollution control facility for a deduction does not apply.

* Sec. 2. AS 43.56.210(6)(A)(iii) is amended to read:

(iii) roads, tank farms, tanker terminals, docks and other port facilities, and air strips [AND COMMUNICATION EQUIPMENT AND FACILITIES];

* Sec. 3. AS 43.56.210(6)(A) is amended by adding a new subparagraph to read:

(vi) communications facilities owned by a person whose principal business in the state is the exploration for,

Chapter 117

1 production of, or pipeline transportation of gas or unrefined
2 oil and whose operation of the communications facilities
3 directly relates to the conduct of that business;

4 * Sec. 4. AS 43.56.210(6)(B) is amended by adding a new subparagraph to
5 read:

6 (v) communications facilities, except communica-
7 tions facilities taxable under (A)(vi) of this paragraph;

8 * Sec. 5. AS 43.75.015(b) is amended to read:

9 (b) Instead of the taxes levied by (a) of this section, a person
10 who processes [ENGAGED IN A FISHERY BUSINESS WHICH INCLUDES PROCESSING]
11 a developing commercial fish species is liable for and shall pay a tax
12 equal to

13 (1) one percent of the value of the developing commercial
14 fish species processed by a shore-based fisheries business during the
15 year; and

16 (2) three percent of the value of the developing commercial
17 fish species processed by a floating fisheries business during the
18 year.

19 * Sec. 6. AS 43.75.015(c) is amended to read:

20 (c) A person engaging or attempting to engage in a fisheries
21 business who first actually and physically processes the fishery re-
22 source, or a person who purchases a fishery resource that is frozen
23 from a person excluded by AS 43.75.017 from liability for the tax, is
24 liable for and shall pay to the department the entire tax imposed by
25 this section. In determining this tax liability, the person may [NOT]
26 deduct from the value of the fishery resources processed the value of
27 fishery resources that are canned or processed for other fisheries
28 businesses. A person taking the deduction authorized by this subsection
29 shall report all information relating to the deduction in accordance

1 with regulations issued by the department [, BUT SHALL INCLUDE THAT
2 VALUE AS PART OF THE VALUE OF THE FISHERY RESOURCES PROCESSED].

3 * Sec. 7. AS 43.75 is amended by adding a new section to read:

4 Sec. 43.75.017. EXCLUSION FROM FISHERIES BUSINESS TAX. A person
5 is not liable for the fisheries business tax under AS 43.75.015 when
6 the fishery resource is frozen aboard a fishing vessel if

7 (1) the vessel is operated as a commercial fishing vessel
8 under a valid commercial fishing license;

9 (2) the fishery resource is not processed beyond heading,
10 gutting or cleaning, freezing and glazing;

11 (3) the fishery resource that is frozen was caught by the
12 vessel; and

13 (4) the fishery resource is sold by the person claiming an
14 exclusion from the tax to a fisheries business licensed under AS 43.75.

15 * Sec. 8. AS 43.75.100(a) is amended to read:

16 (a) A person taking, purchasing, or otherwise acquiring a fishery
17 resource covered by this chapter which has not been subject to the tax
18 imposed in AS 43.75.015 is subject to the tax levied in AS 43.75.015 on
19 the value of the fishery resource [SOLD] if the person

20 (1) transports the fishery resource to a point outside the
21 taxing jurisdiction of the state for subsequent processing or sale [TO
22 A FISHERIES BUSINESS] outside the taxing jurisdiction of the state; [OR]

23 (2) sells the fishery resource [TO A FISHERIES BUSINESS]
24 outside the taxing jurisdiction of the state; or

25 (3) has the fishery resource processed by a fisheries busi-
26 ness inside the state.

27 * Sec. 9. AS 43.75.100(b) is repealed and reenacted to read:

28 (b) The rate of tax that shall be paid by a person whose liability
29 for the tax is established by this section is the rate of tax that

Chapter 117

would have been due under AS 43.75.015 if the fisheries business that first actually and physically processed the fish had been liable to pay the tax.

* Sec. 10. AS 43.75.130 is amended to read:

Sec. 43.75.130. REFUND TO LOCAL GOVERNMENTS. The commissioner of revenue shall pay

(1) to each municipality unified under AS 29.68.240 - 29.68.-440, and to each city located in the unorganized borough, 50 [20] percent of the amount of tax revenue collected in the municipality from taxes levied by AS 43.75;

(2) to each city located within a borough, 25 [10] percent of the amount of tax revenue collected in the city from taxes levied by AS 43.75; and

(3) to each borough

(A) 50 [20] percent of the amount of tax revenue collected in the area of the borough outside cities from taxes levied by AS 43.75; and

(B) 25 [10] percent of the amount of tax revenue collected in cities located within the borough from taxes levied by AS 43.75.

* Sec. 11. AS 43.75.140(7) is amended to read:

(7) "value" means the actual price paid for the fisheries resource by the fisheries business, including indirect consideration such as fuel, supplies, or gear, whether paid at the time of purchase of the fisheries resource or tendered as a deferred or delayed payment, except that "value" means the market value of the fishery resource if the taking of the fishery resource is done [PROCURED] in company-owned or company-subsidized boats operated by employees of the fisheries business or in boats which are operated under lease or other arrange-

1 ment;

2 * Sec. 12. AS 43.75.140 is amended by adding a new paragraph to read:

3 (9) "taking" means pursuing, fishing, capturing, or harvest-
4 ing a fisheries resource in any manner.

5 * Sec. 13. AS 43.76.010(a) is amended to read:

6 (a) A person holding a limited entry permit under AS 16.43 shall
7 pay a salmon enhancement tax at the rate of three percent of the value
8 of salmon, as defined in AS 43.75.140(7), that the person removes from
9 the state or transfers to a buyer in the state. The buyer [SELLS TO A
10 PROCESSOR LICENSED UNDER AS 43.75.011. THE PROCESSOR] shall collect
11 the salmon enhancement tax at the time [OF] the salmon is acquired by
12 the buyer [SALE].

13 * Sec. 14. AS 43.76.011(a) is amended to read:

14 (a) A person holding a limited entry permit under AS 16.43 shall
15 pay a salmon enhancement tax at the rate of two percent of the value of
16 salmon, as defined in AS 43.75.140(7), that the person removes from the
17 state or transfers to a buyer in the state. The buyer [SELLS TO A
18 PROCESSOR LICENSED UNDER AS 43.75.011. THE PROCESSOR] shall collect
19 the salmon enhancement tax at the time [OF] the salmon is acquired by
20 the buyer [SALE].

21 * Sec. 15. AS 43.76.020(a) is amended to read:

22 (a) The salmon enhancement tax levied under AS 43.76.010 or 43.-
23 76.011 may be terminated by the commissioner of revenue upon majority
24 vote at an election held under AS 43.76.015 in the region in which the
25 salmon enhancement tax is levied.

26 * Sec. 16. AS 43.76.025(a) is amended to read:

27 (a) A buyer [PROCESSOR] who acquires [BUYS] fisheries resources
28 which are subject to the salmon enhancement tax imposed by AS 43.76.010
29 or 43.76.011 shall collect the salmon enhancement tax at the time of

Chapter 117

1 purchase, and shall remit the total salmon enhancement tax collected
2 during each month to the Department of Revenue by the last day of the
3 next month.

4 * Sec. 17. AS 43.76.025(b) is amended to read:

5 (b) A buyer [PROCESSOR] who collects the salmon enhancement tax
6 shall

7 (1) maintain records reflecting the region designated under
8 AS 16.10.375 in which the fishery resource was caught; and

9 (2) report to the Department of Revenue by March 1 of each
10 year the total value, as defined in AS 43.75.140(7), of the salmon
11 caught in each region designated under AS 16.10.375 which the buyer
12 [PROCESSOR] has acquired [PURCHASED] during the preceding year.

13 * Sec. 18. AS 43.76 is amended by adding a new section to read:

14 Sec. 43.76.028. LIABILITY FOR TAX ON SALMON SHIPPED FROM STATE.

15 (a) The owner of salmon removed from the state is liable for payment
16 of the salmon enhancement tax imposed by AS 43.76.010 or 43.76.011 if,
17 at the time the salmon are removed from the state, the tax payable on
18 the salmon has not been collected by a buyer.

19 (b) If the owner of salmon is liable for payment of the salmon
20 enhancement tax under (a) of this section, he shall comply with the
21 requirement of AS 43.76.025(b) to report his liability for payment of
22 the tax.

23 * Sec. 19. AS 43.76 is amended by adding a new section to read:

24 Sec. 43.76.040. DEFINITION. In this chapter, unless the context
25 otherwise requires, "buyer" means a person who acquires possession of
26 salmon from the person who caught the salmon regardless of whether
27 there is an actual sale of the salmon but excluding a transfer to a
28 person engaged solely in interstate transportation of goods for hire.

29 * Sec. 20. AS 43.75.136 is repealed.

1 * Sec. 21. TRANSITIONAL REVENUE SHARING. Notwithstanding AS 43.75.130,
2 during the fiscal year ending June 30, 1982, the commissioner of revenue
3 shall pay

4 (1) to each municipality unified under AS 29.68.240 - 29.68.440,
5 and to each city located in the unorganized borough, 30 percent of the
6 amount of tax revenue collected in the municipality from taxes levied by
7 AS 43.75;

8 (2) to each city located within a borough, 15 percent of the
9 amount of tax revenue collected in the city from taxes levied by AS 43.75;
10 and

11 (3) to each borough

12 (A) 30 percent of the amount of tax revenue collected in the
13 area of the borough outside cities from taxes levied by AS 43.75; and

14 (B) 15 percent of the amount of tax revenue collected in
15 cities inside the borough from taxes levied by AS 43.75.

16 * Sec. 22. TRANSITION. The taxes paid for the 1980 calendar year under
17 AS 43.75 shall be shared with municipalities in accordance with AS 43.75.130
18 as that section read before its amendment by sec. 10 of this Act. The taxes
19 paid for the 1981 calendar year shall be shared with municipalities in
20 accordance with sec. 21 of this Act. The taxes paid for the 1982 calendar
21 year and for each succeeding calendar year shall be shared with municipali-
22 ties in accordance with AS 43.75.130 as amended by sec. 10 of this Act.

23 * Sec. 23. SEVERABILITY. If a provision of this Act, or the application
24 of a provision of this Act to any person or circumstance, is held invalid,
25 the remainder of this Act and the application of it to other persons or
26 circumstances is not affected by the invalidation of the section.

27 * Sec. 24. Section 1 of this Act is retroactive to July 1, 1980, and
28 applies to expenditures that qualify for the investment credits that are
29 made on or after that date.

Chapter 117

1 * Sec. 25. Sections 2 - 4, 6, 7, 11, and 12 of this Act are retroactive
2 to January 1, 1981, and apply to tax years beginning after December 31,
3 1980.

4 * Sec. 26. Section 21 of this Act takes effect July 1, 1981.

5 * Sec. 27. Section 10 of this Act takes effect July 1, 1982.

6 * Sec. 28. Sections 1 - 9, 11 - 20, and 22 - 23 of this Act take effect
7 immediately in accordance with AS 01.10.070(c).

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THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution NCS HB 187

Title An Act relating to the penalty on tax.

Requested by House Finance Committee

Date March 19, 1981

II. FISCAL DETAIL

Agency Affected Department of Revenue

Program Category Affected Revenue Collections & Management

BRU, Program, or Subprogram(s) Affected Audit Division

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars) -NONE-

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars) -NONE-

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS -NONE-

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

See attached memo to R. D. Stevenson dated March 26, 1981.

IV. DATE March 27, 1981

PREPARED BY Gary L. Jenkins

AGENCY Audit Division

PHONE (907) 465-2320

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

AGO 787390

MEMORANDUM

State of Alaska

TO: R. D. Stevenson
Legislative Assistant

DATE: March 26 1981

FILE NO:

TELEPHONE NO:

FROM: Gary L. Jenkins
Director
Audit Division

SUBJECT: CS HB 187

The amended version of HB 187 deletes one of the proposals in the original bill regarding which we had expressed concern in my memorandum of February 27, 1981. The second area of concern which I mentioned in that memorandum has been retained in the committee substitute and my original comments are still applicable.

MEMORANDUM

State of Alaska

TO: R. D. Stevenson
Legislative Assistant

DATE February 27, 1981

FILE NO:

TELEPHONE NO:

FROM: Gary L. Jenkins
Director
Audit Division

SUBJECT HB 187

This bill would make two changes to AS 43.05.220(a) which would significantly alter the functioning of the penalty provision. The first change would give all delinquent taxpayers an additional 30 days in which to file a return or pay a tax before either a failure to file penalty or a failure to pay penalty could be assessed. If for some reason the Legislature feels the filing deadline for filing any particular tax return is not appropriate, then the specific filing deadline should be amended and not permit a carte blanche extension of 30 days before any penalties can be assessed.

The second proposed change in the section would limit either the failure to file or the failure to pay penalty to being computed using only the unpaid balance as a computational base. Our current regulations provide that the failure to pay penalty is computed on the unpaid balance so the only penalty affected by this provision is the failure to file penalty. This provision would seriously thwart our efforts to obtain proper and timely filings of tax returns. This penalty is in the law to insure that taxpayers will meet the statutory requirements to file sufficient information with the department in order that we might ascertain the correctness of the amount of tax which they have paid. All of our statutes have adequate lead times for the filing of returns as well as provisions for obtaining an extension of time to file, most of which are up to six months. If this provision is enacted into law, a taxpayer could pay us a tax, take the position that that is all the tax that was due and refuse to file a return. To ascertain whether he was correct or not, we would be required to expend hundreds of manhours to gather enough information to determine if his original ascertainment was correct. If it was correct, then we would not be able to assert any penalty because there would be no additional tax liability. The end result would be that taxpayers could completely destroy any attempt that we might make at effective tax administration by employing these kind of tactics.

ARTHUR YOUNG

HB 187
ARTHUR YOUNG & COMPANY
730 I STREET
ANCHORAGE, ALASKA 99501

February 5, 1981

Mr. Tom Williams
Commissioner of Revenue
Department of Revenue
Pouch SA
Juneau, Alaska 99811

Dear Tom:

In introducing legislation in the U.S. Senate to correct a Revenue Procedure, Senator Lloyd Benston said that the IRS had stretched the law to the breaking point. He went on to say that that particular revenue procedure was "a good example of the way in which IRS sometimes takes a statute aimed at correcting a simple problem and stretches it with a closely tailored interpretation in order to extract revenues and inflict undue burdens on taxpayers". The Department of Revenue has recently done exactly the thing that Senator Benston accused the IRS of doing when it issued Regulations 15 AAC 05.210. These regulations purport to interpret Alaska Statute Section 43.05.220. This Section in the Statute reads as follows:

"Five percent shall be added to a tax for each thirty-day period or fraction of the period during which the taxpayer fails to file at the time or times required by law or regulation a return or report, or pay the full amount of the tax, or a portion or a deficiency of the tax, as finally determined by the Department and required by this title..."

The offensive part of the new regulation regards the failure to file penalty and states:

"The failure to file penalty is computed on the total tax liability (total tax liability means the total tax disregarding prepayments or withholding credits) reported by the taxpayer or as subsequently determined by the Department."

An example in the same regulations demonstrates the application of this provision. In the example, the tax return showed a tax of \$1,000. The taxpayer had prepaid (either through estimated tax

AGO 787393 +

ARTHUR YOUNG

February 5, 1981
Mr. Tom Williams
Commissioner of Revenue
Department of Revenue
page 2

payments or withholding) \$800, leaving a balance due of \$200. The tax return in the example was filed 33 days after the due date. The example concludes that the penalty in this instance would be \$100 (10% of \$1,000). It can be seen, therefore, that the penalty has been charged on the \$1,000 tax liability rather than the \$200 tax due, an effective penalty of 50% of the tax due rather than 10% as provided by law. A further extension of this line of reasoning would indicate that a taxpayer who had overpaid his state taxes, but was late filing his return, would also be subject to a penalty. For example, a corporation with a tax liability of \$50,000 and estimated tax payments of \$75,000 would have an overpayment of \$25,000; however, under the State's regulations any penalties for late filing would be calculated on the \$50,000 tax.

Unfortunately, when Section 43.05.220 was passed by the Legislature it did not make clear the amount to which 5% should be applied to calculate the penalty. One only has to look, however, at the Department of Revenue's past practice and the practice of the Internal Revenue Service and every other taxing authority of which the writer has knowledge, to see how this kind of a penalty statute is always interpreted. Throughout its entire history, the Department of Revenue has assessed a late filing penalty based on the balance of tax due. The balance of tax due is also the measuring sticks for the assessment of late filing penalties asserted by the Federal Government, the State of California, and all other states of which I am aware.

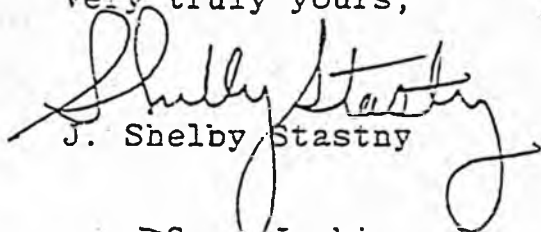
This unwarranted interpretation of the Statute is obviously aimed at extracting revenues and inflicting undue burdens upon taxpayers in a manner beyond the bounds of any reason. If a taxpayer has paid his tax liability, there is no particular state interest served by penalizing that taxpayer for not filing a form with the State on time. It is my sincere desire that the State Department of Revenue, through administrative decision, will rescind this onerous provision in the Regulations. If, however, the Department of Revenue does not see fit to take this action, I am requesting by copies of this letter to the Senate Finance Committee and the House Finance Committee that remedial legislation be enacted. I do not believe for a minute the remedial legislation is necessary, however, if that is the only avenue available to correct this obvious injustice, it will be pursued.

ARTHUR YOUNG

February 5, 1981
Mr. Tom Williams
Commissioner of Revenue
Department of Revenue
page 3

Please feel free to call if I can answer any further questions concerning this position.

Very truly yours,



J. Shelby Stastny

cc: - Gary Jenkins, Department of Revenue
- Rep. Sam Cotten, House Finance Committee
- Rep. Joe Hayes
- Rep. Joe Montgomery
- Senator Ed Dankworth, Senate Finance Committee
- Senator Don Bennett, Senate Finance Committee
Alaska Society of CPAs Taxation Committee
Alaska Bar Association Taxation Committee

JSS/pf

AGO 787395

Introduced: 2/19/81
Referred: Judiciary and Finance

1 IN THE HOUSE

BY MONTGOMERY, HAYES, ANDERSON,
BARNES, COTTEN, AND HALFORD

2 HOUSE BILL NO. 187 am

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to tax credits and penalties; and
7 providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 43.05.220(a) is amended to read:

10 (a) Five percent shall be added to a tax for each 30-day period
11 or fraction of the period during which the taxpayer fails to file at
12 the time or times required by law or regulation a return or report, or
13 pay the full amount of the tax, or a portion or a deficiency of the
14 tax, as finally determined by the department and required by this
15 title, unless it is shown that the failure is due to a reasonable cause
16 and not to wilful neglect. The penalty shall not exceed 25 percent in
17 the aggregate. The penalty is computed only on the unpaid balance of
18 the tax liability as determined by the department. The department
19 shall prescribe by regulation circumstances which constitute reasonable
20 cause for purposes of this section.

21 * Sec. 2. AS 43.20.036(b) is amended to read:

22 (b) For purposes of calculating the income tax payable under this
23 chapter, the taxpayer may apply as a credit against his tax liability
24 the [JOB DEVELOPMENT] investment credit allowed as to federal taxes
25 under Internal Revenue Code sec. 38 (26 U.S.C. 38) [50] upon only the
26 first \$20,000,000 [\$500,000] of qualified investment put into use
27 in the state for each taxable year [(26 U.S.C. SEC. 50)]. This limita-
28 tion does not apply to the amounts invested in equipment which meets
29 the definition of a certified pollution control facility as defined

1 under Internal Revenue Code sec. 169 (26 U.S.C. sec. 169) as in effect
2 on June 19, 1975 [THE EFFECTIVE DATE OF THIS ACT] except that the date
3 specified in Internal Revenue Code [THAT] section 169(d) as a condition
4 of qualifying a certified pollution control facility for a deduction
5 does not apply.

6 * Sec. 3. Section 2 of this Act is retroactive to July 1, 1980, and
7 applies to expenditures which qualify for the investment credit which are
8 made on or after that date.

9 * Sec. 4. This Act takes effect immediately in accordance with AS 01.10.-
10 070(c).

ARTHUR YOUNG

HB 187

ARTHUR YOUNG & COMPANY
730 I STREET
ANCHORAGE, ALASKA 99501

February 5, 1981

Mr. Tom Williams
Commissioner of Revenue
Department of Revenue
Pouch SA
Juneau, Alaska 99811



Dear Tom:

In introducing legislation in the U.S. Senate to correct a Revenue Procedure, Senator Lloyd Benston said that the IRS had stretched the law to the breaking point. He went on to say that that particular revenue procedure was "a good example of the way in which IRS sometimes takes a statute aimed at correcting a simple problem and stretches it with a closely tailored interpretation in order to extract revenues and inflict undue burdens on taxpayers". The Department of Revenue has recently done exactly the thing that Senator Benston accused the IRS of doing when it issued Regulations 15 AAC 05.210. These regulations purport to interpret Alaska Statute Section 43.05.220. This Section in the Statute reads as follows:

"Five percent shall be added to a tax for each thirty-day period or fraction of the period during which the taxpayer fails to file at the time or times required by law or regulation a return or report, or pay the full amount of the tax, or a portion or a deficiency of the tax, as finally determined by the Department and required by this title..."

The offensive part of the new regulation regards the failure to file penalty and states:

"The failure to file penalty is computed on the total tax liability (total tax liability means the total tax disregarding prepayments or withholding credits) reported by the taxpayer or as subsequently determined by the Department."

An example in the same regulations demonstrates the application of this provision. In the example, the tax return showed a tax of \$1,000. The taxpayer had prepaid (either through estimated tax

AGO 787398 +

5-15-81

ARTHUR YOUNG

February 5, 1981
Mr. Tom Williams
Commissioner of Revenue
Department of Revenue
page 2

payments or withholding) \$800, leaving a balance due of \$200. The tax return in the example was filed 33 days after the due date. The example concludes that the penalty in this instance would be \$100 (10% of \$1,000). It can be seen, therefore, that the penalty has been charged on the \$1,000 tax liability rather than the \$200 tax due, an effective penalty of 50% of the tax due rather than 10% as provided by law. A further extension of this line of reasoning would indicate that a taxpayer who had overpaid his state taxes, but was late filing his return, would also be subject to a penalty. For example, a corporation with a tax liability of \$50,000 and estimated tax payments of \$75,000 would have an overpayment of \$25,000; however, under the State's regulations any penalties for late filing would be calculated on the \$50,000 tax.

Unfortunately, when Section 43.05.220 was passed by the Legislature it did not make clear the amount to which 5% should be applied to calculate the penalty. One only has to look, however, at the Department of Revenue's past practice and the practice of the Internal Revenue Service and every other taxing authority of which the writer has knowledge, to see how this kind of a penalty statute is always interpreted. Throughout its entire history, the Department of Revenue has assessed a late filing penalty based on the balance of tax due. The balance of tax due is also the measuring stick for the assessment of late filing penalties asserted by the Federal Government, the State of California, and all other states of which I am aware.

This unwarranted interpretation of the Statute is obviously aimed at extracting revenues and inflicting undue burdens upon taxpayers in a manner beyond the bounds of any reason. If a taxpayer has paid his tax liability, there is no particular state interest served by penalizing that taxpayer for not filing a form with the State on time. It is my sincere desire that the State Department of Revenue, through administrative decision, will rescind this onerous provision in the Regulations. If, however, the Department of Revenue does not see fit to take this action, I am requesting by copies of this letter to the Senate Finance Committee and the House Finance Committee that remedial legislation be enacted. I do not believe for a minute the remedial legislation is necessary, however, if that is the only avenue available to correct this obvious injustice, it will be pursued.

AGO 787399 +

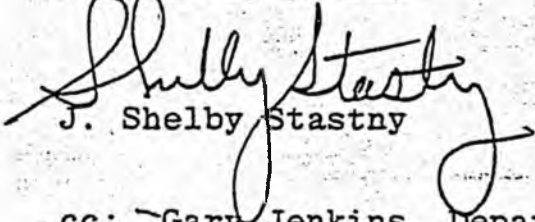
5-15-81

ARTHUR YOUNG

February 5, 1981
Mr. Tom Williams
Commissioner of Revenue
Department of Revenue
page 3

Please feel free to call if I can answer any further questions concerning this position.

Very truly yours,



J. Shelby Stastny

cc: - Gary Jenkins, Department of Revenue
- Rep. Sam Cotten, House Finance Committee
- Rep. Joe Hayes
- Rep. Joe Montgomery
- Senator Ed Dankworth, Senate Finance Committee
- Senator Don Bennett, Senate Finance Committee
Alaska Society of CPAs Taxation Committee
Alaska Bar Association Taxation Committee

JSS/pf

AGO 787400 †

5-15-81

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS HB 187

Title An Act relating to the penalty on tax.

Requested by House Finance Committee

Date March 19, 1981

II. FISCAL DETAIL

Agency Affected Department of Revenue

Program Category Affected Revenue Collections & Management

BRU, Program, or Subprogram(s) Affected Audit Division

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars) -NONE-

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						

TOTAL

FUNDING (Thousands of Dollars)

-NONE-

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

-NONE-

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

See attached memo to R. D. Stevenson dated March 26, 1981.

IV. DATE March 27, 1981

PREPARED BY Gary L. Jenkins

AGENCY Audit Division

PHONE (907) 465-2320

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

CSHB 187

MEMORANDUM

State of Alaska


TO: R. D. Stevenson
Legislative Assistant

DATE: March 26 1981

FILE NO:

TELEPHONE NO:

FROM: Gary L. Jenkins
Director
Audit Division



SUBJECT: CS HB 187

The amended version of HB 187 deletes one of the proposals in the original bill regarding which we had expressed concern in my memorandum of February 27, 1981. The second area of concern which I mentioned in that memorandum has been retained in the committee substitute and my original comments are still applicable.

MEMORANDUM

State of Alaska

TO: R. D. Stevenson
Legislative Assistant

DATE February 27, 1981

FILE NO:

TELEPHONE NO:

FROM: Gary L. Jenkins
Director
Audit Division

SUBJECT HB 187

This bill would make two changes to AS 43.05.220(a) which would significantly alter the functioning of the penalty provision. The first change would give all delinquent taxpayers an additional 30 days in which to file a return or pay a tax before either a failure to file penalty or a failure to pay penalty could be assessed. If for some reason the Legislature feels the filing deadline for filing any particular tax return is not appropriate, then the specific filing deadline should be amended and not permit a carte blanche extension of 30 days before any penalties can be assessed.

The second proposed change in the section would limit either the failure to file or the failure to pay penalty to being computed using only the unpaid balance as a computational base. Our current regulations provide that the failure to pay penalty is computed on the unpaid balance so the only penalty affected by this provision is the failure to file penalty. This provision would seriously thwart our efforts to obtain proper and timely filings of tax returns. This penalty is in the law to insure that taxpayers will meet the statutory requirements to file sufficient information with the department in order that we might ascertain the correctness of the amount of tax which they have paid. All of our statutes have adequate lead times for the filing of returns as well as provisions for obtaining an extension of time to file, most of which are up to six months. If this provision is enacted into law, a taxpayer could pay us a tax, take the position that that is all the tax that was due and refuse to file a return. To ascertain whether he was correct or not, we would be required to expend hundreds of manhours to gather enough information to determine if his original ascertainment was correct. If it was correct, then we would not be able to assert any penalty because there would be no additional tax liability. The end result would be that taxpayers could completely destroy any attempt that we might make at effective tax administration by employing these kind of tactics.

COMMITTEE REPORT

HOUSE

FURTHER:

3/18/81

(11)

Date: 5-15-81

Mr. Speaker:

The Committee on FINANCE has had HE 187

"An Act relating to the penalty on tax."

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 187 (Jud) same title
- new title
- and recommends it do pass
- AND attaches a "Letter of Intent" New Fiscal Note \$0
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Freeman

Jan A. L.

T. Buckholdt

Robert A. L.

John H. ...

Langdon

Montgomery

H. H. ...

Jan A. L.

CHAIRMAN

Original sponsors: Montgomery, Hayes,
Anderson, et al

Offered: 3/18/81
Referred: Finance

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 187 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the penalty on tax."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 43.05.220(a) is amended to read:

9 (a) Five percent shall be added to a tax for each 30-day period
10 or fraction of the period during which the taxpayer fails to file at
11 the time or times required by law or regulation a return or report, or
12 pay the full amount of the tax, or a portion or a deficiency of the
13 tax, as finally determined by the department and required by this
14 title, unless it is shown that the failure is due to a reasonable cause
15 and not to wilful neglect. The penalty shall not exceed 25 percent in
16 the aggregate. The penalty is computed only on the unpaid balance of
17 the tax liability as determined by the department. The department
18 shall prescribe by regulation circumstances which constitute reasonable
19 cause for purposes of this section.
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Introduced: 2/19/81
Referred: Judiciary and Finance

1 IN THE HOUSE BY MONTGOMERY, HAYES, ANDERSON,
2 BARNES, COTTEN AND HALFORD

3 HOUSE BILL NO. 187

4 IN THE LEGISLATURE OF THE STATE OF ALASKA

5 TWELFTH LEGISLATURE - FIRST SESSION

6 A BILL

7 For an Act entitled: "An Act relating to the penalty on tax."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 43.05.220(a) is amended to read:

10 (a) Five percent shall be added to a tax for each full 30-day
11 period [OR FRACTION OF THE PERIOD] during which the taxpayer fails to
12 file at the time or times required by law or regulation a return or
13 report, or pay the full amount of the tax, or a portion or a deficiency
14 of the tax, as finally determined by the department and required by
15 this title, unless it is shown that the failure is due to a reasonable
16 cause and not to wilful neglect. The penalty shall not exceed 25
17 percent in the aggregate. The penalty is computed only on the unpaid
18 balance of the tax liability as determined by the department. The
19 department shall prescribe by regulation circumstances which constitute
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Original sponsors: Montgomery, Hayes,
Anderson, et al

Offered: 3/18/81
Referred: Finance

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 187 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

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THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

HB 187

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 187
 Title An Act relating to penalty on tax
 Requested by House Juducuary Committee Date 2-21-81

II. FISCAL DETAIL

Agency Affected Department of Revenue
 Program Category Affected Revenue Collection and Management
 BRU, Program, or Subprogram(s) Affected Audit Division

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars) NONE

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						

TOTAL

FUNDING (Thousands of Dollars) NONE

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS NONE

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

See attached memorandum to R. D. Stevenson dated February 27, 1981.

IV. DATE February 27, 1981 PREPARED BY Gary L. Jenkins
 AGENCY Audit Division
 PHONE 465-2320
 Original: Legislative Finance
 cc: Budget and Management
Prime Sponsor (First Legislator Named)

MEMORANDUM

State of Alaska

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CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

Original sponsor: Carney

Offered: 4/20/81
Referred: Rules

Funding Information

General Fund	\$6,200,300
Other Funds	-0-
	<u>\$6,200,300</u>

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2

CS FOR HOUSE BILL NO. 188 (2d Finance)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

TWELFTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act making a special appropriation for reconstruction of the Iditarod Elementary School in Wasilla; and providing for an effective date."

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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* Section 1. The sum of \$6,200,300 is appropriated from the general fund for payment as a grant to the Matanuska-Susitna Borough for the reconstruction of the Iditarod Elementary School in Wasilla which was destroyed by fire on January 19, 1981, if the borough subrogates its right to all proceeds from insurance on the school to the state.

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* Sec. 2. Notwithstanding AS 37.25.020, the unexpended and unobligated portion of the appropriation made by this Act lapses into the general fund December 30, 1981.

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* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-070(c).

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HOUSE JOURNAL

HOUSE FINANCE COMMITTEE

LETTER OF INTENT ON CSHB 188 (FINANCE)

The House Finance Committee has reviewed and passed out CSHB 188 (Finance) to allow the Matanuska-Susitna Borough to begin reconstruction of the Iditarod Elementary School in Wasilla. It is the understanding of the Committee that insurance proceeds for reconstruction are not immediately available to the Borough, while the Borough is presently incurring costs for demolition, architectural and engineering fees. Funds are being made available to the Borough to cover these immediate costs, and to provide funding over and above the insurance recovery which is necessary to bring the school building up to code and replace instructional equipment and furnishings.

It is the intent of the Committee that any funds which exceed the project cost after the amount of the insurance recovery is known, be returned to the State, to lapse back into the general fund.



Samuel Cotten, Chairman
House Finance Committee

Original sponsor: Carney

Offered: 4/20/81
Referred: Rules

Funding Information

General Fund	\$6,200,300
Other Funds	-0-
	<u>\$6,200,300</u>

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

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CS FOR HOUSE BILL NO. 188 (2d Finance)

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IN THE LEGISLATURE OF THE STATE OF ALASKA

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TWELFTH LEGISLATURE - FIRST SESSION

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