

LEG. FINANCE - BILLS 1981 - 1982 1736

SB 856 - SB 863

1736

COMMITTEE REPORT
SENATE

3/12/82

FURTHER: None

Date: 4/15/82

Mr. President:

The Committee on FINANCE has had SB 856
interest on delinquent oil and gas properties production taxes

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 SB 856 (fin) 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]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

CHAIRMAN

Original sponsor: Rules/Legislative Budget
and Audit Committee

IN THE SENATE

BY THE FINANCE COMMITTEE

CS FOR SENATE BILL NO. 856 (Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to interest on delinquent taxes; and
providing for an effective date."

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

* Section 1. AS 43.05.225 is amended to read:

Sec. 43.05.225. INTEREST ON TAXES. Unless otherwise provided,
when a tax levied in this title becomes delinquent it bears interest at
the rate of 12 [EIGHT] percent a year.

* Sec. 2. AS 43.05.280(a) is amended to read:

(a) Interest shall be allowed and paid on any overpayment of a tax
under this title at the rate prescribed in AS 43.05.225 [OF EIGHT PER-
CENT A YEAR].

* Sec. 3. AS 43.55.060 is amended to read:

Sec. 43.55.060. DELINQUENCY. When the tax provided for in this
chapter becomes delinquent, it bears interest at the rate provided under
AS 43.05.225 [OF SIX PERCENT A YEAR]. If any person fails to make a
report required by this chapter, within the time prescribed by law for
the report, the department shall examine the books, records and files of
the person to determine the amount and value of the production to compute
the tax, and the department shall add to the tax the cost of the examina-
tion, together with any penalties accrued.

* Sec. 4. This Act takes effect July 1, 1982.

2012 5/10/82
H Rules

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution Number: CS for SB 856
Title: An Act relating to interest on delinquent taxes
Requested by: Finance Committee Date: May 5, 1982

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)

	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	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	-	700	700	700	700	700
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-

POSITIONS

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

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

See memo to R. D. Stevenson dated May 5, 1982.

IV. DATE: May 5, 1982

PREPARED BY: Robert R. Kessel
AGENCY: Audit Division
PHONE: 465-2320

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

Robert R. Kessel

STATE OF ALASKA
DEPARTMENT OF REVENUE

M E M O R A N D U M

TO: R. D. Stevenson
Special Assistant

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

DATE: May 5, 1982

RE: CS for SB 856 "An Act relating to interest on
delinquent taxes

Section 1 of the bill changes the interest rate on delinquent taxes from 8% to 12% a year. There has not been a change in interest rates since 1976 and this section brings the interest into closer conformity with the real world of interest rates. For example, CD's now go for 13% and IRS charges 20% for delinquent taxes.

The Department believes that taxpayers entitled to refunds should be entitled to an interest rate equivalent to that charged delinquent taxpayers.

Section 2 of the bill provides that equity by applying the interest rate of 12% to overpayments of tax.

Section 3 relates the interest rate for delinquent oil and gas property production to the rate charged for other taxes. The current rate is 6%.

RRK/gb

Offered: 4/16/82
Referred: Rules

Original sponsor: Rules/Legislative Budget
and Audit Committee

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 856 (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 interest on delinquent taxes; and
7 providing for an effective date."

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

9 * Section 1. AS 43.05.225 is amended to read:

10 Sec. 43.05.225. INTEREST ON TAXES. Unless otherwise provided,
11 when a tax levied in this title becomes delinquent it bears interest at
12 the rate of 12 [EIGHT] percent a year.

13 * Sec. 2. AS 43.05.280(a) is amended to read:

14 (a) Interest shall be allowed and paid on any overpayment of a tax
15 under this title at the rate prescribed in AS 43.05.225 [OF EIGHT PER-
16 CENT A YEAR].

17 * Sec. 3. AS 43.55.060 is amended to read:

18 Sec. 43.55.060. DELINQUENCY. When the tax provided for in this
19 chapter becomes delinquent, it bears interest at the rate provided under
20 AS 43.05.225 [OF SIX PERCENT A YEAR]. If any person fails to make a
21 report required by this chapter, within the time prescribed by law for
22 the report, the department shall examine the books, records and files of
23 the person to determine the amount and value of the production to compute
24 the tax, and the department shall add to the tax the cost of the examina-
25 tion, together with any penalties accrued.

26 * Sec. 4. This Act takes effect July 1, 1982.

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Introduced: 3/12/82
Referred: Finance

BY THE RULES COMMITTEE
BY REQUEST OF THE LEGISLATIVE
BUDGET AND AUDIT COMMITTEE

1 IN THE SENATE

2 SENATE BILL NO. 856

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 interest on delinquent oil and gas
7 properties production taxes; and providing for an
8 effective date."

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

10 * Section 1. AS 43.55.060 is amended to read:

11 Sec. 43.55.060. DELINQUENCY. When the tax provided for in this
12 chapter becomes delinquent, it bears interest at the rate provided under
13 AS 45.45.010(a) [OF SIX PERCENT A YEAR]. If any person fails to make a
14 report required by this chapter, within the time prescribed by law for
15 the report, the department shall examine the books, records and files of
16 the person to determine the amount and value of the production to compute
17 the tax, and the department shall add to the tax the cost of the examina-
18 tion, together with any penalties accrued.

19 * Sec. 2. This Act takes effect July 1, 1982.
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THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. Senate Bill 856 - introduced March 12, 1982
Title Act relating to interest on delinquent taxes; effective date
Requested by Legislative Budget and Audit Committee Date March 19, 1982

II. FISCAL DETAIL
Agency Affected Department of Revenue
Program Category Affected None
BRU, Program, Or Subprogram(s) Affected None
(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	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	423.0	250.0	250.0	200.0	200.0
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER (Specify Source)	-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 Instruction, Section III)

In 1979 the Department substantially increased its audit and compliance efforts concerning tax obligations arising under AS 43.55. The forecasted downward trend of revenue (funding) reflects an anticipated decrease in the average annual delinquent taxes subject to interest under AS 43.55.060.

IV. DATE March 24, 1982 PREPARED BY AP E. Nelson
AGENCY Department of Revenue
Original: Legislative Finance PHONE 277-5627
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

SB 856

This CS was
proposed by the
Dept., but was
not passed out
or considered
by the committee.

IN THE HOUSE

BY THE RULES COMMITTEE
BY REQUEST OF THE GOVERNOR

Proposed Committee Substitute
House Bill No. 93

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE - SECOND SESSION
A BILL

1 For an Act entitled: "An Act making technical amendments relating to state
2 taxation; and providing for an effective date."

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

4 * Section 1. AS 16.05.050(12) is amended to read:

5 (12) not later than January [MARCH] 31 of each year, provide
6 to the commissioner of revenue the names of those fish and shell fish
7 species which he designates as developing commercial fish species for
8 that calendar year [THE FOLLOWING FISCAL YEAR OF THE STATE]; a fish or
9 shellfish species is a developing commercial fish species if, within a
10 specified geographical region,

11 (A) the optimum yield from the harvest of the species
12 has not been reached;

13 (B) a substantial portion of the allowable harvest of
14 the species has been allocated to fishing vessels of a foreign
15 nation; or

16 (C) a commercial harvest of the fish species has
17 recently developed.

18 * Sec. 2. AS 43.40.030(b) is amended to read:

19 (b) The entire tax levied by AS 43.40.010 -- 43.40.100 shall be
20 refunded to the purchaser on that part of the motor fuel used in a
21 foreign country on which the tax has been [DUTY IS] paid when the fuel
22 is sold and delivered in the state for nonhighway use in a foreign
23 country.

24 * Sec. 3. AS 43.05.225 is amended to read:

25 INTEREST ON TAXES. Unless otherwise provided, when a tax levied
26 in this title becomes delinquent it bears interest at the rate
27 of twelve [EIGHT] percent a year.

28 * Sec. 4. AS 43.05.280 is amended to read:

29 INTEREST ON OVERPAYMENTS. (a) Interest shall be allowed and paid on
30 any overpayment of a tax under this title at the rate prescribed in
31 AS 43.05.225 [OF EIGHT PERCENT A YEAR].
32

- 1 * Sec. 5. AS 43.55.060 is amended to read:
2 Delinquency. When the tax provided for in this chapter becomes
3 delinquent, it bears interest at the rate prescribed in AS 43.05.225
4 [OF SIX PERCENT A YEAR]. If any person fails to make a report required
5 by this chapter, within the time prescribed by law for the report, the
6 department shall examine the books, records and files of the person to
7 determine the amount and value of the production to compute the tax,
8 and the department shall add to the tax the cost of the examination,
9 together with any penalties accrued.
- 10 * Sec. 6. AS 43.20.172 is repealed.
- 11 * Sec. 7. AS 44.62.330(a)(20) is repealed.
- 12 * Sec. 8. The designation of developing commercial fish species required
13 to be made not later than January 31, 1983 under AS 16.05.050(12), as
14 amended in sec. 1 of this Act, supersedes the designation of developing
15 commercial fish species for the fiscal year ending June 30, 1983.
- 16 * Sec. 9. Those changes to the investment tax credit provisions of sec.
17 38 of the Internal Revenue Code (26 U.S.C. § 38) enacted by the
18 Economic Recovery Tax Act of 1981 are made effective at the time
19 prescribed by Federal law, notwithstanding the fact that the provisions
20 will be made retroactive to the effective dates in the Federal law and
21 notwithstanding the delayed incorporation provisions of AS
22 43.20.021(a). Nothing herein modifies the limitations and conditions
23 on the Alaska investment tax credit set out in AS 43.20.036(b).
- 24 * Sec. 10. Section 9 of this Act is retroactive to the effective dates
25 of Section 211 of the Economic Recovery Tax Act of 1981.
- 26 * Sec. 11. Sections 2 - 5 of this Act are retroactive to
27 January 1, 1982.
- 28 * Sec. 12. Sections 1 and 8 of this Act take effect on January 1, 1983.
- 29 * Sec. 13. Sections 2 - 7 and Section 9 of this Act take effect
30 immediately in accordance with AS01.10.070(c).
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STATE OF ALASKA

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

JUNEAU, ALASKA 99811

March 9, 1982

RECEIVED
MAR 10 1982

BUDGET/AUDIT
COMMITTEE

TO: Senator Arliss Sturgulewski
Chairman
Legislative Budget and Audit Committee

FROM: *MLP*
Gerald L. Wilkerson, CPA
JW Legislative Auditor
Division of Legislative Audit

SUBJECT: Background Information Pertaining to
"An Act Relating to Interest on Delinquent
Oil and Gas Properties Production Taxes"

AS 44.55.060 presently stipulates that when an oil (or gas) production tax becomes delinquent, it bears interest at the rate of 6 percent a year.

This amendment would increase the interest rate to 10.5 percent which is presently the legal rate of interest in the State.

Attachment

COMMITTEE REPORT

HOUSE

(11)

FURTHER:

4/22/82

Date: 5/5/82

Mr. Speaker:

The Committee on FINANCE has had CSSB 6,6(Fin)

"An Act relating to interest on delinquent taxes; and providing for an effective date."

under consideration and reports it back as follows:

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

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

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[Signature]

CHAIRMAN

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolutor Number: CS for SB 856

Title: An Act relating to interest on delinquent taxes

Requested by: Finance Committee

Date: May 5, 1982

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)

	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	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	-	700	700	700	700	700
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-

POSITIONS

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

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

See memo to R. D. Stevenson dated May 5, 1982.

IV. DATE: May 5, 1982

PREPARED BY: Robert R. Kessel

AGENCY: Audit Division

PHONE: 465-2320

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

Robert R. Kessel

STATE OF ALASKA
DEPARTMENT OF REVENUE

M E M O R A N D U M

TO: R. D. Stevenson
Special Assistant

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

DATE: May 5, 1982

RE: CS for SB 856 "An Act relating to interest on
delinquent taxes

Section 1 of the bill changes the interest rate on delinquent taxes from 8% to 12% a year. There has not been a change in interest rates since 1976 and this section brings the interest into closer conformity with the real world of interest rates. For example, CD's now go for 13% and IRS charges 20% for delinquent taxes.

The Department believes that taxpayers entitled to refunds should be entitled to an interest rate equivalent to that charged delinquent taxpayers.

Section 2 of the bill provides that equity by applying the interest rate of 12% to overpayments of tax.

Section 3 relates the interest rate for delinquent oil and gas property production to the rate charged for other taxes. The current rate is 6%.

RRK/gb

Offered: 4/16/82
Referred: Rules

Original sponsor: Rules/Legislative Budget
and Audit Committee

1 IN THE SENATE BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 856 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

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17 * Sec. 3. AS 43.55.060 is amended to read:

18 Sec. 43.55.060. DELINQUENCY. When the tax provided for in this
19 chapter becomes delinquent, it bears interest at the rate provided under
20 AS 43.05.225 [OF SIX PERCENT A YEAR]. If any person fails to make a
21 report required by this chapter, within the time prescribed by law for
22 the report, the department shall examine the books, records and files of
23 the person to determine the amount and value of the production to compute
24 the tax, and the department shall add to the tax the cost of the examina-
25 tion, together with any penalties accrued.

26 * Sec. 4. This Act takes effect July 1, 1982.

27

28

29

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. Senate Bill 856 - introduced March 12, 1982
Title Act relating to interest on delinquent taxes; effective date
Requested by Legislative Budget and Audit Committee Date March 19, 1982

II. FISCAL DETAIL
Agency Affected Department of Revenue
Program Category Affected None
BRU, Program, Or Subprogram(s) Affected None
(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)

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700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	423.0	257.0	250.0	200.0	200.0
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER (Specify Source)	-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 Instruction, Section III)

In 1979 the Department substantially increased its audit and compliance efforts concerning tax obligations arising under AS 43.55. The forecasted downward trend of revenue (funding) reflects an anticipated decrease in the average annual delinquent taxes subject to interest under AS 43.55.060.

IV. DATE March 24, 1982 PREPARED BY AP & A. [Signature]
AGENCY Department of Revenue
Original: Legislative Finance PHONE 277-5627

STATE OF ALASKA

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

JUNEAU, ALASKA 99811

March 9, 1982

RECEIVED
MAR 10 1982

BUDGET/AUDIT
COMMITTEE

TO: Senator Arliss Sturgulewski
Chairman
Legislative Budget and Audit Committee

FROM: *MPA*
Gerald L. Wilkerson, CPA
sw Legislative Auditor
Division of Legislative Audit

SUBJECT: Background Information Pertaining to
"An Act Relating to Interest on Delinquent
Oil and Gas Properties Production Taxes"

AS 44.55.060 presently stipulates that when an oil (or gas) production tax becomes delinquent, it bears interest at the rate of 6 percent a year.

This amendment would increase the interest rate to 10.5 percent which is presently the legal rate of interest in the State.

Attachment

STATE OF ALASKA
DEPARTMENT OF REVENUE

M E M O R A N D U M

TO: R. D. Stevenson
Special Assistant

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

DATE: May 5, 1982

RE: CS for SB 856 "An Act relating to interest on
delinquent taxes

Section 1 of the bill changes the interest rate on delinquent taxes from 8% to 12% a year. There has not been a change in interest rates since 1978 and this section brings the interest into closer conformity with the real world of interest rates. For example, CD's now go for 13% and IRS charges 20% for delinquent taxes.

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Section 2 of the bill provides that equity by applying the interest rate of 12% to overpayments of tax.

Section 3 relates the interest rate for delinquent oil and gas property production to the rate charged for other taxes. The current rate is 6%.

RRK/gb

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution Number: CS for SB 856

Title: An Act relating to interest on delinquent taxes

Requested by: Finance Committee

Date: May 5, 1982

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)

	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	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	-	700	700	700	700	700
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-

POSITIONS

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

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

See memo to R. D. Stevenson dated May 5, 1982.

IV. DATE: May 5, 1982

PREPARED BY: Robert R. Kessel

AGENCY: Audit Division

PHONE: 465-2320

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

COMMITTEE REPORT
SENATE

3/15/82

FURTHER: Finance

Date: 4-21-82

Mr. President: HEALTH, EDUCATION & SOCIAL SERVICES
The Committee on SOCIAL SERVICES has had SB 858
licensing of child care facilities and certification of pre-elementary school programs

+ reports it back as follows

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 _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]
[Signature]

[Signature]

CHAIRMAN

No all

Introduced: 3/15/82
Referred: Health, Education &
Social Services and Finance

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

1 IN THE SENATE

2 SENATE BILL NO. 858

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 the licensing of child care facili-
7 ties and certification of pre-elementary school pro-
8 grams; and providing for an effective date."

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

10 * Section 1. AS 14.07.020(8) is repealed and reenacted to read:

11 (8) in cooperation with the Department of Health and Social
12 Services, exercise general supervision over the educational component of
13 a public or private child care center or child care home that is licensed
14 under AS 47.35.010 - 47.35.080 and whose educational program is certi-
15 fied by the department;

16 * Sec. 2. AS 47.35.010 is amended to read:

17 CHAPTER 35. COMMUNITY CARE FACILITIES [PRIVATE INSTITUTIONS].

18 ARTICLE 1. FOSTER HOMES, RESIDENTIAL FACILITIES FOR
19 CHILDREN AND DEPENDENT ADULTS, AND CHILD CARE FACILITIES

20 [BOARDING HOMES, AND INSTITUTIONS FOR CHILDREN].

21 Sec. 47.35.010. POWERS OF DEPARTMENT. (a) The department may

22 (1) license and supervise facilities [BOARDING HOMES, FOSTER
23 HOMES, GROUP HOMES, NURSERIES, INSTITUTIONS CARING FOR CHILDREN AND
24 FOSTER HOMES, GROUP HOMES AND INSTITUTIONS CARING FOR DEPENDENT ADULTS];

25 (2) investigate and supervise licensees;

26 (3) enforce the standards established by it;

27 (4) contract with private or municipal agencies to investi-
28 gate and make recommendations to the department for the licensing and
29 supervision of facilities [BOARDING HOMES, FOSTER HOMES, GROUP HOMES,

1 NURSERIES, INSTITUTIONS CARING FOR CHILDREN AND FOSTER HOMES, GROUP
2 HOMES AND INSTITUTIONS CARING FOR DEPENDENT ADULTS] under procedures and
3 standards of operation established by the department.

4 (b) The department shall, within 90 days after receiving a written
5 request [THAT IT DO SO], delegate its powers relating to child care
6 centers and child care homes [NURSERIES] under this section and under
7 AS 47.35.040, 47.35.050 and 47.35.060 to a municipality that [WHICH] has
8 adopted an ordinance providing for child [DAY] care licensing under home
9 rule powers or as authorized under AS 29.48.035(a)(20). A municipality
10 to which these powers have been delegated may waive or modify any regula-
11 tion or standard established by the department under the authority of
12 AS 47.35.010 - 47.35.080 as it applies to child care centers or child
13 care homes [NURSERIES] or the application of any such regulation or
14 standard as it applies to a particular child [DAY] care licensee but
15 must notify the department of any waiver.

16 * Sec. 3. AS 47.35.020 is repealed and reenacted to read:

17 Sec. 47.35.020. LICENSE REQUIRED. Unless licensed under this
18 chapter a person, including a municipality, may not

19 (1) maintain or conduct a child foster home, residential
20 child care facility, or other place for the regular reception or care of
21 children under 16 years of age;

22 (2) maintain or conduct a foster home or adult residential
23 care facility for the care of dependent adults; or

24 (3) engage in the business of receiving or caring for children
25 under 14 years of age in a child care center or child care home lodging
26 five or more children unrelated by blood, marriage, or legal adoption to
27 the owner, operator, or manager of the business.

28 * Sec. 4. AS 47.35.030 is amended to read:

29 Sec. 47.35.030. AUTHORITY TO ISSUE REGULATIONS. The department

1 may adopt regulations and standards consistent with other requirements
2 of law. The department may not prohibit [THIS AUTHORITY DOES NOT DENY]
3 a religious group from establishing and operating a facility [AN INSTI-
4 TUTION] solely because of the prior installation or operation of another
5 religious group in the same area. [THE AUTHORITY TO ADOPT REGULATIONS
6 AND STANDARDS SHALL BE EXERCISED TO INSURE COMPLIANCE WITH THE INTENTS
7 AND PURPOSE OF THIS CHAPTER.] The department may inspect and examine an
8 institution, home or place, or the performance of a service.

9 * Sec. 5. AS 47.35.060 is amended to read:

10 Sec. 47.35.060. RECORDS REQUIRED. Each licensee [OR PERMIT HOLDER]
11 shall keep records regarding each child or adult in its control and
12 care, or placed by it, which the department prescribes, and shall report
13 to the department the facts which the department requires with reference
14 to the children or adults. All records regarding individuals placed for
15 care in a facility [AN INSTITUTION OR HOME] under this chapter are
16 confidential and shall be safeguarded from improper disclosure by the
17 agency or department.

18 * Sec. 6. AS 47.35.075 is amended to read:

19 Sec. 47.35.075. LICENSURE OF PROVIDERS OF CARE FOR DEPENDENT
20 ADULTS BY MUNICIPALITIES. A first or second class borough or a first or
21 second class city outside a first or second class borough may license
22 and supervise facilities [INSTITUTIONS] caring for dependent adults. If
23 a borough or city chooses not to license care providers for dependent
24 adults, the department shall be the licensing authority; if a borough or
25 city chooses to license care providers for dependent adults, the borough
26 or city may exercise any power or responsibility granted to the depart-
27 ment under this chapter and shall enforce standards and regulations
28 adopted by the department under AS 47.35.030.

29 * Sec. 7. AS 47.35.080 is amended by adding new paragraphs to read:

1 (6) "adult foster home" means an occupied residence in which
2 24-hour care is provided for not more than five residents, who because
3 of age, infirmities, or handicaps, require continuous accommodations and
4 care, and the immediate availability of the foster care provider;

5 (7) "adult residential care facility" means a place providing
6 24-hour care for an adult resident who, because of age, infirmities,
7 pregnancy, or handicaps, requires continuous accommodations and care,
8 and the immediate availability of care providers;

9 (8) "child care center" means a place providing regular care
10 for any part of a day, supervision, guidance, or education for a child
11 unrelated by blood, marriage, or adoption to the operator of the center;

12 (9) "child care home" means an occupied residence providing
13 regular care for any part of a day, supervision, guidance, or education
14 for not more than 10 children, some of whom are not related by blood,
15 marriage, or adoption to the operator of the home;

16 (10) "child foster home" means an occupied residence in which
17 24-hour care is regularly provided for not more than five children who
18 are not related by blood, marriage, or adoption to the foster parent;

19 (11) "facility" means an adult foster home, adult residential
20 care facility, child care center, child care home, child foster home, or
21 residential child care facility;

22 (12) "residential child care facility" means a facility that
23 provides 24-hour care for a child unrelated by blood, marriage, or
24 adoption to the operator of the facility.

25 * Sec. 3. AS 47.35.090 is amended to read:

26 Sec. 47.35.090. LICENSING AND SUPERVISION OF MATERNITY HOMES.
27 Maternity homes shall be licensed and supervised in the same manner as
28 facilities under [BOARDING HOMES OR FOSTER HOMES, NURSERIES AND OTHER
29 INSTITUTIONS CARING FOR CHILDREN AS PROVIDED IN] AS 47.35.010 - 47.35.-

COMMITTEE COPY

1 080. In this section "maternity home" means an institution or place of
2 residence whose primary function is to give care to pregnant girls or
3 women, regardless of age, before or during confinement, or which provides
4 care, as needed, to mothers and their infants after confinement [, WITH
5 OR WITHOUT COMPENSATION].

6 * Sec. 9. AS 47.35.080(1) and (3) - (5) are repealed.

7 * Sec. 10. This Act takes effect immediately in accordance with AS 01.10.-
8 070(c).

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COMMITTEE COPY

ALASKA STATE LEGISLATURE

TWELFTH. Legislature SECOND.. Session

SENATE ... BILL..... NO. 856...

By THE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

"An Act relating to the licensing of child care facilities and certification of pre-elementary school programs; and providing for an effective date."

Introduced in the Senate ..3/15/., 19...82

HISTORY IN THE SENATE

19	82	Read first time and referred to Committee on										
3	15	HESS and Finance										
4	23	Reported back with recommendation that <i>Hess - 2 Nays, 1 do pass to win</i>										
		Read second time and										
		Read third time and										
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		Reported correctly engrossed										
		Signed by President										
		Sent to House										
SECRETARY OF THE SENATE												

HISTORY IN THE HOUSE

19	Read first time and referred to Committee on										
	Reported back with recommendation that										
	Read second time and										
	Read third time and										
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Excused	Excused										
	Reported correctly engrossed										
	Signed by Speaker										
	Returned to Senate										
CHIEF CLERK OF THE HOUSE											

HISTORY IN THE SENATE

19	Received from House
	To enrolling
	Reported correctly enrolled
	Sent to Governor
 by Governor
	Filed with Lt. Governor
	Chapter No.

DEPARTMENT OF EDUCATION
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
POSITION PAPER

SENATE BILL NO. 858

"An Act relating to the licensing of child care facilities and certification of pre-elementary programs; and providing for an effective date."

The Department of Education and the Department of Health and Social Services support Senate Bill No. 858, which will change the statutory requirements of the two departments in the licensing and certification of pre-elementary school programs.

The statutory changes and the resultant procedures for meeting the statutory requirements will address the issues identified in the report by the Division of Internal Audit entitled "The Department of Education Needs to Improve Management of Preschool Programs." The changes provide a definition for pre-elementary school programs and ensure that standards for basic care, protection, adequate program, and opportunities for development are applied uniformly for all populations of preschool children receiving services in public and private child care facilities. The changes also ensure that educational standards have been met by facilities certified as pre-elementary schools.

The major proposed change in the Department of Education's statute is a redefinition of pre-elementary schools. This change also brings basic care and protection to children in these schools under the licensing authority of the Department of Health and Social Services.

Under the proposed statutes, the Department of Education will certify pre-elementary school programs. Certification will be voluntary. The standards employed in the certification process will be developed by a task force made up of representatives from the Department of Education, the Department of Health and Social Services, and the Department of Community and Regional Affairs. The task force will also include persons from the regional chapters of the National Association for the Education of Young Children and others involved in early childhood education. A peer monitoring approach will be employed in the certification process.

The major proposed change in the licensing statute administered by the Department of Health and Social Services is in the definitions. The term "nursery" has been changed to "child care center" and "child care home." The exemption for programs that are primarily educational is eliminated. The other proposed facility definitions are updated to more accurately represent the different kinds of facilities subject to the statute. Another proposed change would extend the licensing requirements to facilities operated by municipalities, including all public school district operated pre-school programs and before and after school care programs for school aged children who are regularly in care for more than seven hours per day.

POSITION PAPER

SENATE BILL NO. 858


PAGE 2

The Department of Health and Social Services recommends three amendments to the Bill. AS 47.35.040 in the licensing statute should also be amended by the insertion of the word "facility" in two places, and the removal of the terms "boarding home, foster home, group home, nursery, or institution." Section 7 on Page 3, Line 29, of the Bill should be changed to be a repeal of the existing terms in the licensing statute. AS 47.35.080 should be re-enacted in Section 7 to include the updated definitions of the different kinds of facilities that are listed on Page 4 of the Bill. Finally, the definition for a "residential child care facility" should be changed to mean a place rather than a facility that provides 24-hour care for a child unrelated by blood, marriage, or adoption to the operator of the facility. These suggested changes should bring about greater internal consistency in the Bill and improve clarity by eliminating definitions that are no longer needed.

A survey conducted by the Division of Internal Audit resulted in a listing of 127 pre-schools which are not currently licensed by the Department of Health and Social Services nor certified by the Department of Education. There are an additional 31 head start operations that were not included in the listing, for a total of 158 pre-school facilities that are not licensed or certified. A significant number of pre-school sites are in rural locations. This additional licensing workload will require the equivalent of three full time licensing specialists.

The revised statutes will reduce the risk to children receiving care in unregulated facilities. They will ensure that basic standards for care, protection, adequate program, and opportunities for development are equally applied to all facilities.


The licensing of facilities by the Department of Health and Social Services and the certification of pre-elementary school programs by the Department of Education will provide a measure of parent-consumer protection and protection for children not existent under the current statutes.



Helen D. Beirne, Commissioner
Department of Health and Social Services

3-22-02

Date



Marshall Lind, Commissioner
Department of Education

3/22/02

Date

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill No. 858
 Title Licensing of Child Care Facilities & Certification of Pre-Schools
 Requested by HESS Committee Date 03/16/82

II. FISCAL DETAIL

Agency Affected Department of Health and Social Services
 Program Category Affected Social Services
 BRU, Program, Or Subprogram(s) Affected Family Services BRU
 (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		118.3	128.9	140.5	153.1	166.9
200 TRAVEL		20.0	21.8	23.8	25.9	28.2
300 CONTRACTUAL		12.2	13.3	14.5	15.8	17.2
400 COMMODITIES		1.4	1.5	1.6	1.7	1.9
500 EQUIPMENT		4.8	0	0	0	0
600 LAND & STRUCTURES		0	0	0	0	0
700 GRANTS, CLAIMS, ETC.		0	0	0	0	0
TOTAL		156.7	165.5	180.4	196.5	214.2

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		156.7	165.5	180.4	196.5	214.2
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

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

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

Enactment of this Bill will require establishment of the following positions to license the estimated 150 preschool programs currently not regulated:

- Southcentral Region - 1-FT Community Care Licensing Specialist I
- Northern Region - 1-FT Community Care Licensing Specialist I
- Southeastern Region - 1-PT Community Care Licensing Specialist I
- Southern Region - 1-PT Community Care Licensing Specialist I

For the Western Region and the Northwestern Region, existing staff will be required to license more facilities, necessitating increased travel, contractual, and commodity expenditures.

IV. DATE 2/24/82

John R. Pugh
 PREPARED BY John R. Pugh, Director
 AGENCY Division of Family & Youth Services
 PHONE 465-3170

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

fcc

FY 83 - Community Care Licensing Specialist I, Range 16

	SCRO	NRO	SERO	SRO	WRO	NWRO	TOTAL
100 Personal Services	37.5	43.2	18.8	18.8	0	0	118.3
200 Travel	5.0	6.5	2.0	2.0	2.0	2.5	20.0
300 Contractual Telephone Copier Usage Office Space	3.1	3.1	2.9	2.9	.1	.1	12.2
400 Commodities	.4	.4	.2	.2	.1	.1	1.4
500 Equipment Desk Chair Files	1.2	1.2	1.2	1.2	0	0	4.8
TOTAL	47.2	54.4	25.1	25.1	2.2	2.7	156.7

SCRO 1 FT

100 Personal Services	Salary \$2463. per mo. x 12	\$29,556.00	
	Benefits 665. per mo. x 12	7,980.00	
		<u>\$37,536.00</u>	37.5
200 Travel	License Review and Studies 15 Communities	\$5,000.00	5.0
300 Contractual	Telephone @ \$10. per mo. x 12	\$ 120.00	
	Copier Usage @ \$20. per mo. x 12	240.00	
	Office Space	2,700.00	
		<u>\$3,060.00</u>	3.1
400 Commodities	General Office Supplies	\$400.00	.4
500 Equipment	Desk	\$ 575.00	
	Chair	257.00	
	File Cabinet	337.00	
		<u>\$1,169.00</u>	1.2
			<u>47.2</u>

NRO 1 FT

100 Personal Services	Salary \$2,838. per mo. x 12	\$34,056.00	
	Benefits 766. per mo. x 12	9,192.00	
		<u>\$43,248.00</u>	43.2
200 Travel	License and Review Studies 13 Communities	\$6,500.00	6.5
300 Contractual	Telephone @ \$10. per mo. x 12	\$ 120.00	
	Copier Usage @ \$20. per mo. x 12	240.00	
	Office Supplies	2,700.00	
		<u>\$3,060.00</u>	3.1

400 Commodities	General Office Supplies	\$400.00	.4
500 Equipment	Desk	\$ 575.00	
	Chair	257.00	
	File Cabinet	337.00	
		<u>\$1,169.00</u>	1.2
			<u>54.4</u>

SRO AND SERO - 1/2 TIME

100 Personal Services	Salary \$2463. per mo. x 6	\$14,778.00	
	Benefits 665. per mo. x 6	3,990.00	
		<u>\$18,768.00</u>	18.8
200 Travel	License Studies and Reviews	\$2,000.00	2.0
300 Contractual	Telephone @ \$10./mo. x 12	\$ 120.00	
	Copier Usage @ \$10./mo. x 12	120.00	
	Office Space	2,700.00	
		<u>\$2,940.00</u>	2.9
400 Commodities	General Office Supplies	\$ 200.00	.2
500 Equipment	Desk	\$ 575.00	
	Chair	257.00	
	File Cabinet	337.00	
		<u>\$1,169.00</u>	1.2
			<u>25.1</u>

WRO AND NWRO - NO NEW POSITIONS

100 Personal Services		0
200 Travel	NWRO	2.5
	WRO	2.0
300 Contractual	Copier Usage @ 5/mo. x 12	.1
400 Commodities	General Office Supplies	.1
500 Equipmen.		0

COMMUNITY CARE FACILITY LICENSING

The intent of the licensing program is to provide equal protection and opportunity to children and dependent adults who must spend part of the day away from their families or who must live apart from their families. Licensing establishes a floor of quality which must be enforced equally ensuring a basic level of care and protection, adequate programs, and opportunity for development. The rights of those regulated include the right to notice of the requirements, notice of non-compliances and reasonable time limits for corrections, receiving information on how to achieve correction, and access to administrative hearings and court decisions. The Division also offers substantial technical assistance to new programs and to programs that have experienced difficulties following licensure.

The licensing process is relatively lengthy. In some communities there are monthly or semi-monthly meetings to familiarize potential applicants with licensing requirements and procedures. An applicant then submits an application form and supporting documents which may include a report of a tuberculosis test, references, occasionally a report of a physical examination, and authorization to conduct a criminal history check. In home-sized facilities the applicant is then visited by a licensing specialist who inspects the home and discusses the applicant's plans to meet the nutrition, health, and developmental needs of persons in care, handling emergencies, methods of dealing with parents in family day care and agency expectations in foster homes. For the larger facilities the specialist also requests inspections by appropriate fire safety and environmental health authorities.

The on-site program assessment is more complex. It necessitates interviews with the operator, staff, residents, and children, when appropriate. File reviews are also conducted to assess whether staff meet personnel qualifications and if children's records are in order. Generally, within 60 days of receipt of an application and after the study and inspection to verify compliance with standards, a license is issued. There are no fees for a State license.

Licensing studies are performed largely by community care specialists located in the Division's six regional offices. A few are performed by Division field office staff and approved public and private agency staff for child foster homes. The number of facilities per specialist does not properly reflect the community care licensing specialists' load. In January, 1982, there were 1,156 licensed facilities with a capacity of 8,943. The turnover rate of new facilities coming on (opening ??) and facilities closing is 50% of the total facilities over a one year period. The number of licenses that will require an age or capacity amendment during one year is 25%. Two-thirds (2/3) of the facilities are provisionally licensed first and then converted to annual licensure. In addition, 64 waiver requests were processed during 1981 and 134 complaint/allegations were investigated. A load of 50 facilities per specialist is as high as is considered appropriate, given the turnover rate, the necessity to provide technical assistance, process amendments and waivers, and investigate complaints. In the Northern Region, the Southern Region, and the Southeast Region, specialists are carrying a facility load which is double what is considered acceptable to be able to ensure adequate protection to persons in care.

Specialists also provide professional consultation to facilities and agencies to upgrade the quality of services. Because of their unique position of knowledge about community facilities, they also serve as referral resources to families, social service staff, and others in selecting an appropriate facility for an individual child or adult and in stimulating related community support services for facilities and agencies.

COMMUNITY CARE LICENSING SPECIALIST FACILITY LOADS

STATEWIDE

<u>Month</u>	<u>Year</u>	<u>Facilities</u>	<u>Capacity</u>
January	1977	895	5,646
	1978	Unknown	Unknown
	1979	Unknown	Unknown
January	1980	1,039	7,042
January	1981	1,055	7,557
January	1982	1,156	8,943

Turnover rate of facilities closing and opening in one year	-	50%
License amendments age capacity in one year	-	25%
Facilities in provision status prior to conversion to annual license	-	66 2/3%
Waivers in one year	-	5%

Specialist loads listed below do not include the turnover rate, license amendments, and provisional licensing.

SOUTHCENTRAL REGION

<u>Month</u>	<u>Year</u>	<u>Facilities</u>	<u>Capacity</u>
January	1980	471	
January	1981	523	
January	1982	586	5,206

Specialist Loads - Seven (7) Specialists

161 Family Day Care Homes Anchorage (152), Wasilla (9); Region Total 178
 60 Day Care Centers
 21 Residential Child Care Facilities
 25 Adult Residential Care Facilities
 126 Child Foster Homes Anchorage (83), Wasilla (43); Region Total 302
393 56.14 Facilities/Specialist

NOTE: 58% of the State's licensed capacity is in Anchorage. 51% of the facilities.

Complaint Investigations - Anchorage, 1981

22 FDC Licensed
 18 FDC Not Licensed
 29 DCC
 5 RCCF
 13 CFH
 5 ARCF
92

NWRO

One (1) Specialist

1980	92 Facilities
1981	50 Facilities
1982	41 Facilities

1	FDC
2	DCC
2	RCCF
1	ARCF
35	CFH (15) Outside of Nome
<u>41</u>	<u>Specialist</u>

No complaint investigation reports received for 1981.

SERO

One (1) Specialist (NOTE: Using $\frac{1}{2}$ time Social Worker II for family day care licensing. Worker also has a full case load.)

1980	108
1981	103
1982	135

16	DCC
60	FDC
4	RCCF
47	CFH (7) Outside of Juneau
1	ARCF
<u>128</u>	<u>Specialist</u>

No complaint investigation reports received for 1981.

WRO

One (1) Specialist

1980	125 Facilities
1981	106 Facilities
1982	71 Facilities

0	FDC
0	DCC (2 City Licensed)
58	CFH (6) Outside of Bethel
3	RCCF
2	ARCF
<u>63</u>	<u>Specialist</u>

No complaint investigation reports received for 1981.

NRO

Two (2) Specialists

1980	132 Facilities
1981	194 Facilities
1982	228 Facilities

79	FDC
22	DCC (1) City Licensed
76	CFH (121) Region Total
4	RCCF
2	ARCF
<u>183</u>	<u>91.51/Specialist</u>

Complaint Investigations for Fairbanks, 1981

9	FDC
7	CFH
13	DCC
<u>29</u>	Total

SRO

One (1) Specialist

1980	66 Facilities
1981	83 Facilities
1982	95 Facilities

7	DCC
30	FDC
3	RCCF
1	ARCF
54	FH
<u>95</u>	<u>Specialist</u>

SCHOOLS FROM THE
SURVEY RESPONSES - DISTRICTS

PRESCHOOL NAME <u>AVCP OR RURAL CAP RUN</u>	ADDRESS	TELEPHONE #
T&H Early Childhood Program	Craig, AK 99921	907-826-3240
Russian Mission	Russian Mission, AK 99657	
Marshall	Marshall, AK 99585	
Pilot Station	Pilot Station, AK 99650	
Mt. Village	Mt. Village, AK 99632	
Alakanuh	Alakanuh, AK 99554	
Emmorak	Emmorak, AK 99581	
Kotlik	Kotlik, AK 99620	
Sheldon Point	Sheldon Point, AK 99666	
Scammon Bay	Scammon Bay, AK 99662	
Hooper Bay	Hooper Bay, AK 99604	
King Cove School	Box 6 King Co. AK 99612	497-2354
Kiddie Kare, Inc.	Haines, AK 99827	766-2155
St. Marys Preschool I	St. Marys, AK 99658	438-2311
St. Marys Preschool II	St. Marys, AK 99658	438-2311
Totem land	2711 2nd/Box 8832	225-5005
	Ketchikan, AK 99901	or 225-3619
Kiddie Kollege Dayschool	3405 Baranof	225-2891
	Ketchikan, AK 99901	
The Nest Preschool	342 Stedman/Box 5157	225-4815
	Ketchikan, AK 99901	
Involved Parents Preschool	Bethel, AK 99559	543-2007
Bethel Social Services	Bethel, AK 99559	543-2447
Daycare		
AVCP Alaska Village	Bethel, AK 99559	543-3121
Council Presidents Preschool		
Bristol Bay Borough Preschool	P.O. Box 169	246-4225
	Nannek, AK 99633	
Wrangell Cooperative	Box 1411, Wrangell, AK	874-3141
Yakutat Preschool	Box 427, Yakutat, 99689	784-3318
Nome Preschool	Nome, AK	443-2943
Taracross	Taracross, AK 99776	
Walter Northway	Northway, AK 99764	883-6301
Barbara's Daycare	General Delivery Palmer	376-3471
Childrens Home	Palmer/Wasilla Ak	376-5924
		or 745-3318
Helens Day Care	Box 184 Wasilla AK	376-5845
Hobby Horse House	Box 590, Wasilla AK	376-2510
Don & Marian Huseby	SRB Box 178, Palmer AK	745-2371
Jans Nursery	Box 1223, Palmer AK	745-4419
Kiddie Kollege	Box 41, Palmer, AK	745-3889
Cynthia Thornlow	Box 253, Auklet, AK	745-4788
Willow Preschool		495-6252
Nenana Preschool	P.O. Box 127 Neanna, AK	832-5484
Community Schools	99760	
Bunnel House Child Care	316 Eielson Bldg. U of A	479-7335
	403 Salcha Fairbanks, Ak 99701	

Childcraft Center	250 C St. Fairbanks 99701	452-4820
College Day	Box 80962 Fbks. Ak 99701	479-2778
Discovery Center	1007 Evergreen Fbks 99701	456-7887
Eneput Childrens Center	Box 80452 College, AK 99708	479-6844
FBKS Native Association Inc. (JOM)	310 1/2 First Ave., Fbks, AK 99701	452-1648
FBKS Montessori Association	Box 981 Fbks, Ak 99701	479-2118
Family Headstart Assoc.	Box 724 Federal Station Fairbanks, Ak 99701	356-1212
First Baptist Church	Box 55249 North Pole, Ak 99705	488-2240
Child Development Center		
Hamilton Acres Baptist School	138 Farewell, Fbks, AK 99701	456-5995
Hutchinson DayCare	3750 Geist Fbks, AK 99701	479-2240
Lighthouse Christian Academy	2 mile Steese Highway Fairbanks, AK 99701	456-1781
Play-N-Learn Inc.	5477th Ave, Fbks, AK 99701	452-5997
Play-N-Learn Inc. West	1/4 mile Chence Pump Fbks 99701	479-5711
Young Learner Preschool	Box 80962, College, AK 99708	479-2778
Young Learner II Preschool	SR 40581 Fbks. AK 99701	479-5044
Wee Day Care	2830 Airport Way, Fbks Angoon Ak.	456-7560
Angoon Preschool(JOM)	Box 158 Sand Point, AK 99661	383-2696
Sand Point (JOM)	Allakaket, AK 99701	968-8001
Allakaket (JOM)	Hughes, AK 99745	889-8001
Hughes (JOM)	Huslia, AK 99746	829-8001
Huslia (Rural Cap)(JOM)	Kaltag, AK 99748	534-8001
Kaltag (Tanana Chiefs)	Noyukuk, AK 99754	927-8001
Noyukuk (JOM)	Minto, AK 99758	798-8001
Minto (JOM)	Ruby, AK 99768	468-4465
Ruby (Tanana Chief)	P.O. Box 6135, Ketchikan AK 99901	225-5710
Ketchikan Headstart		
North Slope Borough District		
Kawerak Headstart Program	Nome, AK	443-2513
Arctic Village Preschool (JOM)	Arctic Village, AK 99222	587-8001
Chalkyitsh Preschool	Chalkyitsh, AK	848-8001
Circle Preschool	Circle, Ak 99733	773-1250
Ft. Yukon Preschool	Box 129, Ft. Yukon, AK 99740	662-2352
Stevens Village Preschool	Stevens Village, AK 99774	478-8001
Venetie Preschool	Venetie, Ak 99781	849-8001
Kake Headstart	Kake, AK	785-3303
Ketchikan School District	White Cliff Elementary/Handicapped	
Hoonah Headstart	General Delivery Hoonah, AK	945-3255
Southeast Island School Dis.	Box 8340 Ketchikan, AK	225-9658
St. Paul Island (JOM)		
St. George Island (JOM)		
<u>ESEA TITLE 1 FUNDING</u>		
Aleknagik North Slope	Aleknagik, AK 99555	842-5681
Koliganek	Koliganek, AK 99576	596-8001
Manokotak	Manokotak, AK 99628	842-5978

New Stugahok	Stugahok, AK 99636	693-8001
Togiak ESEA TITLE 1 Fund.	Togiak, AK 99678	974-8001
Headstart Nursery	Haines, AK 99827	766-2155
Petersburg Preschool	Box 289, Petersburg, AK	772-4786
Ambler School ECE	Ambler, AK	445-2154
Buckland School ECE	Buckland, AK	449-2127
Deering School ECE	Deering, AK	363-2121
Kiana School ECE	Kiana, AK	475-2195
McQueen School ECE	Kiualina, AK	645-2125
Kobuk School ECE	Kobuk, AK	948-8001
Kotzebue Elem. School ECE	Kotzebue, AK	442-3342
Noatak School ECE	Noatak, AK	485-2135
Noorvik School ECE	Noorvik, AK	636-2100
Selawik School ECE	Selawik, AK	484-2142
Shungnak School ECE	Shungnak, AK	437-2151
Kotzebue Parent Child Center	Kotzebue, AK	442-3157

DISTRICT OPERATED

Shishmaref preschool	Shishmaref, AK 99772	649-3601
White Mountain School	White Mountain, AK 99784	625-8001
Koyuk	Koyuk, AK 99753	965-8001
Wales Preschool	Wales, AK 99783	664-3123
Teller Preschool	Teller, AK 99778	642-3161

Hydaburg Headstart	General Delivery Hydaburg, AK 99922	285-3105
Anchorage Montessori Sch.	1200 E. 27th Ave. 99503	276-2240
Carousel Child Care Center	6370 DeBarr Rd 99504	333-1231
East Park Christian School	1711 S. Bragan 99501	333-5279
Grace Baptist Academy	1801 E. 61th Ave. 99507	348-1643
Grace Christian School	Mile 1 Huftman Rd. 99507	345-3741
Hasbrouch's Celestial Daycare	Clestial St., Eagle River 99577	694-9342
Harvester Christian Academy	9101 Brayton Dr. 99557	344-0528
Kee's Kiddie Kare	240 N. Flower 99504	277-8943
Muldoon Christian School	7041 DeBarr Rd. 99504	337-9495
St. Benedict's Preschool	8110 Jewel Lake Rd 99502	248-2641
St. Elizabeth Ann Setan	Huffman & Garden 99507	345-3712
St. Mary's Creative Play	4502 Cassin Dr. 99577	272-8141
Soul Harvest	White Mountain, AK 99784	625-8001
Tom Thumb Montessori	2605 Fbks- 1901 Spenaru 99503	272-5033
Anchorage Christian Academy	7145 Madlelynne Dr. 99504	333-1414
Anchorage Christian Schools	6505 DeBarr Rd. 99504	333-5576
Anchorage 7th Day Adventist	SRA Box 1705 99507	344-3237
Faith Lutheran School	5205 Lake Otis Pkwy 99504	344-8977
Peter's Creek Christian	7102 Chapel Dr. 99567	688-2242
Eagle River Christian Academy	P.O. Box 205, Eagle River, AK	694-2089
Lutheran School Association	2100 Boniface Pkwy. 99504	338-3838
University Baptist Church	4313 Wright St. 99504	349-5997
Hilcrest Preschool	900 Hollywood Dr. 99511	272-9924
Herman Hutchins/DISTRICT	Valdez	
Juneau Christian School	8001 Glacier Highway Juneau	789-2176
Auke Bay Coop	12 mile Glacier Highway Jun.	789-9318
Children's Community Center	211 Cordova Juneau, AK	586-6764

St. Ann's Day Care	415 6th Avenue Juneau, AK	586-3883
Wee Cottage	Juneau	739-2611
Glacier Valley Baptist Sch.	2 mi. Mendenhall Loop RD.	789-7348
Northern Lights United Coop	400 W. 11th ST. Juneau	586-3131
Jack-n-Jill Nursery	342 Distin Ave Juneau	586-2980
Valley Baptist Academy	8205 Aspin	
Klawock	Klawock, AK 99925	755-2900
Tiny Tots Child Care Center	P.O. Box 805	895-4240
	Delta, Junction 99737	
Ft. Greely Child Care Center	Ft. Greely, Ak 98733	895-3394

Introduced: 3/15/82
Referred: Health, Education &
Social Services and Finance

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 SENATE BILL NO. 858

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 the licensing of child care facili-
7 ties and certification of pre-elementary school pro-
8 grams; and providing for an effective date."

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

10 * Section 1. AS 14.07.020(8) is repealed and reenacted to read:

11 (8) in cooperation with the Department of Health and Social
12 Services, exercise general supervision over the educational component of
13 a public or private child care center or child care home that is licensed
14 under AS 47.35.010 - 47.35.080 and whose educational program is certi-
15 fied by the department;

16 * Sec. 2. AS 47.35.010 is amended to read:

17 CHAPTER 35. COMMUNITY CARE FACILITIES [PRIVATE INSTITUTIONS].

18 ARTICLE 1. FOSTER HOMES, RESIDENTIAL FACILITIES FOR
19 CHILDREN AND DEPENDENT ADULTS, AND CHILD CARE FACILITIES

20 [BOARDING HOMES, AND INSTITUTIONS FOR CHILDREN].

21 Sec. 47.35.010. POWERS OF DEPARTMENT. (a) The department may

22 (1) license and supervise facilities [BOARDING HOMES, FOSTER
23 HOMES, GROUP HOMES, NURSERIES, INSTITUTIONS CARING FOR CHILDREN AND
24 FOSTER HOMES, GROUP HOMES AND INSTITUTIONS CARING FOR DEPENDENT ADULTS];

25 (2) investigate and supervise licensees;

26 (3) enforce the standards established by it;

27 (4) contract with private or municipal agencies to investi-
28 gate and make recommendations to the department for the licensing and
29 supervision of facilities [BOARDING HOMES, FOSTER HOMES, GROUP HOMES,

1 NURSERIES, INSTITUTIONS CARING FOR CHILDREN AND FOSTER HOMES, GROUP
2 HOMES AND INSTITUTIONS CARING FOR DEPENDENT ADULTS] under procedures and
3 standards of operation established by the department.

4 (b) The department shall, within 90 days after receiving a written
5 request [THAT IT DO SO], delegate its powers relating to child care
6 centers and child care homes [NURSERIES] under this section and under
7 AS 47.35.040, 47.35.050 and 47.35.060 to a municipality that [WHICH] has
8 adopted an ordinance providing for child [DAY] care licensing under home
9 rule powers or as authorized under AS 29.48.035(a)(20). A municipality
10 to which these powers have been delegated may waive or modify any regula-
11 tion or standard established by the department under the authority of
12 AS 47.35.010 - 47.35.080 as it applies to child care centers or child
13 care homes [NURSERIES] or the application of any such regulation or
14 standard as it applies to a particular child [DAY] care licensee but
15 must notify the department of any waiver.

16 * Sec. 3. AS 47.35.020 is repealed and reenacted to read:

17 Sec. 47.35.020. LICENSE REQUIRED. Unless licensed under this
18 chapter a person, including a municipality, may not

19 (1) maintain or conduct a child foster home, residential
20 child care facility, or other place for the regular reception or care of
21 children under 16 years of age;

22 (2) maintain or conduct a foster home or adult residential
23 care facility for the care of dependent adults; or

24 (3) engage in the business of receiving or caring for children
25 under 14 years of age in a child care center or child care home lodging
26 five or more children unrelated by blood, marriage, or legal adoption to
27 the owner, operator, or manager of the business.

28 * Sec. 4. AS 47.35.030 is amended to read:

29 Sec. 47.35.030. AUTHORITY TO ISSUE REGULATIONS. The department

1 may adopt regulations and standards consistent with other requirements
2 of law. The department may not prohibit [THIS AUTHORITY DOES NOT DENY]
3 a religious group from establishing and operating a facility [AN INSTI-
4 TUTION] solely because of the prior installation or operation of another
5 religious group in the same area. [THE AUTHORITY TO ADOPT REGULATIONS
6 AND STANDARDS SHALL BE EXERCISED TO INSURE COMPLIANCE WITH THE INTENTS
7 AND PURPOSE OF THIS CHAPTER.] The department may inspect and examine an
8 institution, home or place, or the performance of a service.

9 * Sec. 5. AS 47.35.060 is amended to read:

10 Sec. 47.35.060. RECORDS REQUIRED. Each licensee [OR PERMIT HOLDER]
11 shall keep records regarding each child or adult in its control and
12 care, or placed by it, which the department prescribes, and shall report
13 to the department the facts which the department requires with reference
14 to the children or adults. All records regarding individuals placed for
15 care in a facility [AN INSTITUTION OR HOME] under this chapter are
16 confidential and shall be safeguarded from improper disclosure by the
17 agency or department.

18 * Sec. 6. AS 47.35.075 is amended to read:

19 Sec. 47.35.075. LICENSURE OF PROVIDERS OF CARE FOR DEPENDENT
20 ADULTS BY MUNICIPALITIES. A first or second class borough or a first or
21 second class city outside a first or second class borough may license
22 and supervise facilities [INSTITUTIONS] caring for dependent adults. If
23 a borough or city chooses not to license care providers for dependent
24 adults, the department shall be the licensing authority; if a borough or
25 city chooses to license care providers for dependent adults, the borough
26 or city may exercise any power or responsibility granted to the depart-
27 ment under this chapter and shall enforce standards and regulations
28 adopted by the department under AS 47.35.030.

29 * Sec. 7. AS 47.35.080 is amended by adding new paragraphs to read:

1 (6) "adult foster home" means an occupied residence in which
2 24-hour care is provided for not more than five residents, who because
3 of age, infirmities, or handicaps, require continuous accommodations and
4 care, and the immediate availability of the foster care provider;

5 (7) "adult residential care facility" means a place providing
6 24-hour care for an adult resident who, because of age, infirmities,
7 pregnancy, or handicaps, requires continuous accommodations and care,
8 and the immediate availability of care providers;

9 (8) "child care center" means a place providing regular care
10 for any part of a day, supervision, guidance, or education for a child
11 unrelated by blood, marriage, or adoption to the operator of the center;

12 (9) "child care home" means an occupied residence providing
13 regular care for any part of a day, supervision, guidance, or education
14 for not more than 10 children, some of whom are not related by blood,
15 marriage, or adoption to the operator of the home;

16 (10) "child foster home" means an occupied residence in which
17 24-hour care is regularly provided for not more than five children who
18 are not related by blood, marriage, or adoption to the foster parent;

19 (11) "facility" means an adult foster home, adult residential
20 care facility, child care center, child care home, child foster home, or
21 residential child care facility;

22 (12) "residential child care facility" means a facility that
23 provides 24-hour care for a child unrelated by blood, marriage, or
24 adoption to the operator of the facility.

25 * Sec. 8. AS 47.35.090 is amended to read:

26 Sec. 47.35.090. LICENSING AND SUPERVISION OF MATERNITY HOMES.
27 Maternity homes shall be licensed and supervised in the same manner as
28 facilities under [BOARDING HOMES OR FOSTER HOMES, NURSERIES AND OTHER
29 INSTITUTIONS CARING FOR CHILDREN AS PROVIDED IN] AS 47.35.010 - 47.35.-

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080. In this section "maternity home" means an institution or place of residence whose primary function is to give care to pregnant girls or women, regardless of age, before or during confinement, or which provides care, as needed, to mothers and their infants after confinement [, WITH OR WITHOUT COMPENSATION].

* Sec. 9. AS 47.35.080(1) and (3) - (5) are repealed.

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

Introduced: 3/15/82
Referred: Health, Education &
Social Services and Finance

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 SENATE BILL NO. 858

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 the licensing of child care facili-
7 ties and certification of pre-elementary school pro-
8 grams; and providing for an effective date."

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

10 * Section 1. AS 14.07.020(8) is repealed and reenacted to read:

11 (8) in cooperation with the Department of Health and Social
12 Services, exercise general supervision over the educational component of
13 a public or private child care center or child care home that is licensed
14 under AS 47.35.010 - 47.35.080 and whose educational program is certi-
15 fied by the department;

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17 CHAPTER 35. COMMUNITY CARE FACILITIES [PRIVATE INSTITUTIONS].

18 ARTICLE 1. FOSTER HOMES, RESIDENTIAL FACILITIES FOR
19 CHILDREN AND DEPENDENT ADULTS, AND CHILD CARE FACILITIES

20 [BOARDING HOMES, AND INSTITUTIONS FOR CHILDREN].

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22 (1) license and supervise facilities [BOARDING HOMES, FOSTER
23 HOMES, GROUP HOMES, NURSERIES, INSTITUTIONS CARING FOR CHILDREN AND
24 FOSTER HOMES, GROUP HOMES AND INSTITUTIONS CARING FOR DEPENDENT ADULTS];

25 (2) investigate and supervise licensees;

26 (3) enforce the standards established by it;

27 (4) contract with private or municipal agencies to investi-
28 gate and make recommendations to the department for the licensing and
29 supervision of facilities [BOARDING HOMES, FOSTER HOMES, GROUP HOMES,

1 NURSERIES, INSTITUTIONS CARING FOR CHILDREN AND FOSTER HOMES, GROUP
2 HOMES AND INSTITUTIONS CARING FOR DEPENDENT ADULTS] under procedures and
3 standards of operation established by the department.

4 (b) The department shall, within 90 days after receiving a written
5 request [THAT IT DO SO], delegate its powers relating to child care
6 centers and child care homes [NURSERIES] under this section and under
7 AS 47.35.040, 47.35.050 and 47.35.060 to a municipality that [WHICH] has
8 adopted an ordinance providing for child [DAY] care licensing under home
9 rule powers or as authorized under AS 29.48.035(a)(20). A municipality
10 to which these powers have been delegated may waive or modify any regula-
11 tion or standard established by the department under the authority of
12 AS 47.35.010 - 47.35.080 as it applies to child care centers or child
13 care homes [NURSERIES] or the application of any such regulation or
14 standard as it applies to a particular child [DAY] care licensee but
15 must notify the department of any waiver.

16 * Sec. 3. AS 47.35.020 is repealed and reenacted to read:

17 Sec. 47.35.020. LICENSE REQUIRED. Unless licensed under this
18 chapter a person, including a municipality, may not

19 (1) maintain or conduct a child foster home, residential
20 child care facility, or other place for the regular reception or care of
21 children under 16 years of age;

22 (2) maintain or conduct a foster home or adult residential
23 care facility for the care of dependent adults; or

24 (3) engage in the business of receiving or caring for children
25 under 14 years of age in a child care center or child care home lodging
26 five or more children unrelated by blood, marriage, or legal adoption to
27 the owner, operator, or manager of the business.

28 * Sec. 4. AS 47.35.030 is amended to read:

29 Sec. 47.35.030. AUTHORITY TO ISSUE REGULATIONS. The department

1 may adopt regulations and standards consistent with other requirements
2 of law. The department may not prohibit [THIS AUTHORITY DOES NOT DENY]
3 a religious group from establishing and operating a facility [AN INSTI-
4 TUTION] solely because of the prior installation or operation of another
5 religious group in the same area. [THE AUTHORITY TO ADOPT REGULATIONS
6 AND STANDARDS SHALL BE EXERCISED TO INSURE COMPLIANCE WITH THE INTENTS
7 AND PURPOSE OF THIS CHAPTER.] The department may inspect and examine an
8 institution, home or place, or the performance of a service.

9 * Sec. 5. AS 47.35.060 is amended to read:

10 Sec. 47.35.060. RECORDS REQUIRED. Each licensee [OR PERMIT HOLDER]
11 shall keep records regarding each child or adult in its control and
12 care, or placed by it, which the department prescribes, and shall report
13 to the department the facts which the department requires with reference
14 to the children or adults. All records regarding individuals placed for
15 care in a facility [AN INSTITUTION OR HOME] under this chapter are
16 confidential and shall be safeguarded from improper disclosure by the
17 agency or department.

18 * Sec. 6. AS 47.35.075 is amended to read:

19 Sec. 47.35.075. LICENSURE OF PROVIDERS OF CARE FOR DEPENDENT
20 ADULTS BY MUNICIPALITIES. A first or second class borough or a first or
21 second class city outside a first or second class borough may license
22 and supervise facilities [INSTITUTIONS] caring for dependent adults. If
23 a borough or city chooses not to license care providers for dependent
24 adults, the department shall be the licensing authority; if a borough or
25 city chooses to license care providers for dependent adults, the borough
26 or city may exercise any power or responsibility granted to the depart-
27 ment under this chapter and shall enforce standards and regulations
28 adopted by the department under AS 47.35.030.

29 * Sec. 7. AS 47.35.080 is amended by adding new paragraphs to read:

1 (6) "adult foster home" means an occupied residence in which
2 24-hour care is provided for not more than five residents, who because
3 of age, infirmities, or handicaps, require continuous accommodations and
4 care, and the immediate availability of the foster care provider;

5 (7) "adult residential care facility" means a place providing
6 24-hour care for an adult resident who, because of age, infirmities,
7 pregnancy, or handicaps, requires continuous accommodations and care,
8 and the immediate availability of care providers;

9 (8) "child care center" means a place providing regular care
10 for any part of a day, supervision, guidance, or education for a child
11 unrelated by blood, marriage, or adoption to the operator of the center;

12 (9) "child care home" means an occupied residence providing
13 regular care for any part of a day, supervision, guidance, or education
14 for not more than 10 children, some of whom are not related by blood,
15 marriage, or adoption to the operator of the home;

16 (10) "child foster home" means an occupied residence in which
17 24-hour care is regularly provided for not more than five children who
18 are not related by blood, marriage, or adoption to the foster parent;

19 (11) "facility" means an adult foster home, adult residential
20 care facility, child care center, child care home, child foster home, or
21 residential child care facility;

22 (12) "residential child care facility" means a facility that
23 provides 24-hour care for a child unrelated by blood, marriage, or
24 adoption to the operator of the facility.

25 * Sec. 8. AS 47.35.090 is amended to read:

26 Sec. 47.35.090. LICENSING AND SUPERVISION OF MATERNITY HOMES.
27 Maternity homes shall be licensed and supervised in the same manner as
28 facilities under [BOARDING HOMES OR FOSTER HOMES, NURSERIES AND OTHER
29 INSTITUTIONS CARING FOR CHILDREN AS PROVIDED IN] AS 47.35.010 - 47.35.-

1 080. In this section "maternity home" means an institution or place of
2 residence whose primary function is to give care to pregnant girls or
3 women, regardless of age, before or during confinement, or which provides
4 care, as needed, to mothers and their infants after confinement [, WITH
5 OR WITHOUT COMPENSATION].

6 * Sec. 9. AS 47.35.080(1) and (3) - (5) are repealed.

7 * Sec. 10. This Act takes effect immediately in accordance with AS 01.10.-
8 070(c).

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COMMITTEE REPORT
SENATE

3/17/82

FURTHER: Finance

Date: April 19, 1982

Mr. President:

The Committee on JUDICIARY has had SB 863
providing for the award of costs and attorney fees incurred by defendants
acquitted of offenses

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 SB 863 (Jud) same title
 new title
- and recommends HAS as follows INDIVIDUAL RECOMMENDATIONS
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Bill Kay No Rec
Wesley Anderson J. Miller

[Signature]
CHAIRMAN

Original sponsor: Finance Committee

Offered: 4/20/82
Referred: Finance

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 863 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act providing for the award of costs and attorney
7 fees incurred by certain defendants in criminal and
8 civil actions brought by the state and by persons who
9 prevail in certain state administrative proceedings;
10 changing Rules 79 and 82, Rules of Civil Procedure, and
11 Rule 508, Rules of Appellate Procedure; and providing
12 for an effective date."

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

14 * Section 1. AS 12.45 is amended by adding a new section to read:

15 Sec. 12.45.145. COSTS AND ATTORNEY FEES FOR DEFENDANT IN A CRIMINAL
16 ACTION. (a) If a judgment of acquittal is entered in favor of a defen-
17 dant charged with committing an offense under state law, the court may
18 allow the defendant to recover the reasonable costs of defending the
19 action, including reasonable attorney fees, from the state. The court
20 shall enter on the record the amount of costs awarded to an acquitted
21 defendant.

22 (b) If a defendant is acquitted of a charge in the same action in
23 which he is convicted of another charge, the court may award the
24 defendant reasonable costs attributable to defending the charge of which
25 the defendant was acquitted, including reasonable attorney fees, unless
26 the charge of which the defendant is convicted is a lesser included
27 offense of the charge of which the defendant is acquitted.

28 (c) If a judgment of conviction entered against a defendant
29 charged with committing an offense under state law is reversed or

1 appeal, the court that considers the appeal may allow the appellant to
2 recover the reasonable costs of the appeal and of proceedings in lower
3 courts, including reasonable attorney fees, from the state.

4 (d) This section does not apply to a defendant represented by
5 counsel at public expense.

6 * Sec. 2. AS 09.50 is amended by adding new sections to read:

7 ARTICLE 7. COSTS AND ATTORNEY FEES IN ADMINISTRATIVE
8 PROCEEDINGS AND COURT ACTIONS.

9 Sec. 09.50.410. AWARD OF COSTS AND ATTORNEY FEES TO RESPONDENT IN
10 ADMINISTRATIVE PROCEEDING. (a) If action by a state agency results in
11 an administrative proceeding to impose a civil penalty or tax on a
12 person or to revoke, suspend, limit, or condition a right, authority,
13 license, or privilege of a person and the proceeding terminates without
14 the imposition of a civil penalty or without the revocation, suspension,
15 limitation, or conditioning of a right, authority, license, or privilege,
16 the hearing officer or other official who presides over the proceeding
17 may allow the respondent to recover from the state the reasonable costs
18 of defense, including reasonable attorney fees.

19 (b) If a civil penalty is imposed on a person in an administrative
20 proceeding or the proceeding results in the revocation, suspension,
21 limitation, or conditioning of a right, authority, license, or privilege
22 and the decision made in the administrative proceeding is reversed on
23 the merits in a subsequent court proceeding, the court may allow the
24 person who was the subject of that decision to recover reasonable costs
25 of the appeal and of the administrative proceeding, including reasonable
26 attorney fees, from the state.

27 (c) In this section "state agency" means a department, office,
28 agency or other instrumentality of the state, including the University
29 of Alaska.

1 Sec. 09.50.420. AWARD OF COSTS AND ATTORNEY FEES TO DEFENDANT IN
2 CIVIL ACTION BROUGHT BY THE STATE. (a) If an individual defendant
3 prevails in a civil action brought by the state against that defendant,
4 the court may allow the defendant to recover the reasonable costs of
5 defending the action, including reasonable attorney fees, from the
6 state.

7 (b) If an individual defendant does not prevail in a civil action
8 brought by the state against that defendant, but does prevail on the
9 merits of an appeal of the judgment entered in that action, the court
10 that considers the appeal may allow the appellant to recover the reason-
11 able costs of defending the action and of appealing the decision of the
12 lower court, including reasonable attorney fees, from the state.

13 (c) This section does not apply to a defendant represented by
14 counsel at public expense.

15 * Sec. 3. This Act applies only to actions in which a judgment of acquit-
16 tal is entered, or to administrative proceedings or civil actions that are
17 terminated on or after the effective date of this Act.

18 * Sec. 4. Section 2 of this Act has the effect of changing Rules 79 and
19 82, Rules of Civil Procedure, and secs. 1 and 2 of this Act have the effect
20 of changing Rule 508, Rules of Appellate Procedure, to provide for the award
21 of costs and attorney fees to defendants and appellants who prevail in civil
22 actions brought by the state and in appeals of criminal, civil, and adminis-
23 trative actions brought by the state.

24 * Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-
25 070(c).

Introduced: 3/17/82
Referred: Judiciary and
Finance

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 SENATE BILL NO. 863

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act providing for the award of costs and attorney
7 fees incurred by defendants acquitted of offenses and
8 by individuals who prevail in certain state administra-
9 tive proceedings; changing Rules 79 and 82, Rules of
10 Civil Procedure; and providing for an effective date."

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

12 * Section 1. AS 12.45 is amended by adding a new section to read:

13 Sec. 12.45.145. COSTS AND ATTORNEY FEES FOR ACQUITTED DEFENDANT.

14 (a) If a judgment of acquittal is entered in favor of a defendant
15 charged with committing an offense under state law, the court may allow
16 the defendant to recover the actual costs of defending the action,
17 including actual attorney fees, from the state. The court shall enter
18 on the record the amount of costs awarded to an acquitted defendant.

19 (b) If a defendant is charged in the same action with more than
20 one offense, he may not receive an award under this section if a judgment
21 of guilty is entered against him on any offense or lesser included
22 offense in that action.

23 (c) This section does not apply to a defendant represented by
24 counsel at public expense.

25 * Sec. 2. AS 09.50 is amended by adding new sections to read:

26 ARTICLE 7. COSTS AND ATTORNEY FEES IN ADMINISTRATIVE
27 PROCEEDINGS AND COURT ACTIONS.

28 Sec. 09.50.410. AWARD OF COSTS AND ATTORNEY FEES TO RESPONDENT IN
29 ADMINISTRATIVE PROCEEDING. (a) If an administrative proceeding is

1 commenced by a state agency against a person to impose a civil penalty
2 or to revoke, suspend, limit, or condition a right, authority, license,
3 or privilege and the proceedings terminate without the imposition of a
4 civil penalty or the revocation, suspension, limitation, or conditioning
5 of a right, authority, license, or privilege, the hearing officer or
6 other official who presides over the proceeding may allow the respondent
7 to recover from the state his actual costs of defense, including actual
8 attorney fees.

9 (b) In this section "state agency" means a department, office,
10 agency or other instrumentality of the state.

11 Sec. 09.50.420. AWARD OF COSTS AND ATTORNEY FEES TO DEFENDANT IN
12 CIVIL ACTION BROUGHT BY THE STATE. (a) If an individual defendant
13 prevails in a civil action brought by the state against that defendant,
14 the court may allow the defendant to recover the actual costs of defend-
15 ing the action, including actual attorney fees, from the state.

16 (b) This section does not apply to a defendant represented by
17 counsel at public expense.

18 * Sec. 3. This Act applies only to actions in which a judgment of acquit-
19 tal is entered, or to administrative proceedings or civil actions that are
20 terminated on or after the effective date of this Act.

21 * Sec. 4. Section 2 of this Act has the effect of changing Rules 79 and
22 82, Rules of Civil Procedure, to provide for the award of costs and attorney
23 fees to defendants who prevail in civil actions brought by the state.

24 * Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-
25 070(c).

ALASKA STATE LEGISLATURE

TWELFTH Legislature SECOND Session

SENATE BILL..... NO. ..863..

By ...THE FINANCE COMMITTEE...

"An Act providing for the award of costs and attorney fees incurred by defendants acquitted of offenses and by individuals who prevail in certain state administrative proceedings; changing Rules 79 and 82, Rules of Civil Procedure; and providing for an effective date."

Introduced in the Senate .3/17..., 19.82

HISTORY IN THE SENATE

19	82	Read first time and referred to Committee on																						
3	17	Judiciary and Finance																						
4	20	Reported back with recommendation that <i>replace</i> <i>w/c 5, new title, 1 do pass, 2 no rec to fin.</i>																						
		Read second time and																						
		Read third time and																						
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SECRETARY OF THE SENATE																								

HISTORY IN THE HOUSE

19	Read first time and referred to Committee on																						
	Reported back with recommendation that																						
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	Reported correctly engrossed Signed by Speaker Returned to Senate																						
CHIEF CLERK OF THE HOUSE																							

HISTORY IN THE SENATE

19	Received from House
	To enrolling
	Reported correctly enrolled
	Sent to Governor
 by Governor
	Filed with Lt. Governor
	Chapter No.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution Number: CSSB 863

Title: An Act providing for the award of costs and attorney fees

Requested by: Finance

Date: April 26, 1982

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)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	-	23.2	25.5	27.1	29.8	32.7
200 TRAVEL	-	5.0	5.5	6.0	6.5	7.0
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	-	.3	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LAND & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
TOTAL	-	28.5	31.0	33.1	36.3	39.0

FUNDING (Thousands of Dollars)

GENERAL FUND	-	28.5	31.0	33.1	36.3	39.0
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-

POSITIONS

FULL TIME	-	1	1	1	1	1
PART TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

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

See attached memo to R. D. Stevenson dated April 26, 1982.

IV. DATE: April 26, 1982

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

PREPARED BY: Robert R. Kessel

AGENCY: Audit Division

PHONE: 465-2320

Robert R. Kessel

STATE OF ALASKA
DEPARTMENT OF REVENUE

M E M O R A N D U M

TO: R. D. Stevenson
Special Assistant

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

DATE: April 26, 1982

RE: CS for SB 863

Analysis

Section 1 of CSSB 863 refers to a judgement of acquittal when an offense has been committed under State law. Apparently, in matters relating to taxation, this section would only impact those cases dealing with criminal penalties as included in Section 43.05.290 of Title 43, Alaska Statute. There have been relatively few actions of this nature brought by the Revenue Department and therefore the fiscal impact would be minimal.

Section 1 of CSSB 863 modifies Section 1 of SB 863 in two ways:

1. In SB 863, a defendant charged with more than one action could not receive an award if a judgement of guilty was entered against him on any offense or lesser included charge. CS for SB 863 allows an award if the defendant is convicted of a lesser included offense of the charge but is acquitted of the more substantial charge.
2. SB 863 provided a determination of an award at each level of litigation. If the defendant lost in one proceeding and then had the decision overturned in another proceeding, no award would have been made for costs incurred at the lower proceeding. CS for SB 863 allows for recovery at the first proceeding if the defendant succeeds at the second proceeding.

Similar modifications were made to Sections 2 and 3 of SB 863.

Section 2 of CSSB 863 would have a dramatic fiscal impact since this section substantially affects the Revenue Department because of the many cases involving civil penalties and revoking of licenses.

Section 2 of CS for SB 863 allows for the same provisions as Section 1 in that a defendant could recover costs incurred in an unsuccessful administrative proceeding if successful in a subsequent court proceeding. This new provision would substantially increase the fiscal computation which was developed for SB 863.

Section 3 of CSSB 863 would also have a substantial fiscal impact for the Revenue Department activities since administrative actions often advance to the courts and become civil action cases.

CS for SB 863 contains the provision that if an individual defendant prevails on the merits of an appeal of a judgement, the court that considers the appeal may allow the appellant to recover reasonable costs incurred in the lower court.

CS for SB 863 uses the term "reasonable costs" versus the term "actual costs" in SB 863.

Comments

CS for SB 863 leaves some unanswered questions. For example, the bill does not define the term "reasonable costs." Does the term include travel costs of the taxpayer? Does the term include loss of taxpayer wages resulting from litigation preparation?

Unless adequate funding was provided to the Department of Revenue, the Department might have to forego court cases because of large potential costs. This would be a tragedy if substantial tax dollars were involved in a particular case.

The Department would need additional conference officers. The bill would encourage more litigation.

Incidentally, a taxpayer, for Federal Income Tax purposes, can write off under current law the total expenses incurred to prepare an appeal of a tax issue. Therefore, part of litigation costs are already borne by a government agency.

Fiscal Impact

Scientific development of a fiscal note is impossible. However, the costs to the State as a whole would be magnanimous. The cost attributable to tax appeals would be only a small part of the overall fiscal impact.

I used the following language when writing my analysis for SB 863:

"In 1981, HB 227, a bill similar to SB 863 but relating only to taxes, was introduced. The previous Audit Director, Gary Jenkins, estimated losses to the General Fund of \$500,000 per year. I see no reason to change that estimate. The \$500,000 relates to tax appeals only."

CS for SB 863 increases the potential cost because of costs awarded for lower proceedings if successful at a later proceeding. An estimated projected loss of \$800,000 per year therefore seems reasonable.

RRK/gb

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution Number: CSSB 863

Title: An Act providing for the award of costs and attorney fees.

Requested by: Finance Date: April 26, 1982

II. FISCAL DETAIL

Agency Affected: Department of Audit

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)

	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	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	-	800	800	800	800	800
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-

POSITIONS

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

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

See attached memo to R. D. Stevenson dated April 26, 1982.

IV. DATE: April 26, 1982

PREPARED BY: Robert R. Kessel

AGENCY: Audit Division

PHONE: 465-2320

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

Robert R. Kessel

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSSB 863 (Judiciary)

Title "An Act providing for the award of costs and attorney fees...

Requested by _____ Date _____

in civil actions brought by the state...and providing for an effective date."

II. FISCAL DETAIL

Agency Affected Department of Law

Program Category Affected General Government/Administration of Justice

BRU, Program, Or Subprogram(s) Affected Legal Services/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						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.		1,000.0	1,080.0	1,166.4	1,259.7	1,347.9
TOTAL		1,000.0	1,080.0	1,166.4	1,259.7	1,347.9

FUNDING (Thousands of Dollars)

GENERAL FUND		1,000.0	1,080.0	1,166.4	1,259.7	1,347.9
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

1. Defendants Acquitted of Offenses:

As Deputy Attorney General Ron Lorensen stated, in testimony before the Senate Judiciary Committee, the committee's substitute for SB 863 has satisfied many of the department's concerns regarding the original version of the bill. There is, however, a remaining conflict between public policy considerations which the department believes should be carefully weighed before the bill is passed from the committee.

Section 1. of this bill, while adopting the reasonable cost standard and allowing awards at the discretion of the court, now provides that if a defendant is acquitted of a charge in the same action in which he is convicted of another charge, the court may

IV. DATE Revised April 19, 1982 PREPARED BY Richard I. Pegues, Director, Admin. Svcs.

AGENCY Department of Law

Original: Legislative Finance PHONE 465-3672

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

award the defendant reasonable costs attributable to defending the charge of which the defendant was acquitted, unless the charge of which the defendant is convicted is a lesser included offense of the charge of which the defendant is acquitted. The original version of the bill provided that when a defendant is charged in the same action with more than one offense, he may not receive an award if a judgment of guilty is entered against him on any offense or lesser included offense in that action.

The department believes that its prosecutors need the tactical flexibility to use multiple charges because, in difficult cases, the theory which is eventually upheld in obtaining a guilty verdict often depends upon the actual development of evidence throughout a trial. To the extent that a prosecutor's charging determinations may be unduly constrained by this new provision, it may be impossible to bring any charges, particularly in cases involving complex legal theory. The department therefore urges that a defendant not receive an award of costs and fees in any action in which the defendant is charged with more than one offense if a judgment of guilty is entered against him on any offense or lesser included offense in that action. As stated in our original fiscal note of March 29, the department feels strongly that the state not pay the attorney's fees of persons who could be found to have committed a crime under the civil standard of a preponderance of the evidence, but were nevertheless found not guilty under the strict reasonable doubt test, because a verdict of acquittal can seldom be equated with a determination of innocence.

The cost for the current version of this section, which can only be estimated due to the absence of any historic data, will probably be reduced from our original estimate to a new level of approximately \$750,000. This new amount could be reduced somewhat further if the provision allowing costs for acquittals in actions with multiple charges is changed as the department has recommended.

2. Individuals who Prevail in State Administrative Proceedings:

The substitute version of the bill has adopted the changes the department recommended and the cost estimate should now be reduced from \$700,000 to \$250,000.

3. Award of costs and Attorney's Fees to Defendants in Civil Actions Brought by the State:

The changes incorporated by the Judiciary Committee in this section of the bill preserves the current system whereby the state pays and collects costs and fees, and therefore, the amounts representing additional costs and fees, \$150,000, and lost revenues, \$300,000 will no longer be needed. Additional amounts required by this section = 0.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB-863

Title An Act For The Award Of Costs And Attorney Fees Incurred

Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Department of Public Safety

Program Category Affected Life and Property Protection

BRU, Program, Or Subprogram(s) Affected Driver/Vehicle Services

(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				75.0	81.0	87.4
200 TRAVEL				6.3	6.8	7.3
300 CONTRACTUAL				24.8	26.8	28.9
400 COMMODITIES				1.3	1.4	1.5
500 EQUIPMENT				10.0		
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.	-0-	69.0	75.9	83.5	91.9	101.1
TOTAL	-0-	69.0	75.9	200.9	207.9	226.2

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	69.0	75.9	200.9	207.9	226.2
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME				2	2	2
PART TIME						
TEMPORARY						

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

Last year the Division of Motor Vehicles held approximately 200 driver's license suspension-revocation hearings, 360 financial responsibility hearings, and 120 motor vehicle title, registration or license revocation or determination hearings. About 25% of all these hearings were found in favor of the citizen. This is the figure used to determine costs, although a few of those who lose the hearing later appeal in district court. Attorney time on driver's license and FR hearings is estimated at 4 hours, and 6 hours for vehicle hearings.

(Continued on Page 2)

IV. DATE March 23, 1982

PREPARED BY Robert J. Rowan

AGENCY DPS-Division of Motor Vehicles

Original: Legislative Finance

PHONE 269-5551

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

The number of hearings conducted each year is increasing and a 10% annual increase factor was used to estimate costs for claims to be paid under this legislation.

Currently, various department and AG personnel serve as hearing officers on an as-required, as-available basis. By FY85 it is expected that the administrative hearing workload will have increased such that it cannot be adequately handled by existing staff, especially in light of the possibility of reimbursement of attorney fees. A hearing officer (Range 16) and a Clerk IV (Range 9) will be required to augment the present staff. FY85 operating costs are based on FY82 estimates using an 8% annual inflation factor. Included are the costs of additional office and hearing room space, rental of equipment to access AJIS, and the acquisition of normal office supplies and equipment as well as recording/transcription equipment.

Formulas are as follows:

$(200 \text{ DL and } 360 \text{ FR Hearings}) \times 25\% \times 4 \text{ hours} = 560 \text{ hours attorney time}$

$120 \text{ vehicle hearings} \times 25\% \times 6 \text{ hours} = 180 \text{ hours attorney time}$

FY 82 Total = 740 hours attorney time

Average hourly attorney fees = \$85

FY 83 Formula:

$740 \times 1.1 \text{ (10\% increase)} \times \$85 = \$69,190$

We dropped the \$190 to make a round figure of \$69.0

FY 84 Formula:

$\$69.0 \times 1.1 = \75.9

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH S
JUNEAU, ALASKA 99811
PHONE: (907) 465-2300

March 31, 1982

The Honorable Patrick M. Rodey
Chairman
Senate Judiciary Committee
Room 125 - Capitol Building
Juneau, Alaska

Re: Senate Bill No. 863

Dear Senator Rodey:

Senate Bill No. 863, an Act providing for the award of costs and attorney fees incurred by defendants acquitted of offenses and by individuals who prevail in certain state administrative proceedings; changing Rules 79 and 82, Rules of Civil Procedure, was introduced in the Senate on March 17, 1982 and was referred to the Senate Judiciary and Finance Committees.

For the consideration of the Senate Judiciary Committee, I am enclosing copies of Fiscal Notes prepared by Mr. Robert R. Kessel, Director, Audit Division, Department of Revenue concerning the proposed legislation.

Sincerely,

R. D. Stevenson
Special Assistant

Enclosures

cc: The Honorable Don Bennett
The Honorable M. E. Dankworth
Co-Chairmen
Senate Finance Committee

Joseph K. Donohue
Deputy Commissioner
Department of Revenue

Robert R. Kessel, Director
Audit Division
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution Number: SB 863

Title: An Act providing for the award of costs and attorney fees.

Requested by: Finance Committee

Date: March 26, 1982

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)

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

FUNDING (Thousands of Dollars)

GENERAL FUND	-	500	500	500	500	500
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-

POSITIONS

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

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

See attached memo to R. D. Stevenson dated March 26, 1982.

IV. DATE: March 26, 1982

PREPARED BY: Robert R. Kessel

AGENCY: Audit Division

PHONE: 465-2320

Original: Legislative Finance

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 Number: SB 863

Title: An Act providing for the award of costs and attorney fees.

Requested by: Finance Committee

Date: March 26, 1982

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)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	-	23.2	25.5	27.1	29.8	32.7
200 TRAVEL	-	5.0	5.5	6.0	6.5	7.0
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	-	.3	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LAND & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
TOTAL	-	28.5	31.0	33.1	36.3	39.0

FUNDING (Thousands of Dollars)

GENERAL FUND	-	28.5	31.0	33.1	36.3	39.0
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-

POSITIONS

FULL TIME	-	1	1	1	1	1
PART TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

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

See attached memo to R. D. Stevenson dated March 26, 1982.

IV. DATE: March 26, 1982

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33-001 (Rev. 12/81)

M E M O R A N D U M

TO: R. D. Stevenson
Special Assistant

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

DATE: March 26, 1982

RE: SB 863

Analysis

Section 1 of SB 863 refers to a judgement of acquittal when an offense has been committed under State law. Apparently, in matters relating to taxation, this section would only impact those cases dealing with criminal penalties as included in Section 43.05.290 of Title 43, Alaska Statute. There have been relatively few actions of this nature brought by the Revenue Department and therefore the fiscal impact would be minimal.

Section 2 of SB 863 would have a dramatic fiscal impact since this section substantially affects the Revenue Department because of the many cases involving civil penalties and revoking of licenses.

Section 3 of SB 863 would also have a substantial fiscal impact for the Revenue Department activities since administrative actions often advance to the courts and become civil action cases.

Comments

SB 863 leaves many unanswered questions. For example, the bill does not define the term "actual costs." Does the term include travel costs of the taxpayer? Does the term include loss of taxpayer wages resulting from litigation preparation?

If the civil penalty is only a small part of the total action and the taxpayer prevails on the civil penalty but loses on the more substantial monetary issues, would all attorney fees be recoverable?

Unless adequate funding was provided to the Department of Revenue, the Department might have to forego court cases because of large potential costs. This would be a tragedy if substantial tax dollars were involved in a particular case.

The Department would need additional conference officers. The bill would encourage more litigation.

Incidentally, a taxpayer, for Federal Income Tax purposes, can write off under current law the total expenses incurred to prepare an appeal of a tax issue. Already, part of litigation costs are borne by a government agency.

Fiscal Impact

Scientific development of a fiscal note is impossible. However, the costs to the State as a whole would be magnanimous. The cost attributable to tax appeals would be only a small part of the overall fiscal impact.

In 1981, HB 227, a bill similar to SB 863 but relating only to taxes, was introduced. The previous Audit Director, Gary Jenkins, estimated losses to the General Fund of \$500,000 per year. I see no reason to change that estimate. The \$500,000 relates to tax appeals only.

RRK/gb

Introduced: 3/17/82
Referred: Judiciary and
Finance

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 SENATE BILL NO. 863

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act providing for the award of costs and attorney
7 fees incurred by defendants acquitted of offenses and
8 by individuals who prevail in certain state administra-
9 tive proceedings; changing Rules 79 and 82, Rules of
10 Civil Procedure; and providing for an effective date."

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

12 * Section 1. AS 12.45 is amended by adding a new section to read:

13 Sec. 12.45.145. COSTS AND ATTORNEY FEES FOR ACQUITTED DEFENDANT.

14 (a) If a judgment of acquittal is entered in favor of a defendant
15 charged with committing an offense under state law, the court may allow
16 the defendant to recover the actual costs of defending the action,
17 including actual attorney fees, from the state. The court shall enter
18 on the record the amount of costs awarded to an acquitted defendant.

19 (b) If a defendant is charged in the same action with more than
20 one offense, he may not receive an award under this section if a judgment
21 of guilty is entered against him on any offense or lesser included
22 offense in that action.

23 (c) This section does not apply to a defendant represented by
24 counsel at public expense.

25 * Sec. 2. AS 09.50 is amended by adding new sections to read:

26 ARTICLE 7. COSTS AND ATTORNEY FEES IN ADMINISTRATIVE
27 PROCEEDINGS AND COURT ACTIONS.

28 Sec. 09.50.410. AWARD OF COSTS AND ATTORNEY FEES TO RESPONDENT IN
29 ADMINISTRATIVE PROCEEDING. (a) If an administrative proceeding is

1 commenced by a state agency against a person to impose a civil penalty
2 or to revoke, suspend, limit, or condition a right, authority, license,
3 or privilege and the proceedings terminate without the imposition of a
4 civil penalty or the revocation, suspension, limitation, or conditioning
5 of a right, authority, license, or privilege, the hearing officer or
6 other official who presides over the proceeding may allow the respondent
7 to recover from the state his actual costs of defense, including actual
8 attorney fees.

9 (b) In this section "state agency" means a department, office,
10 agency or other instrumentality of the state.

11 Sec. 09.50.420. AWARD OF COSTS AND ATTORNEY FEES TO DEFENDANT IN
12 CIVIL ACTION BROUGHT BY THE STATE. (a) If an individual defendant
13 prevails in a civil action brought by the state against that defendant,
14 the court may allow the defendant to recover the actual costs of defend-
15 ing the action, including actual attorney fees, from the state.

16 (b) This section does not apply to a defendant represented by
17 counsel at public expense.

18 * Sec. 3. This Act applies only to actions in which a judgment of acquit-
19 tal is entered, or to administrative proceedings or civil actions that are
20 terminated on or after the effective date of this Act.

21 * Sec. 4. Section 2 of this Act has the effect of changing Rules 79 and
22 82, Rules of Civil Procedure, to provide for the award of costs and attorney
23 fees to defendants who prevail in civil actions brought by the state.

24 * Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-
25 070(c).

Original sponsor: Finance Committee

Offered: 4/20/82
Referred: Finance

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 863 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act providing for the award of costs and attorney
7 fees incurred by certain defendants in criminal and
8 civil actions brought by the state and by persons who
9 prevail in certain state administrative proceedings;
10 changing Rules 79 and 82, Rules of Civil Procedure, and
11 Rule 508, Rules of Appellate Procedure; and providing
12 for an effective date."

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

14 * Section 1. AS 12.45 is amended by adding a new section to read:

15 Sec. 12.45.145. COSTS AND ATTORNEY FEES FOR DEFENDANT IN A CRIMINAL
16 ACTION. (a) If a judgment of acquittal is entered in favor of a defen-
17 dant charged with committing an offense under state law, the court may
18 allow the defendant to recover the reasonable costs of defending the
19 action, including reasonable attorney fees, from the state. The court
20 shall enter on the record the amount of costs awarded to an acquitted
21 defendant.

22 (b) If a defendant is acquitted of a charge in the same action in
23 which he is convicted of another charge, the court may award the
24 defendant reasonable costs attributable to defending the charge of which
25 the defendant was acquitted, including reasonable attorney fees, unless
26 the charge of which the defendant is convicted is a lesser included
27 offense of the charge of which the defendant is acquitted.

28 (c) If a judgment of conviction entered against a defendant
29 charged with committing an offense under state law is reversed on

1 appeal, the court that considers the appeal may allow the appellant to
2 recover the reasonable costs of the appeal and of proceedings in lower
3 courts, including reasonable attorney fees, from the state.

4 (d) This section does not apply to a defendant represented by
5 counsel at public expense.

6 * Sec. 2. AS 09.50 is amended by adding new sections to read:

7 ARTICLE 7. COSTS AND ATTORNEY FEES IN ADMINISTRATIVE
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9 Sec. 09.50.410. AWARD OF COSTS AND ATTORNEY FEES TO RESPONDENT IN
10 ADMINISTRATIVE PROCEEDING. (a) If action by a state agency results in
11 an administrative proceeding to impose a civil penalty or tax on a
12 person or to revoke, suspend, limit, or condition a right, authority,
13 license, or privilege of a person and the proceeding terminates without
14 the imposition of a civil penalty or without the revocation, suspension,
15 limitation, or conditioning of a right, authority, license, or privilege,
16 the hearing officer or other official who presides over the proceeding
17 may allow the respondent to recover from the state the reasonable costs
18 of defense, including reasonable attorney fees.

19 (b) If a civil penalty is imposed on a person in an administrative
20 proceeding or the proceeding results in the revocation, suspension,
21 limitation, or conditioning of a right, authority, license, or privilege
22 and the decision made in the administrative proceeding is reversed on
23 the merits in a subsequent court proceeding, the court may allow the
24 person who was the subject of that decision to recover reasonable costs
25 of the appeal and of the administrative proceeding, including reasonable
26 attorney fees, from the state.

27 (c) In this section "state agency" means a department, office,
28 agency or other instrumentality of the state, including the University
29 of Alaska.

1 Sec. 09.50.420. AWARD OF COSTS AND ATTORNEY FEES TO DEFENDANT IN
2 CIVIL ACTION BROUGHT BY THE STATE. (a) If an individual defendant
3 prevails in a civil action brought by the state against that defendant,
4 the court may allow the defendant to recover the reasonable costs of
5 defending the action, including reasonable attorney fees, from the
6 state.

7 (b) If an individual defendant does not prevail in a civil action
8 brought by the state against that defendant, but does prevail on the
9 merits of an appeal of the judgment entered in that action, the court
10 that considers the appeal may allow the appellant to recover the reason-
11 able costs of defending the action and of appealing the decision of the
12 lower court, including reasonable attorney fees, from the state.

13 (c) This section does not apply to a defendant represented by
14 counsel at public expense.

15 * Sec. 3. This Act applies only to actions in which a judgment of acquit-
16 tal is entered, or to administrative proceedings or civil actions that are
17 terminated on or after the effective date of this Act.

18 * Sec. 4. Section 2 of this Act has the effect of changing Rules 79 and
19 82, Rules of Civil Procedure, and secs. 1 and 2 of this Act have the effect
20 of changing Rule 508, Rules of Appellate Procedure, to provide for the award
21 of costs and attorney fees to defendants and appellants who prevail in civil
22 actions brought by the state and in appeals of criminal, civil, and adminis-
23 trative actions brought by the state.

24 * Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-
25 070(c).

Original sponsor: Finance Committee

Offered: 4/20/82
Referred: Finance

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BY THE JUDICIARY COMMITTEE

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15 limitation, or conditioning of a right, authority, license, or privilege,
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17 may allow the respondent to recover from the state the reasonable costs
18 of defense, including reasonable attorney fees.

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20 proceeding or the proceeding results in the revocation, suspension,
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