

LEG. FINANCE - BILLS 1983 - 1984 1903

HB 388 cont. - HB 411 1903

§ 41 (1979).
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Sec. 13.16.575. Improper distribution; liability of distributee.

NOTES TO DECISIONS

Applied in In re Estate of Hutchinson,
Sup. Ct. Op. No. 1618 (File No. 3570), 577
P.2d 1074 (1978).

Sec. 13.16.580. Purchasers from distributees protected. If property distributed in kind or security interest in it is acquired for value by a purchaser from or lender to a distributee who has received an instrument or deed of distribution from the personal representative, the purchaser or lender takes title free of rights of any interested person in the estate and incurs no personal liability to the estate, or to any interested person, whether or not the distribution was proper or supported by court order and whether or not the authority of the personal representative was terminated before execution of the instrument or deed. This section protects a purchaser from or lender to a distributee who, as personal representative, has executed a deed of distribution to himself, as well as a purchaser from or lender to any other distributee or his transferee. To be protected under this provision, a purchaser or lender need not inquire whether a personal representative acted properly in making the distribution in kind, even if the personal representative and the distributee are the same person, or whether the authority of the personal representative had terminated before the distribution. Any instrument described in this section which is recorded under AS 34.15.010 — 34.15.350 or 45.05.101 — 45.05.117 and which bears a notation of that recordation is prima facie evidence that the transfer described in it was made for value. (§ 1 ch 78 SLA 1972; am § 17 ch 154 SLA 1976)

Effect of amendments. — The 1976 amendment, in the first sentence, substituted "for value by a purchaser from or lender to" for "by a purchaser, or lender, for value from" and "rights of any interested person in the estate" for "any claims of the estate," inserted "or to any interested person," and added the language beginning "or supported by court order" to

the end. The amendment also added the present second and fourth sentences and added the language beginning "even if the personal representative" to the end of the present third sentence.

Legislative history reports. — For report on ch. 154, SLA 1976 (SB 717), see 1976 House Journal, p. 1569.

Sec. 13.16.610. Apportionment of estate taxes. (a) For purposes of this section

(1) "estate" means the gross estate of a decedent as determined for the purpose of federal estate tax and the estate tax payable to this state;

(2) "person" means any individual, partnership, association, joint stock company, corporation, government, political subdivision, governmental agency, or local governmental agency;

(3) "person interested in the estate" means any person entitled to receive, or who has received, from a decedent or by reason of the death

of a decedent any property or interest in the property included in the decedent's estate; it includes a personal representative, conservator, and trustee;

(4) "state" means any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico;

(5) "tax" means the federal estate tax and the additional inheritance tax imposed by AS 43.31.011 — 43.31.430 and interest and penalties imposed in addition to the tax;

(6) "fiduciary" means personal representative or trustee.

(b) Unless the will provides otherwise, the tax shall be apportioned among all persons interested in the estate. The apportionment is to be made in the proportion that the value of the interest of each person interested in the estate bears to the total value of the interests of all persons interested in the estate. The values used in determining the tax are to be used for that purpose. If the decedent's will directs a method of apportionment of tax different from the method described in this code, the method described in the will controls.

(c) The court in which venue lies for the administration of the estate of a decedent, on petition for the purpose may determine the apportionment of the tax.

(d) If the court finds that it is inequitable to apportion interest and penalties in the manner provided in (b) of this section, because of special circumstances, it may direct apportionment of them in the manner it finds equitable.

(e) If the court finds that the assessment of penalties and interest assessed in relation to the tax is due to delay caused by the negligence of the fiduciary, the court may charge him with the amount of the assessed penalties and interest.

(f) In any action to recover from any person interested in the estate the amount of the tax apportioned to the person in accordance with this code the determination of the court in respect thereto shall be prima facie correct.

(g) The personal representative or other person in possession of the property of the decedent required to pay the tax may withhold from any property distributable to any person interested in the estate, upon its distribution to him, the amount of tax attributable to his interest. If the property in possession of the personal representative or other person required to pay the tax and distributable to any person interested in the estate is insufficient to satisfy the proportionate amount of the tax determined to be due from the person, the personal representative or other person required to pay the tax may recover the deficiency from the person interested in the estate. If the property is not in the possession of the personal representative or the other person required to pay the tax, the personal representative or the other person required to pay the tax may recover from any person interested in the estate the amount of the tax apportioned to the person in accordance with AS 13.16.005 — 13.16.705.

(h) If property held by the personal representative is distributed before final apportionment of the tax, the distributee shall provide a bond or other security for the apportionment liability in the form and amount prescribed by the personal representative.

(i) In making an apportionment, allowances shall be made for any exemptions granted, any classification made of persons interested in the estate and for any deductions and credits allowed by the law imposing the tax.

(j) Any exemption or deduction allowed by reason of the relationship of any person to the decedent or by reason of the purposes of the gift inures to the benefit of the person bearing the relationship or receiving the gift; but if an interest is subject to a prior present interest which is not allowable as a deduction, the tax apportionable against the present interest shall be paid from principal.

(k) Any deduction for property previously taxed and any credit for gift taxes or death taxes of a foreign country paid by the decedent or his estate inures to the proportionate benefit of all persons liable to apportionment.

(l) Any credit for inheritance, succession or estate taxes or taxes in the nature thereof applicable to property or interests includable in the estate, inures to the benefit of the persons or interests chargeable with the payment thereof to the extent proportionately that the credit reduces the tax.

(m) To the extent that property passing to or in trust for a surviving spouse or any charitable, public or similar gift or devisee is not an allowable deduction for purposes of the tax solely by reason of an inheritance tax or other death tax imposed upon and deductible from the property, the property is not included in the computation provided for in (b) of this section, and to that extent no apportionment is made against the property. The sentence immediately preceding does not apply to any case if the result would be to deprive the estate of a deduction otherwise allowable under Section 2053(d) of the Internal Revenue Code of 1954, as amended, of the United States, relating to deduction for state death taxes on transfers for public, charitable, or religious uses.

(n) No interest in income and no estate for years or for life or other temporary interest in any property or fund is subject to apportionment as between the temporary interest and the remainder. The tax on the temporary interest and the tax, if any, on the remainder is chargeable against the corpus of the property or funds subject to the temporary interest and remainder.

(o) Neither the personal representative nor other person required to pay the tax is under any duty to institute any action to recover from any person interested in the estate the amount of the tax apportioned to the person until the expiration of the three months next following final determination of the tax. A personal representative or other per-

son required to pay the tax who institutes the action within a reasonable time after the three months' period is not subject to any liability or surcharge because any portion of the tax apportioned to any person interested in the estate was collectable at a time following the death of the decedent but thereafter became uncollectable. If the personal representative or other person required to pay the tax cannot collect from any person interested in the estate the amount of the tax apportioned to the person, the amount not recoverable shall be equitably apportioned among the other persons interested in the estate who are subject to apportionment.

(p) A personal representative acting in another state or a person required to pay the tax domiciled in another state may institute an action in the courts of this state and may recover a proportionate amount of the federal estate tax, of an estate tax payable to another state or of a death duty due by a decedent's estate to another state, from a person interested in the estate who is either domiciled in this state or who owns property in this state subject to attachment or execution. For the purposes of the action the determination of apportionment by the court having jurisdiction of the administration of the decedent's estate in the other state is prima facie correct. (§ 1 ch 78 SLA 1972; am § 17 ch 56 SLA 1973)

Effect of amendments. — The 1973 amendment substituted "shall be" for "is" in subsection (f).

Legislative history reports. — For

report on ch. 56, SLA 1973 (HCS SB 140), see 1973 Senate Journal Supplement No. 9; 1973 House Journal, p. 819.

Article 10. Closing Estates.

Section

635. Liability of distributees to claimants

Sec. 13.16.620. Formal proceedings terminating administration; testate or intestate; order of general protection.

NOTES TO DECISIONS

Estates consisting of wrongful death recovery not exempted from procedures for presentation, etc., of claims

against estate. — See *In re Estate of Pushruk*, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977).

Sec. 13.16.630. Closing estates; by sworn statement of personal representative.

NOTES TO DECISIONS

Estates consisting of wrongful death recovery not exempted from procedures for presentation, etc., of claims

against estate. — See *In re Estate of Pushruk*, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977).



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
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May 10, 1983

MEMORANDUM

To: Representative Mae Tischer
From: Leonard Steinberg, Research Staff
Re: Estate Taxes -- Research Request 83-154

Gail Thibodeau of your office asked for the following state and federal estate tax information:

- 1) the justification for the taxes;
- 2) the amount of income received from these taxes for the last four years;
- 3) the percentage of total revenue represented by estate taxes;
- 4) the amount of estate tax revenue collected by Alaska from residents and non-residents; and
- 5) the hardships that may result from estate taxes.

Justification for Estate Taxes

Estate taxes originated with the Populist political movement in the United States; the goal was to reduce certain excise taxes by taxing the wealthy. The federal government has levied a tax on the transfer of wealth at death continuously since 1916.

The primary reasons Congress passed the estate tax in 1916 were:

- 1) redistribution of wealth by breaking up large concentrations of wealth at the time of death; and
- 2) raising additional revenue for the federal government.

Another justification for estate taxes is that the appreciation in value that occurs between the time property is acquired and a person's death is income which normally escapes income taxation; estate taxes recoup part of this loss.

*Used to be...
Income Tax
passed
36 / people paid.*

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Following its imposition, individuals avoided the new estate tax by giving away large portions of their wealth prior to their death. Consequently, Congress has imposed a gift tax since 1932. The gift tax rate was substantially less than the estate tax rate until the two were unified by the Tax Reform Act of 1976.

The justifications for state estate taxes are the same as for federal estate taxes. However, according to Mr. Joe Donohue, Deputy Commissioner of Revenue, Alaska has the additional justification that its tax brings in revenue to the State without increasing the tax liability of an estate. Mr. Donohue explained that Alaska's estate taxes are credited, dollar for dollar, against the taxes that would otherwise be paid to the federal government. Therefore, until federal estate tax law is changed, a reduction in Alaska's estate taxes will not present a savings to the estate but only increase the revenues paid to the federal government.

Estate Tax Revenues

The amount and number of State estate tax collections, their percentage of total State revenue, and the amount of State revenues are listed below in Table 1. In fiscal year 1982, 325 estates filed tax returns with the Department of Revenue; 317 (86 percent) of the filed returns received a certificate of non-tax liability while 52 (14 percent) had taxes to pay. The estate tax revenues received in 1982 are not directly related to the 1982 returns because estates have 15 months to make their payments and are frequently granted 10-15 year extensions. Estate taxes during the period 1978-1982 have always been substantially less than one-half of one percent of the State's total unrestricted revenues.

Table 1

State Estate Taxes and Unrestricted State Revenues -- FY1978-1982

	1982	1981	1980	1979	1978
# of State Estate Tax Returns*	325	369	382	407	334
# of Paying Returns* †	52	42	N/A	57	55
State Estate Taxes Collected	\$334,676	\$453,492	\$197,592	\$136,685	\$244,143
State Unrestricted Revenues(\$millions)	\$4,108.4	\$3,718.2	\$2,501.2	\$1,133.0	\$764.9
Estate Taxes as a % of State Revenues	.008%	.012%	.008%	.012%	.032%

* These figures are for calendar years and are based on the number of certificates issued for tax and non-tax liability.

† Eighty to ninety percent of state estate tax returns result in the the Department of Revenue issuing certificates of non-tax liability; those returns which actually impose State estate tax liability are listed in this column.

According to Ms. Eloise Herrick of the Department of Revenue, State estate tax records do not break down the revenues collected by residency status. However, Ms. Herrick stated that in her opinion, very little revenue is collected from non-residents. A more accurate determination of how much money was collected from residents and non-residents would require correlating the revenues received with individual returns and reviewing each individual return to determine residency status; because this would require substantial time and effort, we have not pursued this information at this time.

Table 2 below illustrates the number of federal estate tax returns and the revenues collected by the federal government from both Alaska and the nation. The table also shows the percentage of total federal revenue represented by estate taxes. For example, in federal fiscal year 1982, 159 estate tax returns were filed with the federal government from Alaska and 134,965 were filed nationally. The federal government collected approximately three million dollars in estate taxes from Alaskans and eight billion dollars nationally in 1982. Estate taxes contributed 1.3 percent of the total federal revenue received in 1982.

Table 2

Federal Estate Taxes -- Federal FY1978-1982

(\$ in thousands)

	1982	1981	1980	1979	1978
# of Alaska Federal Estate Tax Returns	159	152	145	156	129
Total # of Estate Tax Returns Filed	134,965	145,617	148,228	159,404	160,152
Estate Taxes Paid by Alaskans	\$3,081	\$2,097	\$2,285	\$2,689	\$2,412
Total Estate Taxes Paid	\$8,035,335	\$6,694,641	\$6,282,247	\$5,344,176	\$5,242,080
Estate Taxes as a % of Total Revenue	1.3%	1.1%	1.2%	1.2%	1.3%
Total Federal Revenue	\$626.8* (bil.)	\$599.3 (bil.)	\$517.1 (bil.)	\$463.3 (bil.)	\$399.6 (bil.)

* Estimate

Federal gift taxes, because they were created to stop estate tax avoidance, are often evaluated in conjunction with federal estate taxes. Table 3 presents information on federal gift taxes. As Table 3 illustrates, gift taxes add relatively little to federal revenue collections.

Table 3

Federal Gift and Estate Taxes and Total Revenues -- 1978-1982

(\$ in thousands)

	1982	1981	1980	1979	1978
# of Alaska Gift Tax Returns	98	252	252	260	193
Total # of Gift Tax Returns Filed	99,533	198,620	215,983	201,785	195,194
Gift Taxes Paid by Alaskans	\$37	\$15	\$66	\$117	\$60
Total Gift Taxes Paid	\$108,038	\$215,745	\$216,134	\$174,899	\$139,419
Total Gift Taxes as a % of Total Revenue	.02%	.04%	.04%	.04%	.03%
Total Federal Revenue	\$626.8* (bil.)	\$599.3 (bil.)	\$517.1 (bil.)	\$463.3 (bil.)	\$399.6 (bil.)

* Estimate

Hardship Cases

Information regarding the frequency of cases in which a family must sell everything to pay estate taxes is not readily available. Large real estate holdings, such as farms, pose the most common hardships; families have reportedly been required to sell farms to pay estate taxes. However, due to the urgency of completing this request, we have not been able to provide a substantive response to this question. Please let us know if you would like additional research performed on this issue.

Several changes to federal tax laws have attempted to reduce the hardships that may result from estate taxes. The Tax Reform Act of 1976 made the following changes:

- increased the value of estates which can escape taxation from \$60,000 to \$175,000;

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- allowed farms and other closely held businesses to be valued at less than fair market value; and
- increased marital deductions.

The Economic Recovery Tax Act of 1981 also attempted to reduce hardships by:

- further increasing the value of estates exempt from taxation to \$600,000;
- increasing the amount by which farms and closely held businesses can be undervalued; and
- allowing for unlimited transfers of property among spouses.

Furthermore, the 1981 Act extended the payment period for certain estate taxes to 15 years, and lowered the tax rates from a maximum of 70 to 50 percent.

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We hope this information is helpful to you. Please let us know if you would like us to do any additional research.

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There are ways to get around one unavoidable fact of life if not the other. Sometimes the methods work, sometimes not.

DEATH AND TAXES

By John Train



JAKE FISHER spent over 30 years in the Internal Revenue Service, ending his career as a supervisor of an estate and gift tax unit.

Not surprisingly, he has many stories to tell about the complicated world of taxes, and tell them he does in his curious book, *Human Drama in Death and Taxes* (\$12.95, Communication Channels, 185 Madison Avenue, New York City).

The volume may be too arcane for the general reader, but should be of interest to trust officers, tax accountants and Internal Revenue agents. To pique their curiosity, here are three of Mr. Fisher's more singular tales:

The timber magnate

A West Coast forest owner was killed by a taxi early in the morning of Jan. 4, 1966, shortly after emerging from a nightclub in New York City.

Within a few months after his death, his property was ravaged by a forest fire.

The executor decided to use the alternate valuation date—Jan. 4, 1967—because of the reduced value of the estate as a result of the fire.

On Apr. 4, 1967, the 15th month to the day from the date of death, the attorney for the estate personally presented the estate tax return at the office of the Internal Revenue Service District Director where the magnate had resided.

At the audit, the examiner produced New York City hospital records indicating that the timber magnate had been pronounced dead at 1:30

a.m. on Jan. 4, 1966. He then directed the estate's lawyer to Section 2031(C) of the Internal Revenue Code, which provides that the alternate valuation date can be elected if the return is filed within the time prescribed by law.

However, the time of death is the time at the decedent's domicile, if he dies at any other place, the time at that moment back home governs. As it happened, 1:30 a.m. in New York on Jan. 4, 1966 was 10:30 p.m. on Jan. 3, 1966 at the decedent's home.

So the return was not filed "timely," as they say. Thus, the estate could not use the alternate valuation, and, as a result, it lost a fortune. However, the IRS auditor was magnanimous. He waived the late-filing penalty.

The prodigal

A father had a deadbeat son who was periodically arrested. The father, to his great vexation, found himself obliged to furnish bail and to make good his son's debts.

Finally, the father declared that he was through: He was going to disinherit his son and never wanted to see him again. The son replied that if that happened, he would fight the will in every court, however long it took, so that no one else in the family would get anything for years. Undaunted, the father did disinherit him.

When the father died, sure enough the son came to town to contest the will. The attorneys for the bank that was acting as executor called in the son's lawyer. The lawyer went back to the son and advised him to give up. He himself withdrew from the case then and there.

What had happened? It turned out that while still alive, although ailing, the father had assembled in his hospital room his lawyer, doctor, clergyman, a psychiatrist and the manager of his construction firm, with a movie camera complete with crew on hand to record the proceedings.

The father introduced all those present to the "live" camera, and

asked them to comment on the situation. Each spoke at some length.

After that, the father carefully recited the provisions of his will before the camera. He then detailed the painful history of his relationship with his son, ending with the solemn words: "It is my wish and desire that my son share no portion of my estate."

With that, the testator and the witnesses signed the instrument.

The evidence was so clear and so powerful as to preclude any contention that the testator was incapacitated, unduly influenced, or any of the other allegations typically advanced in attacking a will. The wastrel son was stymied.

You can't beat city hall

An official of a northeastern city took frequent junkets on "city business." He was accompanied by his secretary in her capacity as a municipal employee.

The secretary was in on all of her boss's doings, and as one of her perquisites had a key to the politician's safe deposit box, which received regular additions that were not declared to any tax authority.

One winter the pair visited Miami to "represent the city government" at an air pollution conference.

They had a sensational weekend, perhaps too sensational. At the end of it, the politician was carried off by a heart attack.

The secretary checked out of the hotel forthwith, flew north, and at opening time the following morning appeared at the bank with her key to the safe deposit box.

The obituary had not yet run in the local morning papers, so she had no trouble gaining access to the box.

Some days later, when the box was officially opened, nothing was discovered in it except the owner's will and some other documents: no cash.

When the tax authorities questioned the secretary, she said that she hadn't known that a safe deposit box was supposed to be sealed after the owner's death, and had removed only some of her personal papers.

However, among the politician's effects at home were found three more sets of the special keys used for safe deposit boxes. The authorities questioned the secretary about those keys. She knew nothing about them. Aha, the agents replied, he must have been keeping boxes under false names in other cities.

Two words escaped the secretary's lips: "The rat!" ■

John Train is president of Train, Smith, Investment Counsel, New York, and the author of The Money Masters and Dance of the Money Bees.

Taxing Matters

Edited By Richard Greene

Everybody knows you can't take it with you—but if you own your own business, you might not be able to leave it behind either.

The death tax

By Jon Schriber

WHEN WILBUR DOYLE got out of the service in 1947 and founded Doyle Lumber in Martinsville, Va., he didn't know he would someday wind up paying, on average, 20% of his earnings on a life insurance policy—with Uncle Sam the ultimate beneficiary. Doyle's little business has prospered—with \$6 million in annual sales, it's now the fifth-largest lumber company in Virginia and is worth about \$3 million. Yet to insure that his sons won't have to sell it to pay estate taxes, Doyle keeps paying those premiums. This year—an off year for the business—Doyle predicts they'll amount to more than the company's total earnings.

In Mars, Penna., Harry G. Austin, 65, and his brother John, 55, the only stockholders in \$8 million (sales) James Austin Co., a soap manufacturer, pay around \$20,000 each in premiums so their 92-year-old company can be passed down to the fourth generation. "Sometimes I think we're really working for the insurance company," says Harry.

Wilbur Doyle and the Austin brothers aren't alone in worrying about the future of their businesses when they're gone. A survey by the National Federation of Independent Business found that among its 539,000 members, death taxes are a close second to concerns about changes in individual income taxes. Says Mike McKeivitt, a lobbyist at the federation: "At any small business group, if you want to see them come right up out of their chairs, start talking about death taxes." No wonder. In many cases—perhaps most—if the founder can't af-



ford the premiums Wilbur Doyle pays, his heirs will not be able to keep the company when he dies.

Small businessmen and their supporters have already gotten to their feet and are taking their case to Washington. Senator Steve Symms (R-Idaho) has introduced a bill to repeal current estate and gift tax laws. The Reagan Administration originally came out in favor of repeal but recently backed off, citing budgetary restraints. Still, it's a safe bet that the Administration will have some recommendations next fall.

Moreover, this month the House Ways & Means Committee may consider a bill to increase individual estate tax exemptions to \$600,000 and to cut the taxable value of qualified businesses by 50%. The measure also would broaden the definition of what qualifies as a closely held business. Former Ways & Means Chairman Al

Ullman, who helped organize a lobbying group for the bill after he left Congress this year, thinks "the chances are excellent" the measure will pass.

About \$6 billion a year goes into the U.S. Treasury from estate and gift taxes. Ullman and other champions of death-tax reform argue that the breakup of family businesses, the loss of jobs and other dislocations, can cause an ultimate tax loss that could offset this revenue. David Raboy, director of research at the Institute for Research on the Economics of Taxation, contends the tax forces people into "uneconomic decision making." Says he: "It discourages people from investing in the things that are productive."

As an example he mentions a small foundry: that may be a very good productive investment, but an entrepreneur will be reluctant to make the necessary capital commitment. "He knows that if he dies they're going to have to sell off part of it to settle the estate. Clearly that's going to discourage you."

Besides the negative impact on the economy, Raboy points out, the taxes are not fulfilling their original purpose. That purpose, of course, was to prevent great concentrations of wealth, like the Rockefellers' or du Ponts', from being passed on from generation to generation. But the great fortunes remain, while the impact of the tax, at least initially, is falling right on the middle class. Inflation puts it there, of course.

But, while waiting for reform, what are folks like Wilbur Doyle going to do? There are some solutions. For example, each year you can give up to \$3,000 away to anyone you want, and to as many recipients as you want,

Taxing Matters

Wilbur Doyle thinks it's necessary to go on paying those crushing life insurance premiums. "During my years in business I've seen some 25 good companies become nonviable when the principal died. They just didn't have the cash flow to pay their bills."

without paying gift taxes—a married couple can give \$6,000 a year. Over and above that, there's a lifetime maximum of \$175,000 for an individual or \$350,000 per couple. So theoretically, a couple can give \$6,000 a year to their heirs for 40 years, with each child winding up with a quarter of a million dollars and the estate with an additional exemption of \$350,000. The problem with this—apart from whether a young couple can afford to give away \$6,000, \$12,000 or \$18,000 a year, is that many people are reluctant to give. "They get cold feet," says Warren Shine, a tax principal at the accounting firm of Ernst & Whinney. "They say, 'maybe next year.'"

So what if this \$350,000 allowance is not used and the husband dies? Assuming the business is in his name, the estate is allowed to take a marital deduction of \$250,000 or 50% of the adjusted gross estate, whichever is more. Take an estate valued at \$1 million. First the administration and funeral expenses as well as claims against the estate can be deducted—in this instance, say \$100,000. Half the remaining \$900,000 adjusted gross estate is subtracted, leaving \$450,000. After deducting a unified tax credit of \$47,000, the tax due is \$91,800.

But all this—plus deferred payment provisions which may help stretch out the taxes—frequently leaves the business with a severe drain on cash flow. One solution is recapitalization, in which the founder or owner issues preferred stock to himself in return for his common shares. It works like this: The owner gets the company appraised for market value, let's say \$1 million. Assume he has 75% of the common, and through gifts over the years, his son has 25%. The father exchanges his \$750,000 worth of common for a like amount of preferred, which pays a dividend, say 15% of par, cumulative.

The father's share in the company is now locked in at three-quarters of a million dollars. If he dies ten years later estate taxes will be due on only that amount. All the *growth* in the company has become the property of the son, so that even if the company quadruples in value the father's estate is still only \$750,000.

There are some pitfalls to this. The IRS may disagree with the original valuation, and the father may have to pay some gift taxes (if the father did not take out enough value in his preferred stock, in effect he gave his son a gift). Some people can have second thoughts, too. Charles Bogen of Ernst & Whinney tells of a client for whom

he did a recapitalization 12 years ago. The business, valued at \$1 million then, is now worth about \$12 million. Says Bogen: "The old man said, 'Look what you did to me. You took all my money.' I told him, 'Yes, but we also took it away from Uncle Sam, and we took more away from him than we took from you.' He's still mad at me. But the sons love it."

All this may help, but for many small businessmen, perhaps not enough. Wilbur Doyle, for example, thinks it's necessary to go on paying those crushing life insurance premiums even though he has recapitalized his business. "During my years in business I've seen some 25 good companies become nonviable when the principal died," he says. "They just didn't have the cash flow to pay their bills."

The Austin brothers haven't recapitalized their soap company at all. "My brother and I each have children working in the business," Harry says. "How do you know 20 years from now which one is going to be in and which one is going to be out?"

In the meantime, the Austins continue to pay those hefty insurance premiums, adamant that the firm remain a family business. But the real truth is that with the Austins—as with so many others—the family is not really the most injured party if the taxes force the firm to be sold out or closed. Elder brother Harry says that if the worst were to happen and the firm had to be put on the block, the heirs would be all right, they would still have enough to live on.

It would be the town of Mars (pop. 1,400), where Austin's soap company is the single largest employer, that would suffer the most. Why? "Certainly if a national firm, any of the big soap companies, bought the company to get the label franchise, why, I doubt they would operate here," Austin explains. "The little town would economically go down the tube." There have been offers already from large corporations for Austin's company, which serves a 500-mile radius of Pittsburgh. Indeed, you could hardly expect a conglomerate like Gulf & Western or Litton to have any kind of emotional attachment or loyalty to Mars. Small family businesses aren't just moneymakers for families—they are an integral part of the economies of small towns from coast to coast.

Wilbur Doyle knows that. But sometimes he wearies of the whole mess. "Once in a while," he says, "I think, why shouldn't I just blow the money and have a good time?" ■

Farm and ranch people are in estate tax trouble again because of increased values of land, equipment and livestock. These examples show why it has become harder to save the family farm business and why estate tax laws need updating:

• "We have just been through the long three-year settlement of my mother-in-law's estate . . . On the 320-acre farm where my husband and I live, over \$1 million dollars has been paid in estate taxes in less than 100 years."—Betty Brand in April 1981 newsletter of Illinois Women for Agriculture.

• "My husband's family and mine have been farmers for generations. The inheritance tax has broken up farms belonging to both families. We are victims, and if our income doesn't improve, my husband and I won't own a farm to pass along.

federal estate tax law. We are just beginning to realize what inflation of land values has done to us, resulting in bracket leap of estate taxes when an owner dies. That's why Washington Women for the Survival of Agriculture are for the greatest simplification of the estate tax system, tax-free transfers between spouses, and eventually total repeal."

—Janet Allison, chairman of government relations.
Endangered: "Today family businesses are an endangered species. We have spent billions to preserve endangered plants, animals, fish and birds. If individuals really are important, this is one of the best chances Congress will ever have to prove it."—Ben Wallis Jr., Texas attorney and rancher.

Proposal to Congress: "With a fixed estate and gift tax credit such as we have now, Congress has to tink-

Why you should work to rewrite tax law



LAURA LANE

"My grandfather died just 10 months before my father, so the estate had to pass through the courts twice before anyone could benefit. The land in my grandfather's estate had to be sold to pay the tax.

"When my father-in-law died, my mother-in-law had to mortgage the farm to pay the estate tax. She was in her 60s, alone, without income or job skills.

"In each of these instances, if the women had died first, the surviving husbands would have paid no estate tax. It is my firm belief that property should pass untaxed from husband to wife, as it does from wife to husband."—Peggy Arensman, Kansas Women Involved in Farm Economics (WIFE).

Key points made at recent hearings on estate and gift taxation:

The revenue issue: "The quote most often heard from members of Congress who favor continuation of the estate tax is, 'We cannot lose the revenue.' In 1980, the revenues from estate taxes amounted to about \$6 billion of the total federal collection of \$466 billion (about 1.4%). Those who emphasize revenue usually quote the gross amount received. The cost of administration (by IRS) is never subtracted. Is the government netting revenue or just exchanging dollars?"—Doris Royal, Nebraska, co-chairman, taxation committee, American Agri-Women.
Effects of inflation: "Most farmers never thought their modest holdings would be affected by

er constantly with tax laws and rates just as you have done in 1976, 1978 and 1980. This is an expensive way to govern people's financial affairs, and it puts a costly burden on tax-paying citizens who in good faith revise their wills, break up joint tenancies, incorporate, create trusts and then have to do it over again because Congress changes the rules. The simplest solution would be to set an ample unified credit and peg it to the rate of inflation. That would save the family farm for now and for the future."—Laura Lane, contributing editor, FARM JOURNAL.

Recent history proves you can influence Congress if you speak up emphatically.

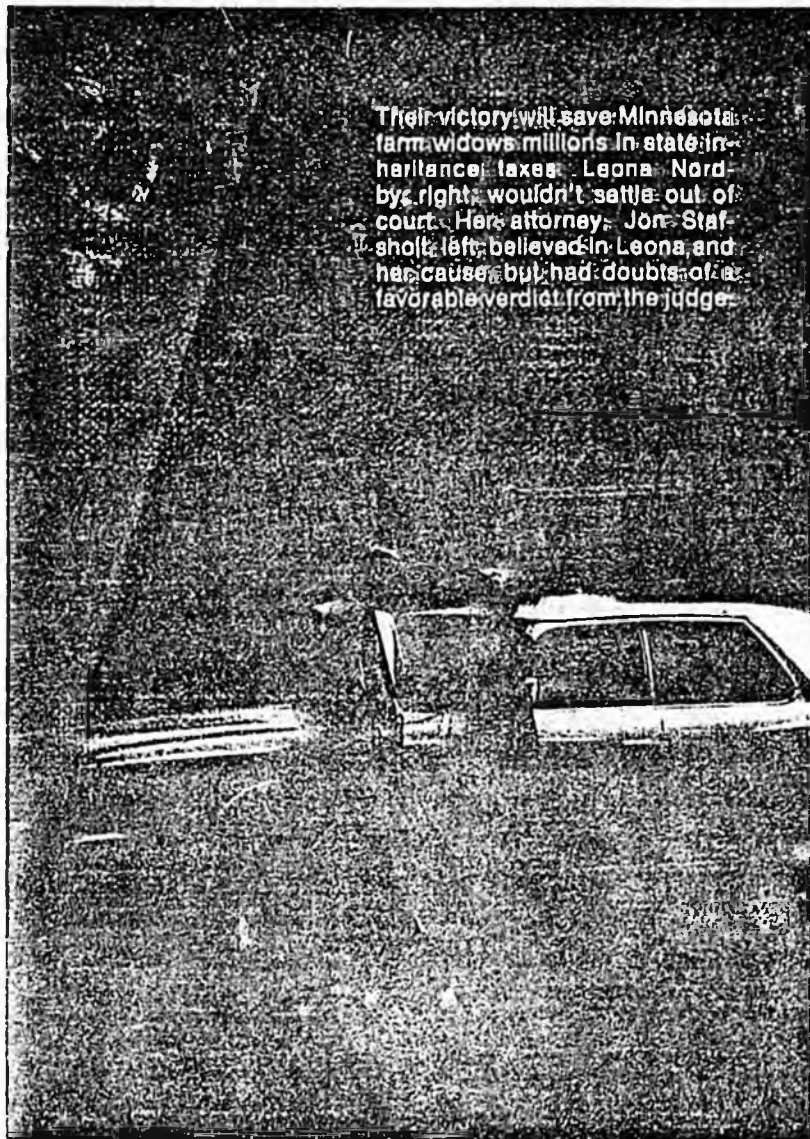
• The collection of 236,248 signatures of farm people on petitions to Congress was a big factor in passage of the Tax Reform Act of 1976. These petitions were printed in FARM JOURNAL and delivered to Washington. The kickoff to this big campaign was the article "Let's Get Rid of the Widow's Tax," Sept. 1975.

• More pressure by farm people helped kill the carry-over-basis provision ("Let's Get Carry-over Basis Repealed," Mid-February 1979). Congress repealed it in the Windfall Profits Tax Act.

In the past six years, FARM JOURNAL has published 61 separate articles on estate taxation and estate planning. The magazine can supply the ammunition, but vocal, persistent farm and ranch voters are the ones who get the job done in Washington. <

We make it easy for you to urge Congress!

To make your voice heard where it counts, all you need to do is tear out the card insert to the right of this page, fill it out, put a stamp on it and put it in the mail. But do this today so FARM JOURNAL can compile totals fast and pass along the results of our poll to Congress and to President Reagan. This card can help save your family business.



Their victory will save Minnesota farm widows millions in estate inheritance taxes. Leona Nordby, right, wouldn't settle out of court. Her attorney, Jon Stafsholt, left, believed in Leona and her cause, but had doubts of a favorable verdict from the judge.

Photos Felix Farrar

Two states recognize a farm wife's worth

Landmark court victories in Minnesota and Wisconsin may help more women win estate tax cases

By LAURA LANE

Late in the Twentieth Century we still have pioneers, and I am fortunate to know one. Her name is Leona Nordby, and she is a soft-spoken, well-groomed, fiftyish farm widow who lives in Grant County, Minn. Leona did something no Minnesota farm woman had ever done before: She won a fight with the state's Commissioner of Revenue in an inheritance tax case.

You can even put a price tag on what her victory means to other farm women—\$2,500,000 is the amount of revenue the state will not collect this biennium because of the decision in

This is the second of two articles about farm widows who have won court battles in estate tax cases.

Leona's favor. That's money which in the past has been paid by farm widows who had held farm property in joint tenancy with their husbands. Add another \$1.7 million usually forked over by widows who have been deeply involved in other kinds of family businesses.

Money (about \$4,000 in taxes) was important, but it wasn't the prime consideration in the case of *Leona Nordby vs. Commissioner of Revenue*. Her fight was for justice for herself and others.

The principal issue was whether the full value of the joint property was subject to inheritance tax at the death of Leona's husband, Lewis M. Nordby. Leona had contributed equal effort to earning income that enabled the couple to buy the property in the first place, so Leona contended she owed inheritance tax on only half—her husband's half. FARM JOURNAL readers have known for years about this legalized discrimination that puts no financial value on a woman's farm work in field, barn or office. It isn't recognized as "money or money's worth" in common-law states (42 of the 50).

When Leona filed her state inheritance tax return following her husband's death, she based her payment on half-ownership plus a widow's exemption, with full knowledge that she was asking for trouble. As her attorney, Jon Stafsholt of Elbow Lake, had

foreseen, the Commission of Revenue rejected Leona's claim. The next step was to appeal to the state Tax Court.

Stafsholt felt the Minnesota statute discriminated against women in practice if not in language and was eager to challenge the interpretation.

Several factors favorable to Leona's case were listed for me by attorney Stafsholt:

- The case could be heard on home ground—in the courthouse at Elbow Lake, thanks to new Minnesota Tax Court procedure.
- The presiding judge had been a country lawyer earlier in his career, so he knew something about farm women's work habits.
- The Minnesota Legislature was considering an Equal Rights Amendment at the time.
- A few months before, a Wisconsin widow, Doris Kersten, had won a similar action against the Department of Revenue in her neighboring state (more about this case later). Attorney Stafsholt says: "Actually, the Kersten case has almost no bearing on Minnesota law, but knowledge of a decision like that puts the judges in tune with the trends."

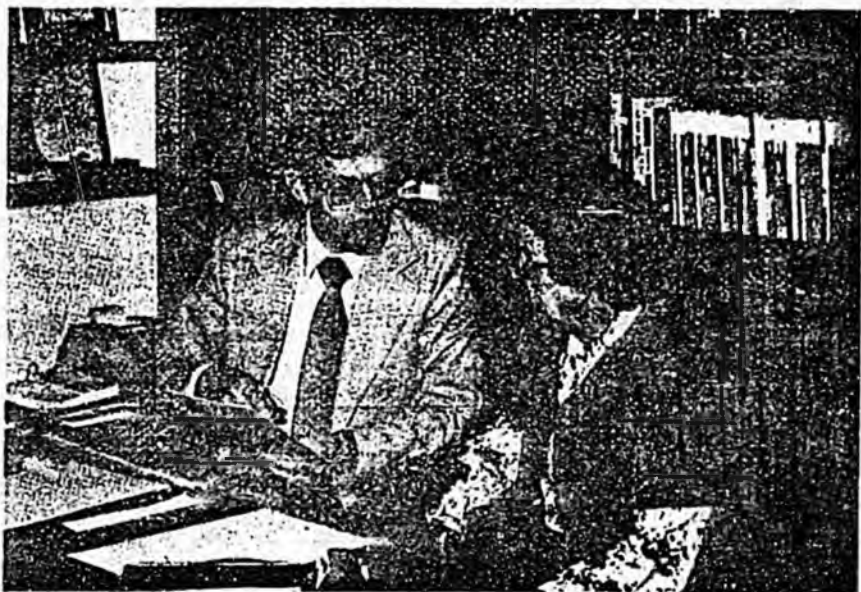
The gloomy factor was that no one had ever successfully challenged Minnesota's Inheritance Tax Department on "the widow's tax."

Revenue Department officials tried to settle out of court with Leona before the case came to trial. First they offered to exclude 20% of the estate from Minnesota inheritance tax, then 25%, then 30% and finally 35%. That posed a real dilemma. Stafsholt explained to me:

"I told Mrs. Nordby it was probably in her own interest to accept that offer—the dollar amount wasn't significantly less and it was a sure thing. Taking the appeal to court was risky, as I had warned her.

"She thought about the offer for a week and then asked again: 'If I settle out of court, will this help other farm women?' I told her, no it wouldn't. That settled the matter. She said, 'Let's go to court then.' It was a courageous decision."

Testifying in Leona's behalf were people who knew her well: two farmers—a neighbor and her husband's brother; her own brother and Leona herself. . . "an excellent, soft-spoken witness," Stafsholt describes her. She



Stafsholt considers *Leona Nordby vs. Commissioner of Revenue* the most important case of his career thus far. His client, Nordby, now rents out the farm and works as a nurse's aide in an Elbow Lake Hospital. She says the case has changed her life and views in several respects.

followed his two bits of advice: "Think before you reply to a question. Tell the truth."

What the testimony revealed: Shortly after Leona and Lewis married, both were employed by an elderly bachelor farmer—Lewis as a hired man and Leona as a housekeeper. That was in 1936. They rented a place in 1939 and borrowed to buy their own 160 acres in 1947, after a lot of worry and pencil pushing. Sometimes they had dairy cows, sometimes sheep and beef cattle, usually hogs, chickens and turkeys, often ducks and geese.

The work and worries of farming—as well as the rewards—were always shared. Leona milked and helped care for animals and poultry, prepared meals for hired help, treated seed, loaded fertilizer, cleaned and repaired buildings and equipment, operated farm machinery, helped with bookkeeping and tax returns. She and Lewis borrowed money together and they shared a bank account.

When Lewis was incapacitated, Leona became the farm operator—for about a year at a time. Once was when Lewis had an operation for a slipped disc and again later when he was injured in an accident with a tractor-pulled spray rig. Later she took over when Lewis became too ill to work. He died of cancer in 1976.

A key point that attorney Stafsholt made in the court proceedings: If Leona had divorced Lewis instead of

nursing him and carrying on the farm operation, she would have been entitled to half of his assets under Minnesota law. Why should she be financially penalized for 40 years as a working partner in a good marriage? "The legislature certainly did not mean to reward divorcees and penalize widows," Stafsholt says.

Judge John Knapp, who wrote the unanimous opinion of the Tax Court, picked up this point: "If the rights of ownership in jointly owned property are recognized in divorce proceedings, there is no reason in logic or equity to ignore these same rights in inheritance tax cases.

"The work and contributions made by each spouse in operating a family farm should be recognized as being adequate consideration in money or money's worth in considering a claim of ownership in at least a portion of the property which passes to the surviving spouse upon death. In the instant case, we have found that the contributions of each spouse were substantially equal."

That was on Feb. 17, 1978. In April, then Governor Rudy Perpich announced that the state would not appeal the ruling, and that the Department of Revenue would "extend the principle to women who participate in any family business."

A landmark case has repercussions for client and attorney.

Leona Nordby's victory saved her

some inheritance tax money, and she gladly used part of it to pay attorney's fees. She remains an unassuming woman though she has been much photographed and interviewed by the Minnesota press. What changed?

1. Estate and inheritance taxes and laws that discriminate against women have become a consuming interest. She values the praise of those who recognize the magnitude of her contribution, and accepts philosophically the criticism of "some people who don't approve of what I did."

Leona's decision to engage in a legal struggle was prompted in part by the experiences of a widowed cousin in another state who, because of lack of documentation, had been obliged to pay inheritance tax on her own property as well as on property jointly owned. The cousin never fought her case. Leona considered for several months whether to go to court.

"I kept thinking, 'Boy, how I had worked.' To say that the results of 40 years' labor belong only to one is an insult to both members of a marriage. I felt it was the right thing to do [to go to court] and the right time to do it, and I proved to be right."

2. Leona lost her prejudice against lawyers. She credits a daughter-in-law, Marlyce Nordby, a paralegal aide in Minneapolis, with her change in ideas, and says, "An attorney can be as eager as a client to get justice and to help you in the process."

Jon Stafsholt considers the Nordby case the most significant in his career thus far, because of its widespread social impact: "It's the beginning of the end of farm wife discrimination." He was asked to write about it for a Minnesota legal journal, and he has conducted three seminars for the Minnesota Bar Association. He also has received appreciative letters from farm wives and from attorneys.

More farm women should use the courts to get their just due, Stafsholt believes. He says: "Legislative bodies and the executive branch of our government are sensitive to the pressure of majorities, but our courts still are sensitive to the rights of minorities." That's what farm and ranch women are—a minority.

A favorable decision helps other cases—in fact, there's a slow-but-sure domino effect.

Numbers of Wisconsin women have

profited from Doris Kersten's victory in the state's Supreme Court, March 2, 1976 (In re Estate of Kersten, 71 Wis. 2d 757).

Records of the court proceedings give these facts:

"Lester and Doris Kersten devoted all their working efforts during marriage to operating the farm. Almost all that was owned by the couple at the death of Lester Kersten had been acquired by them during marriage. Neither inherited anything. Lester and Doris Kersten made substantial capital improvements to the farm, all of which were paid for from farm profits. . . expansion of milking facilities, remodeling of the house, and addition of several structures, including a silo, machine sheds, milk house, heifer barn and garage.

"In addition to maintaining the household (the couple raised four children), Doris helped keep the farm books, cared for and trained the calves, helped with the milking, operated the tractor during [hay] baling, and generally assisted her husband in the farm work.

"Additionally, Doris Kersten ran the farm alone for two periods of time during which her husband was ill. However, she testified that neither would have successfully operated the farm without the continuing assistance of the other.

"On cross-examination, Doris Kersten testified that there was never a written partnership or joint venture agreement between herself and her husband.

"Doris Kersten never reported personal income for either federal or state income tax purposes. The milk check, the primary source of farm income, was made out to Lester Kersten. Farm income was reported by Lester Kersten as his income for Social Security purposes."

The trial court (Marathon County Court) had determined that, with two exceptions (property Lester already owned when he married Doris and one certificate of deposit), the balance of the jointly owned property should be taxed on a "50/50 basis." It ordered the Commissioner of Revenue to refund \$2,911.01 of inheritance tax to Doris, the personal representative (executrix) of Lester's estate. That's when the Department of Revenue appealed the case.

In his decision favoring Doris, Wisconsin Supreme Court Judge Robert W. Hansen said: "So the issue in this case narrows to whether Doris Kersten's personal services on the family-operated farm constituted 'consideration in money or money's worth' in return for her interest in the property jointly held by her and her husband. . .

"We agree with the trial court and affirm its holding that Doris Kersten was entitled to credit for inheritance tax purposes for such contribution on her part to the jointly held property . . ." Victory for Doris!

Elsewhere in his decision Judge Hansen quoted extensively from the federal Tax Court case *Estate of Everett Otte vs. Commissioner of Internal Revenue* (see "They sued the IRS and won," FARM JOURNAL, Aug., 1979). This case established that the contribution by Lura Otte of personal service as a wife "who kept the farm records and took an active part in the day-to-day operation of the farm, fairly justifies a division of the property acquired during her marriage."

To sum up, Lura Otte helped Doris Kersten.

Both Lura Otte and Doris Kersten helped Leona Nordby.

And Leona Nordby's case was cited in the successful suit of *Bessie Craig vs. The United States of America* (District Court, South Dakota, 1978).

None of these four women knows the other. None was aware she was helping anyone but herself. But the collective heroism of these four may benefit every wife who is a working partner with her husband . . . for all time to come. ◀

MORE ON ESTATE PLANNING

Laura Lane's detailed report, "How the Revenue Act of 1978 Affects Your Estate Plan," is just off the press.

To order, send \$1 plus 40¢ delivery charge to: Revenue Act, FARM JOURNAL, BOX 1927, Philadelphia, Pa. 19105. Or get the report free with your order of FARM JOURNAL'S *Estate Planning Idea Book* by Laura Lane, available from the same address for \$14.95 plus 70¢ delivery charge. Both items are tax-deductible.

By LAURA LANE

Probably you have never heard of Bessie Craig or Lura Otte, but these unassuming farm women are true heroines. Both are widows, courageous in a special way.

They pioneered in a setting unfamiliar to them—the federal courts. Both hired competent attorneys to help them press for justice in estate tax cases. Each won—not just for herself but for other farm wives who have worked along with their husbands, managed and sometimes scrimped to have a good life and, in the process, build a farm estate to pass along to their children. Here are their stories:

Bessie Craig vs. The United States of America

FACTS: Bessie married Clarence Craig in 1925, and they started farming from scratch on rental land in Brown County, S.D. From day one of their 43 years of married life, Bessie was the bookkeeper—she had studied bookkeeping and typing in high school, and she developed her own form of enterprise accounting.

The Craigs were good farmers and good managers. They bought their first farm during the Depression (1930), and from time to time borrowed money to add other parcels to their holdings. They raised wheat, corn, oats, barley and flax, and they had stock, too—a cow-calf operation, hogs, sometimes sheep and a sideline Shetland pony business.

Early in their marriage Bessie worked in the fields, and she was always available to haul grain or stock. Once she trucked a load of horses from Missouri to South Dakota. Somehow she found time to raise a big garden and do a great deal of canning—vegetables, fruit, meat.

The Craigs' five children helped as they grew old enough, but that wasn't sufficient. Clarence and Bessie together hired farm laborers who "lived in." Bessie cooked for them, did their laundry, mended all their clothing, cleaned their quarters.

She had one enterprise of her own—a butter and egg route in town. She churned by hand and molded the butter; and the chickens were her special responsibility. "I'd get up in the middle of the night to see after my baby chicks," she reminisced to me not long ago in her comfortable living room. The money from this and all

farm sales went into a single bank account in both names.

When Clarence and Bessie went on cattle-buying trips, she usually wrote the checks. And she was the one who hired truckers to deliver the stock to the farm. A favorite meal of truckers was hamburgers and homemade cherry pie, she says.

The Craigs were fortunate to have an astute attorney, Douglas Bantz of Aberdeen, who persuaded them as early as 1958 to "equalize" their holdings for estate tax purposes. When Clarence died following a car accident in 1968, he held title to 5½ quarter sections of land, Bessie to 7½, and they owned one parcel of pastureland in joint tenancy. In his will Clarence set up a trust, through which his hold-

Her name may appear in countless law books, but Bessie Craig remains an unassuming woman. She has a head for business and in preparation for testimony in her case against the U.S. she was able to produce bank checks written 30 years earlier. Now that sons operate the farm, Mrs. Craig lives in a small town, enjoying family and friends.

A farm-reared South Dakota attorney, Kenneth L. Gosch knows firsthand about "the value of a woman in the family business."



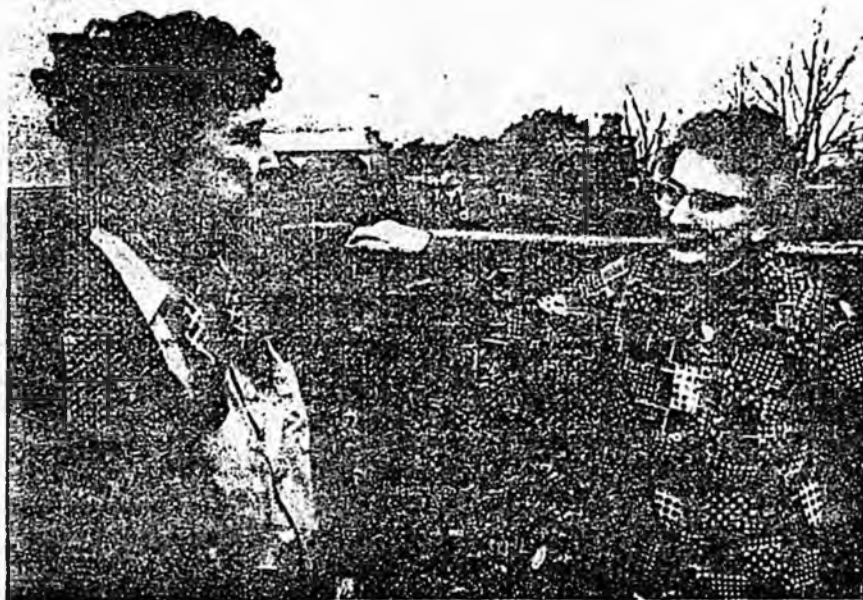
Photos: Helmer's House of Portraits

They sued the IRS —and won

Victories by two widows in federal estate tax cases may help other farm women who feel they have been denied justice

This is the first of two articles about farm women who have won court battles in estate tax cases.





Lura Otte, right, keeps up with changes in estate tax laws and alters her estate plan accordingly. "These days a widow needs all the help she can get," she tells the author, Laura Lane, left. Mrs. Otte especially values the continuing support of two sons and three daughters, all in farming. The youngest son, unmarried, lives in the family home with her. Mrs. Otte remains a record-keeper and keen analyst of commodity market trends.

ings went to the children. Bessie inherited only household goods and the family car, since she already owned half of the farm (966.5 acres). Neither the South Dakota Department of Revenue nor IRS contested her ownership of real property.

THE ISSUE: At stake was personal property valued at \$265,405.09—machinery worth \$53,938.50; livestock, including 620 head of cattle, valued at \$167,864.56; and miscellaneous assets (stored grain, interest in several co-ops, etc.) worth \$43,602.03.

Attorneys for the U.S., strictly interpreting the Tax Code, claimed Bessie owned none of this personal property and said she therefore owed IRS an additional \$42,318.79 in tax. (A tax she describes as "a whopper" already had been paid by the estate.) Bessie forked over the tax deficiency, but reserved the right, as executrix, to sue to get the money back.

Bessie's attorneys, Kenneth L. Gosch and Harry N. Sandstrom (then partners of Mr. Bantz), chose to fight the case on their own home ground—that is, in District Court in Aberdeen. They preferred this to the Tax Court, which they feel often favors IRS.

By the time the case began on a blizzard day in November, 1977, Bessie had done her homework. In one instance that meant digging up a check she had written in 1946—more than 30 years earlier.

It was easier to find records than to keep her cool when a U.S. tax attorney accused her of "a self-serving assertion not in accordance with the objective facts." She could not deny that on federal income tax returns (which Bessie always prepared for review by a CPA) that "Mr. Craig is listed as a farmer while Mrs. Craig is not listed as having an occupation." Nor had Bessie and Clarence ever filed a partnership income tax return, the government's attorneys pointed out.

Bessie had a chance to testify in her own behalf ("I wasn't scared," she told me), and so did three of the Craig children and the family banker. The Justice Department attorneys from Washington, D.C., were polite to Bessie, but out of her hearing they often chided her counsel on the futility of her case. Nevertheless, attorneys Gosch and Sandstrom kept hammering away at the idea that if it had not been for Bessie's help, Clarence would



Photos: John Starkey, Black Star

Elmer E. Lyon was the first attorney to sell the Tax Court on the idea that farming can be a team operation, involving both husband and wife.

have had to employ another hired man. And they never let anyone forget that Bessie had been a joint decision-maker with her husband.

"The best point in Bessie's favor was that she and Clarence really did operate as farm partners," attorney Gosch told me.

He explained to me why he and his partner had delayed filing suit against the U.S. for several years.

"We felt there was a changing mood in the country. The longer we waited, the more people would realize the value of a woman in a family business." **THE VERDICT:** Judge Fred J. Nichol wrote the Court's decision announced on June 14, 1978. Some of his statements were music to a farm wife's ears: "All in all, the efforts of Bessie Craig, in the operation of the family farm, as well as her capital contributions in income derived from her land, can properly be characterized as those of a partner, in the fullest business sense of the word . . ."

"The Court will not ignore this farm wife's contribution to the success of the business as the Internal Revenue seeks to do . . . (T)he plaintiff is entitled to the refund sought."

In time, Bessie got back her \$42,318.79 plus interest. She had to pay attorneys' fees, of course, but it is a great satisfaction "to get justice," she says with a proud smile.

Now Bessie's place in history is assured—in future law books, later generations will study "Craig vs. The United States of America."

Lura Otte vs. Commissioner of Internal Revenue

FACTS: Everett and Lura Otte farmed in Jackson County, Ind., fol-

lowing their marriage in July 1932. Like the Craigs, they acquired land by the "borrow-then-pay-for" method, using farm income to buy several tracts to add to their 103-acre "homeplace" Everett bought before their marriage. They held title jointly, or as Indiana law puts it, "as tenants by the entireties."

Under Indiana law, income from such joint property belongs to spouses in equal shares, and "each spouse is considered to have paid from his or her separate funds one half of the cost of any property acquired through payment of the income from such property."

In 1947 Everett inherited from his father one-quarter interest in 20 acres. He and Lura then bought out the three other heirs—one brother and two sisters. Lura also received an inheritance—\$2,170 from the estate of her mother in 1951. She used most of it to buy an Oliver 66 tractor and the remainder to install running water and a bath in a farm house the Ottes owned.

The Ottes began farming with horses (as the Craigs had done), and Lura would drive a team to harrow, disk, plant or haul hay. Later she learned to drive a truck and made trips to town for feed. When Everett was "working at another place," Lura helped care for the stock and did the milking. She kept chickens, too; premiums for an endowment life insurance policy on Everett were paid with her hen-and-egg money.

One enterprise of the Ottes was raising certified seed. Lura took responsibility for picking out odd kernels, and she also handled most orders and deliveries. She set out cabbages and tomatoes; helped harvest both.

Somehow she managed to keep track of markets to determine "the best day to sell hogs." She was in charge of many financial affairs, including the bookkeeping.

Everett and Lura Otte reared five children—two sons now farm land that Lura owns.

In 1966 Everett had an opportunity to go to Russia as part of a farmer exchange program. Beforehand he decided to get his affairs in order, and that included some estate planning, which he had learned about at Farm Bureau meetings. On the advice of his attorney, Everett transferred approx-

imately 260 acres to Lura separately, of the 636 acres jointly owned. He did this for several reasons: to cut estate taxes in the event of his death, to compensate Lura for her hard work and give her more experience in managing real estate, and to lessen his own responsibilities, even though at age 61 he was in excellent health and had never had any serious illnesses.

About a year after the trip to Russia (Oct. 10, 1967) Everett Otte died of a cerebral hemorrhage.

THE ISSUES: The IRS and Lura Otte had several bones of contention on federal estate taxes due, but the principal one was IRS's contention that none of the real and personal property reported on the estate tax return originally had belonged to Lura, with the exception of the inheritance from her mother. In other words, her contribution had not been of "money or money's worth." IRS billed Lura for an additional \$7,943.44. This was "widow's tax," because if Lura had died first, Everett would have been recognized as the owner and not billed for a delinquency.

Lura contended IRS had not given her proper credit and said she was due a refund of federal estate tax amounting to \$1,870.29.

"I just felt I had made a considerable contribution to buying, upkeep and farm expenses, but in the eyes of IRS a woman's work counts as nothing," she told me in reviewing her battle in the federal Tax Court in Indianapolis.

Was she frightened? "No, I felt secure with my figures. I had to supply complete records for every year we had farmed, and it was those farm records that convinced the judge."

Her principal attorney, Elmer E. Lyon of Indianapolis, adds: "Mrs. Otte's openness and honesty couldn't be ignored. She had never considered herself as a partner of her husband—women didn't in an earlier era, even if they were outstanding performers like Mrs. Otte. But we were able to sell the court on the idea that Everett and Lura were a husband-and-wife team."

THE VERDICT: The concept of a husband-wife team was recognized by Judge Graydon G. Withey in his memorandum decision of March 28, 1972. He noted that the home farm had been in Everett's name only until

1958, but added: "We believe the enhanced value of the homeplace resulting from (Everett and Lura) working as a team constitutes jointly acquired property subject to equal division for estate tax purposes . . ."

"Lura's efforts, industry and skills were not limited to those of an ordinary housewife and contributed to the success and growth of the overall farming operation."

The money involved was not an enormous sum by today's inflated standards, but Lura Otte was satisfied in the knowledge that a woman's contribution was officially recognized, despite strenuous objection by IRS. She keeps up with federal estate tax law and believes it should be changed to give justice to "women up and down the road who are milking cows, driving tractors." When told that her case had helped other women she had never heard of, she said: "Really? Well, I'm happy that is the case."

The 1978 change in the federal tax law that allows a widow or widower to "earn" and exclude from estate tax 2% a year of jointly held property often is referred to as "the Otte Amendment," attorney Lyon says. That's an unexpected reward for Lura Otte.

Many other widows have contributed to farm estate building and conserving, letters to FARM JOURNAL tell us, but whether they could win in the courts depends on individual circumstances. What a woman needs is a sense of her own worth, records to back her up, some money for legal fees, a determination to see justice done—and the courage of a Bessie Craig or a Lura Otte.

More on Estate Planning

Laura Lane's detailed report, "How the Revenue Act of 1978 Affects Your Estate Plan," a companion piece for FARM JOURNAL's *Estate Planning Idea Book*, is just off the press. To order, send \$1 plus 40¢ delivery charge to: Revenue Act, Farm Journal, Box 1927, Philadelphia, Pa. 19105. Or get the report free with your order of the *Estate Planning Idea Book*, available from the same address for \$14.95 plus 70¢ delivery charge. Both items are tax-deductible. ▽

Introduced: 4/29/83
Referred: Judiciary and
Finance

1 IN THE HOUSE

BY TISCHER, BARNES, BETTISWORTH,
BUSSELL, LISKA AND WARD

2

HOUSE BILL NO. 388

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act repealing the state estate tax; and providing
7 for an effective date."

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

9 * Section 1. AS 13.16.610 and AS 43.31 are repealed.

10 * Sec. 2. Estates of decedents dying before the effective date of this
11 Act shall be taxed under the laws in effect before that date.

12 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
13 10.070(c).

Original sponsor: Hayes

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 394 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the federal budget impact fund;
7 and providing for an effective date."

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

9 * Section 1. LEGISLATIVE FINDINGS. The legislature finds that the
10 situation described in sec. 1, ch. 125, SLA 1982 regarding reductions in
11 and uncertainty about federal funding still exists and that it is necessary
12 to extend the federal budget impact fund another year.

13 * Sec. 2. Section 8, ch. 125, SLA 1982 is amended to read:

14 Sec. 8. This Act terminates June 30, 1984 [1983].

15 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
16 10.070(c).

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS HB 394 (Finance)
 Title Relating to the Federal Budget Impact Fund
 Requested by House Finance Committee Date 6/16/83

II. FISCAL DETAIL

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

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		0				

FUNDING (Thousands of Dollars)

GENERAL FUND		0				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

No additional funding is necessary to implement this legislation. HB 309 extends the lapse date on funding for the Federal Budget Impact Fund to the end of the fiscal year. Thus, no additional funding is necessary. Currently, about \$4 million remains in the fund.

IV. DATE 6/16/83 PREPARED BY AI Adams, Chair *APA*
 AGENCY House Finance Committee
 Original: Legislative Finance PHONE 465-3706
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

The following individuals may testify on HB 394:

Representative Adelheid Hermann

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: SSHB 394
 Title: An Act Relating to Benefits Under PERS
 Sponsor: Representative Hayes
 Requestor: _____

II. FISCAL DETAIL

Agency Affected: Fish & Game
 Program Category Affected: _____
 BRU, Program of Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		(232.0)	(510.5)	(842.3)	(1235.4)	(1698.7)
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		(232.0)	(510.5)	(842.3)	(1235.4)	(1698.7)
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	(180.3)	(396.7)	(654.5)	(959.9)	(1319.9)
FEDERAL FUNDS	(31.5)	(69.4)	(114.5)	(168.0)	(231.0)
OTHER (Specify Source) (Fish & Game Fund)	(20.2)	(44.4)	(73.3)	(107.5)	(147.8)

POSITIONS:

FULL-TIME					
PART-TIME					
TEMPORARY					

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: J.K. Humphreys Director Phone: 465-4460
 Division: Retirement & Benefits Date: 5-5-83

Approved by Commissioner: Lisa Rudd, Commissioner Date: 5-5-83
 Department: Administration

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

State of Alaska

Fiscal Note

SSHB 394

IV. Analysis: The present value of the projected savings to the State over the next 17 years is \$25 million.

REPRESENTATIVE
ADELHEID HERRMANN
P.O. BOX 63
NAKNEK, ALASKA 99833
(907) 246-4495

While in Juneau
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4942, 465-4943

Alaska State Legislature



House of Representatives

CHAIRMAN
SPECIAL COMMITTEE
ON FISHERIES

MEMBER
TRANSPORTATION
COMMITTEE

Handwritten signatures and initials:
- A large signature, possibly "Herrmann"
- "J. Adams"
- "A. Adams"
- "J. Adams"

DISTRICT 26

- ADAK
- AKUTAN
- ALEKNAGIK
- ATKA
- BELKOFSKI
- CLARK'S POINT
- COLD BAY
- DILLINGHAM
- DUTCH HARBOR
- EGGIK
- EKUK
- EKWOK
- FALSE PASS
- IGIUGIG
- ILIAMNA
- KING COVE
- KING SALMON
- KOKHANOK
- KOLIGANEK
- LEVELOCK
- MANOKOTAK
- NAKNEK
- NELSON LAGOON
- NEWHALEN
- NEW STUYAHOK
- NIKOLSKI
- NONDALTON
- PEDRO BAY
- PILOT POINT
- PORT ALSWORTH
- PORT HEIDEN
- PORT MOLLER
- PORTAGE CREEK
- SAND POINT
- SOUTH NAKNEK
- SQUAW HARBOR
- ST. GEORGE
- ST. PAUL
- TOGIAK
- TWIN HILLS
- UGASHIK
- UNALASKA

MEMORANDUM

DATE: March 21, 1983

TO: Rep. Al Adams
FROM: Rep. Adelheid Herrmann
SUBJECT: Continuation of FBIF, FY84

Enclosed is proposed legislation sent to me by Peter McDowell concerning continuation of the Federal Budget Impact Fund. Mr. McDowell sent me the material knowing how interested I am in the FBIF as a possible funding source for the Pribilof Islands.

The communities of St. Paul and St. George currently have 7 grant applications on file for FBIF funding. As you are aware, the federal government intends to cease all support on the islands as of the end of this federal fiscal year (September 83). Considering the fact that the federal government has been the islands' sole employer and has provided numerous community subsidies, this constitutes quite an impact. Many felt that the FBIF was a likely source of state relief.

Because of the way the FBIF is defined, only projects which have already received cuts are eligible. Unless the fund is extended for another fiscal year, the Pribilof projects will not be eligible.

Al, I'm looking at every possible source of money for the Pribilofs. So far people from DOT, DCRA, DCED, and the Governor's Office have met with Senator Mulcahy and me to discuss the problem. Extending the Federal Budget Impact Fund is one alternative I in particular have stressed because so much needs to be done besides harbor development.

I'd appreciate it if the Finance Committee would introduce this legislation. With your support demonstrated in this way, I feel the measure would have a greater chance of passing.

Thank you for your time and consideration. Let's talk about this when you get a chance.

MEMORANDUM

State of Alaska

TO: Emil Notti
Legislative Assistant
Governor's Office

DATE: March 11, 1983

FILE NO: 377-087-83

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch
Attorney General

SUBJECT: Attached draft bill
extending federal
budget impact fund

By: Arthur H. Peterson *AHP*
Assistant Attorney General

As requested by OMB Director Peter McDowell, and initially approved by the Legislation/Budget Review Committee March 10, 1983, attached is a draft bill extending the federal budget impact fund until June 30, 1984. For which house should the final be prepared?

The bill does not change the procedures for use of the money in the fund, nor does it change the \$20,000,000 limit on the amount that may be in the fund (a provision which would not prevent the legislature from appropriating more to the fund anyway). For your convenience, I am attaching a copy of our June 15, 1982 bill review letter on the Twelfth Legislature's CSHB 876 -- the bill that established the fund last year.

Also attached is a draft transmittal letter to the legislature.

AHP:md

cc w/enc.: Peter McDowell, Director
Office of Management & Budget

OFFICE OF
MANAGEMENT & BUDGET

MAR 15 1983

DIRECTOR

June 15, 1982

Honorable Jay S. Hammond
Governor
State of Alaska
Pouch A
Juneau, AK 99811

Re: CCSHB 876 -- establishing a
federal budget impact fund
Our file: 388-127-82

Dear Governor Hammond:

At your request, we have reviewed CCSHB 876, a bill establishing a federal budget impact fund to be effective during fiscal year 1983. From money appropriated to the fund, the governor may authorize expenditures to state agencies, municipalities, nonprofit corporations, and unincorporated communities to offset the effects of federal budget reductions.

The bill provides for review of the governor's proposed expenditures by designated representatives of the legislature. The proposals must be submitted within 30 days after the effective date of the bill and the legislative recommendations must be returned to the governor within 30 days after he submits the proposals. The bill will be effective immediately upon becoming law. We see no problem with the separation of powers in this context since the legislative representatives are acting in a purely advisory capacity. Cf., People v. Tremaine, 21 N.E.2d 891 (NY 1929). Furthermore, the legislative review requirement applies only to those expenditures proposed within 30 days after the effective date of this bill. If federal budget reductions prompt program needs later in the fiscal year, and the fund contains an unencumbered balance, the governor may authorize expenditures without going through the legislative review process.

There is a legal question as to the scope of discretion for spending decisions which may be delegated by the legislature to the executive branch. Although it has not ruled directly on this issue, the Alaska Supreme Court has upheld delegations of legislative authority in other contexts. Northern Lights Motel v. Sweaney, 561 P.2d 1176 (Alaska 1977); DeArmand v. Ak. State Development Corp., 376 P.2d 717 (Alaska

Honorable Jay S. Hammond
Governor

June 15, 1982
Page #2

1962). We believe that the bill provides sufficient guidelines limiting the discretion of the governor to avoid any problem of excessive delegation of legislative power. Cf., Hopkins v. Ford, 534 S.W.2d 792 (Ky. 1976) (upholding an Act authorizing governor to appropriate amounts of surplus to state agencies for certain purposes as a valid delegation of legislative power).

We see no significant constitutional or legal problems with the bill.

Yours truly,

Wilson L. Condon
Attorney General

WLC:pjg:LLD

D R A F T

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill extending the federal budget impact fund one year. Federal budget reductions will continue to affect the state adversely, and uncertainty as to their amount and full effect will continue after the adjournment of the First Session of the Thirteenth Alaska State Legislature. Therefore, as the legislature and the governor did last year, it is necessary to plan ahead by using this method of providing for various contingencies.

Sincerely,

Bill Sheffield
Governor

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF ADMINISTRATION

POUCH C (MS 0200)
JUNEAU, ALASKA 99811
PHONE: (907) 465-2200

OFFICE OF THE COMMISSIONER

(907) 465-2200

May 13, 1983

Honorable Ramona Barnes
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Barnes:

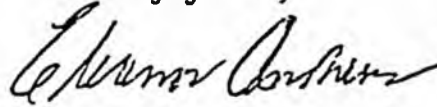
This is in reply to your letter of May 1 regarding peace officer retirement for employees of the Department of Fish and Game.

As you know, two bills (SB 277 and HB 394) have been introduced this session which would foreclose peace officer coverage for future fish and game employees. The Sheffield administration strongly supports these bills and feels that we should close the door on special retirement coverage on the basis of hazardous duty, regardless of the degree of exposure. Hazard pay which is negotiated and monitored continuously along with insurance coverage addresses this situation more appropriately than early retirement with an inducement to leave state service.

The Department of Administration intends to amend the regulation if the legislature does not pass a bill which settles the question. However, even if standards under the regulation were raised drastically it would still leave the question of applying those standards to employees in other departments and granting peace officer coverage in new areas.

I appreciate your concern and ask that you support the bills introduced by Representative Hayes and Senator Kerttula.

Sincerely yours,


for
Lisa Rudd
Commissioner

LR/jb

cc: Representative Joe Hayes
Speaker of the House

SSHB 394

Position Paper

SSHB 394

The Department of Administration strongly supports this bill. It represents an important first step in cost containment in the PERS.

In the mid-70's the law was amended to expand eligibility for Peace Officer/Fireman retirement coverage to include certain employees in the Departments of Fish and Game and Health and Social Services. This bill would restrict peace officer coverage to those "qualified employees of the Department of Fish and Game," who currently have that status and place newly hired individuals in regular PERS coverage. We do not believe it is appropriate to compensate employees for hazards that may be undergone on the job by providing them this expensive retirement coverage.

J.K. Humphreys
J.K. Humphreys, Director, Division of Retirement & Benefits

5/5/83
Date

Lisa Rudd
Lisa Rudd, Commissioner, Department of Administration

5/5/83
Date

Introduced: 5/4/83
Referred: State Affairs and
Finance

1 IN THE HOUSE

BY HAYES

2

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 394

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to benefits under the public employees' retirement system; and providing for an effective date."

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

10

* Section 1. AS 39.35 is amended by adding a new section to read:

11

Sec. 39.35.527. ELECTION TO TERMINATE COVERAGE AS A PEACE OFFICER OR FIREMAN. (a) Any active member may elect to irrevocably

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relinquish peace officer or fireman status with the system and to retain all credited service as if it had been acquired as a member other than a peace officer or fireman.

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(b) In order to relinquish peace officer or fireman status with the system, a person must be an active member and must file a written request with the administrator by July 1, 1984, or within six months after employment as a peace officer or fireman, whichever occurs later. No person has more than one opportunity to exercise this option.

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(c) As soon as possible after the relinquishment, the administrator shall refund to a person who relinquishes peace officer or fireman status under this section a refund equal to the amount by which the balance of the person's accumulated mandatory contributions plus interest exceeds the balance which would exist if all service credit had been acquired as a member other than a peace officer or fireman.

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(d) A written request to relinquish peace officer or fireman

1 status is irrevocable upon filing with the administrator.

2 * Sec. 2. AS 39.35.680(27) is amended to read:

3 (27) "peace officer" or "fireman" means an employee occupy-
4 ing a position as a peace officer, chief of police, correctional
5 officer, correctional superintendent, [QUALIFIED EMPLOYEE OF THE DE-
6 PARTMENT OF FISH AND GAME,] fireman, or fire chief;

7 * Sec. 3. AS 39.35.680(32) is repealed.

8 * Sec. 4. A person holding a position as a "qualified employee of the
9 Department of Fish and Game" on June 30, 1983, continues to accrue service
10 credit as a peace officer under AS 39.35 until

11 (1) that person's employment is terminated with the Department
12 of Fish and Game; or

13 (2) that person elects to irrevocably relinquish peace officer
14 status under AS 39.35.527.

15 * Sec. 5. A person who has not elected to relinquish peace officer
16 status under AS 39.35.527 retains all accrued credit as a peace officer for
17 retirement purposes and accrues retirement credit if employed as a peace
18 officer under AS 39.35.680(27) after June 30, 1983.

19 * Sec. 6. This Act takes effect July 1, 1983.

Original sponsor: Community and Regional
Affairs Committee

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 396 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to repayment of state aid for hospi-
7 tal and health facility construction; and providing
8 for an effective date."

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

10 * Section 1. AS 29.90 is amended by adding a new section to read:

11 Sec. 29.90.040. REPAYMENT OF STATE AID. If, within 20 years
12 after receiving state aid for construction, expansion, remodeling, or
13 renovation, or financing of construction, expansion, remodeling, or
14 renovation, of a hospital or health facility, the sponsor of the
15 hospital or health facility sells, leases, or otherwise transfers the
16 hospital or health facility other than to a municipality, nonprofit
17 corporation, or other nonprofit sponsor, the purchaser, lessee, or
18 transferee of the hospital or health facility shall return to the
19 state an amount equal to the amount of aid received by the sponsor.

20 * Sec. 2. It is the intent of the legislature that any revenue collect-
21 ed under AS 29.90.040 be appropriated for improving, increasing, or other-
22 wise expanding health care services and facilities in the state.

23 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
24 10.070(c).

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CS HB 396 (FIN)
Title: Relating to repayment of state aid for hospital and health facility construction

FISCAL DETAIL

Agency Affected: C&RA, DHSS
Program Category Affected: _____
BRU, Program or Subprogram(s) Affected: _____

Sponsor: House C&RA
Requestor: House Finance
Date of Request: 3/19/84

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

~~SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL~~

Revenue will be brought in due to passage of this bill. However, the amount of revenue depends on which facilities sell and how much aid the facility received from the state. Since the bill states that the legislature intends the funding to be used again for health purposes, it is probable that the appropriations approximate to the revenue brought in will be made to other health facilities.

ANALYSIS: Attach a separate page for analysis

Prepared By: Representative Al Adams, Chair *APA* Phone: 465-3706
Division: House Finance Committee Date: 3/19/84

Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by Agency preparing fiscal note):

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

12/1/83

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: HB 396
 Title: Audit & Financial Statement Require.
 Sponsor: HCR
 Requestor: HCR

II. FISCAL DETAIL

Agency Affected: Dept. of C & RA
 Program Category Affected: Development
 BRU, Program of Subprogram(s) Affected: Local Government Assistance Program

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard Rainery
 Division: Commissioner's Office
 Approved by Commissioner: [Signature]
 Department: Dept. of Community and Regional Affairs

Phone: 465-4703
 Date: 5/9/83
 Date: 5/9/83

Distribution:

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Alaska State Legislature



Barbara Lacher, Chairman
Mae Tischer, Vice-Chairman
Randy Phillips
Milo Fritz
Don Clocksin
Jack McBride
Mike Szymanski

Room 104
State Capitol
Juneau, Alaska 99811

Pouch V
Juneau, Alaska 99811

House of Representatives Committee on Community & Regional Affairs

TO: Committee on Community and Regional Affairs
FROM: Staff
DATE: May 10th, 1983
RE: House Bill 396

HB 396 was introduced by the Committee on Community and Regional Affairs upon the request of the Administration.

The intent of the proposed legislation is to require second class cities that receive more than \$100,000 from various state funding sources including capital project grants, state revenue sharing, municipal aid and the raw fish shared tax, to have an independent financial audit performed annually.

Present law provides second class cities the option of preparing a financial statement or an independent audit.

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

Bill Sheffield, Governor

POUCH B
JUNEAU, ALASKA 99811
PHONE: (907) 465-4700

May 25, 1983

ANALYSIS OF IMPACT FOR HB 396

"An Act relating to certain audit and financial statement requirements."

The following are the numbers of cities or communities and the total dollars that would be affected by Sections 2 and 3 of HB 396.

Section 2

31 second class cities received over \$100,000 in combined funding in FY 82 under the State Revenue Sharing, Municipal Assistance, and Raw Fish Tax programs. This funding totalled \$5,016,273. A list of these cities is attached.

Section 3

Legislative grants to named second class cities in the FY 83 budget which were \$100,000 or greater totalled \$17,810,000. There were 87 grants in the budget (SCSHB 148 (Fin)) which fell into this category.

There are presently 61 grants to named unincorporated communities which equal or exceed \$100,000 and they total \$14,040,185.

For Informational Purposes

Grants under SB 168 to unincorporated communities would not be affected by this legislation, but at the request of the House Community and Regional Affairs Committee it is provided for informational purposes. There are approximately 43 grants under this program which total \$6,881,000.

Summary

Section 2--31 second class cities (SRS, MA, Raw Fish)	\$5,016,273
Section 3--87 second class cities (Legislative grants)	17,810,000
61 unincorporated communities (Leg. grants)...	<u>14,040,185</u>
TOTAL	\$36,866,458


Mark Lewis, Commissioner

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

POUCH B
JUNEAU, ALASKA 99811
PHONE: (907) 465-4700

May 9, 1983

POSITION PAPER

RE: HB 396

SPONSOR: House Community and Regional Affairs

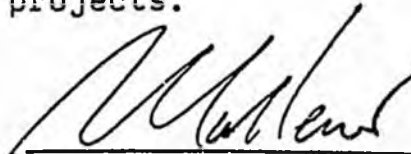
Program Effects of the Bill

This bill would require second class cities receiving more than \$100,000 in combined funding under the State Revenue Sharing, Municipal Assistance and the Raw Fish Shared Tax programs to prepare an annual independent audit. The bill would also allow state agencies to require an independent audit of a capital improvement project funded under AS 37.05.315-37.05.317 if the grant exceeds \$100,000.

Comments

The standard of requiring second class cities to provide certified annual income and expenditure statements in lieu of a complete independent audit was enacted when the level of State aid to municipalities was substantially less. With increased appropriations to the Municipal Assistance Program and the establishment of minimum entitlements under the State Revenue Sharing there is justification for increased accountability. An audit could, in fact, pay for itself through improvements in recordkeeping and efficiency.

Similarly, projects funded under AS 37.05.315-37.05.317 which exceed \$100,000 may need to be audited to insure proper accountability of the State funds. The Department would recommend at least giving the State the option of requiring an audit for these large grant projects.



Mark Lewis, Commissioner

Alaska MUNICIPAL League

TELEPHONES
(907) 586-1325
586-6526

204 N. FRANKLIN ST.
JUNEAU, ALASKA 99801

May 10, 1983

to: House C. & R.A. Committee
from: Ginny Chitwood *Ginny*
re: HB 396 - Audit Requirements for Second Class Cities

Summary: This bill requires all municipalities to provide for annual independent audits of the accounts and financial transactions, except second class cities receiving less than \$100,000 from revenue sharing, municipal assistance, and raw fish tax. Currently, no second class city is required to provide for an audit, but all other municipalities are. This bill also authorizes state agencies to require an independent audit of municipal grants for projects over \$100,000. The purpose of the bill is to ensure good financial procedures and accountability.

Section 1: AS 29.23.560 lists reports that municipalities must file with the Department of Community and Regional Affairs in order to be eligible for revenue sharing payments. Currently, second class cities are required to provide only statements of income and expenditures, but with this bill would be required to provide for independent audits if they receive \$100,000 or more from revenue sharing, municipal assistance, and raw fish tax.

Section 2: Chapter 48 of Title .29 is "Powers Applicable to All Municipalities". This bill amends AS 29.48.220. Post Audit to require second class cities to provide for an annual independent audit if they receive at least \$100,000 from the following sources:

- AS 29.88 - Revenue Sharing, Municipal Tax Resource Equilization
(the main, formula part of revenue sharing)
- AS 29.89 - Revenue Sharing, State Aid for Miscellaneous Purposes
(roads, hospitals & health facilities, etc.)
- AS 29.90 - Revenue Sharing, State Aid for Hospital Construction
- AS 29.95 - Revenue Sharing, Administration
(minimum entitlements & cost of living differentials)
- AS 43.20.016 - Sharing of Corporate Income Tax Revenue with
Municipalities (Municipal Assistance Fund)
- AS 43.75.130 - Refund to Local Governments of Fisheries Taxes
(Raw Fish Tax)

Section 3: This section of the bill amends the law to allow state agencies to require an audit of a grant for a capital improvement project if over \$100,000 is provided through AS 37.05.315 - Grants to Municipalities, AS 37.05.316 - Grants to Named Recipients, or AS 37.05.317 - Grants to Unincorporated Communities.

§ 29.48.200

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§ 29.48.210

MUNICIPAL GOVERNMENT

§ 29.48.260

cannot be said of discrimination by
municipal authority against a whole
class of persons who are lawfully re-
garded as proper subjects for police

regulation, such as persons without
occupation or visible means of sup-
port. *Guidoni v. Wheeler*, 230 F. 93
(9th Cir. 1916).

Sec. 29.48.210. Expenditure of borough revenues. Borough revenues levied and collected on an areawide basis by a home rule or general law borough may be expended on general administrative costs and on areawide functions only. Revenues levied and collected in the area outside cities only may be expended on general administrative costs and functions which render service to the area outside cities only. (§ 2 ch 118 SLA 1972)

Sec. 29.48.220. Post audit. The assembly or council shall provide for an annual independent audit of the accounts and financial transactions of the municipality or in the case of a second class city an audit or statement of annual income and expenditures. To make the audit the assembly or council shall designate a public accountant who has no personal interest, direct or indirect, in the fiscal affairs of the municipality. Copies of the audit shall be available to the public upon request. This section applies to home rule and general law municipalities. (§ 2 ch 118 SLA 1972)

Article 4. Miscellaneous Provisions.

Section
250. Centralized purchasing
260. Municipal properties

Section
270. Emergency disaster powers

Sec. 29.48.250. Centralized purchasing. The assembly or council may provide for centralized purchasing, storage and distribution of supplies, material and equipment for the municipality and its departments. (§ 2 ch 118 SLA 1972)

Sec. 29.48.260. Municipal properties. (a) A municipality may acquire and hold real and personal property or interest in property, and may sell, lease or otherwise dispose of property no longer required for municipal purposes.

(b) Notwithstanding the provisions of (c) of this section, a municipality may sell, lease, donate or exchange with the United States, the state, or a political subdivision real estate or other property, or interest in property, when in the judgment of the assembly or council it is advantageous to the municipality to do so.

(c) The assembly or council shall by ordinance establish a formal procedure for the sale, lease or disposition of real property or interest in real property. The ordinance shall require (1) an estimated value of the property by a qualified appraiser or the assessor; (2) a notice of sale published in a newspaper of general circulation distributed within the municipality at least 30 days before the date of the sale, lease, or disposition, or posted within that

Department of Transportation and Public Facilities. All bids with the names of the bidders and the amounts of the bids, together with all documents pertaining to the award of a contract, shall be made a part of a file or record and retained by the department for three years, unless reproduced by microfilming and these files or records are open to public inspection at all reasonable times. An aggrieved bidder may within five days after an award of contract appeal to the department for hearing, with notice to interested parties, for redetermination and final award in accordance with law.

(b) A contract for professional services shall be awarded in accordance with AS 24.23 or AS 36.98. (§ 4 art IV ch 82 SLA 1955; am § 1 ch 64 SLA 1976; am Executive Order No. 39, § 11 (1977); am § 9 ch 144 SLA 1982)

Effect of amendments. — The 1982 amendment, effective July 22, 1982, designated the former provisions of this section as subsection (a), and in that subsection, added "Except as otherwise provided in AS 37.05.230" to the beginning, deleted "taking into consideration conformity with

the specifications, terms of delivery, and other conditions imposed in the call for bids" from the end of the first sentence, and substituted the present second, third, and fourth sentences for those set out in the main pamphlet. The amendment also added subsection (b).

Article 5. General Provisions.

Section

- 315. Grants to municipalities
- 316. Grants to named recipients
- 317. Grants to unincorporated communities

Section

- 318. Exemption from regulations
- 319. Definitions

Sec. 37.05.300. Interpretation of AS 37.05.010 — 37.05.330.

Opinions of attorney general. — As to applicability of the chapter to the Univer-

sity of Alaska, see notes under this catchline following chapter heading.

Sec. 37.05.315. Grants to municipalities. (a) When an amount is appropriated or allocated as a grant to a municipality, the Department of Administration shall promptly notify the municipality of the availability of the grant. When the Department of Administration receives an agreement executed by the municipality which provides that the municipality (1) will spend the grant for the purposes specified in the appropriation or allocation; (2) will allow, on request, an audit by the state of the uses made of the grant; and (3) assures that, to the extent consistent with the purpose of the appropriation or allocation, the facilities and services provided with the grant will be available for the use of the general public, the Department of Administration shall pay the grant directly to the municipality. The agreement executed by a municipality under this section shall be on a form furnished by the Department of Administration and shall be executed within 60 days after the effective date of the appropriation or allocation.

(b) An appropriation or allocation for a grant to a municipality for construction of a public facility lapses if substantial, ongoing work on the project has not begun within five years after the effective date of the appropriation or allocation.

(c) In accepting a grant of money for construction of a public facility, a municipality covenants with the state that it will operate and maintain the facility for the practical life of the facility and that the municipality will not look to the state to operate or maintain the facility or pay for its operation or maintenance. This requirement does not apply to a grant of money for repair or improvement of an existing facility operated or maintained by the state at the time the grant is accepted if the repair or improvement for which the grant is made will not substantially increase the operating or maintenance costs to the state.

(d) Not less than 20 percent of a grant shall be paid to a municipality within 10 days of the effective date of the agreement under (a) of this section. The remainder of the grant shall be paid either in monthly installments equal to the amount of grant money the municipality expended in the previous month or in a lump sum as determined by the Department of Administration. (§ 1 ch 156 SLA 1980; am § 1 ch 4 SLA 1982)

Effect of amendments. — The 1982 amendment, effective January 16, 1982, in subsection (a), substituted "amount is appropriated or allocated" for "appropriation is made" in the first sentence, inserted "or allocation" in items (1) and (3) in the second sentence, and added "and shall be executed within 60 days after the effective date of the appropriation or allocation" to the end of the third sentence; redesignated the former fourth and fifth sentences of subsection (a) as subsection (d); inserted "or allocation" in two places in subsection (b); substituted "a" for "each" preceding

"municipality covenants" and "the practical life of the facility and that the municipality" for "its practical life and that it" in subsection (c); added the second sentence of subsection (c); deleted the provisions of former subsections (d), (f), and (g), which may now be found in AS 37.05.316, 37.05.317, and 37.05.318, respectively; and in present subsection (d), added "under (a) of this section" to the end of the first sentence. The substance of the provision of former subsection (e) may now be found at the end of the third sentence of subsection (a).

Sec. 37.05.316. Grants to named recipients. When an amount is appropriated or allocated to a department as a grant for a named recipient which is not a municipality, the department to which the appropriation or allocation is made shall promptly notify the named recipient of the availability of the grant and request the named recipient to submit a proposal to provide the goods or services specified in the appropriation act, or both, for which the appropriation or allocation is made. At the same time, the department may issue a request for proposals from other qualified persons to provide the same goods or services, or both, in the same area. The department shall contract with the named recipient unless the Office of the Governor, with due regard for any local expertise or experience among those making proposals, determines that an award of the contract to a different party would

better serve the public interest. If the contract is awarded to another party than that named by the legislature, the basis of that action shall be stated in writing at the time the grant is issued and a copy of the written statement shall be sent to the Legislative Budget and Audit Committee. A contract shall be executed within 60 days after the effective date of the appropriation or allocation. The purchase of the goods or services, or both, shall be in accordance with AS 37.05.230(1)(C). (§ 2 ch 4 SLA 1982)

Effective dates. — Section 3, ch. 4, SLA 1982, provides that this section take effect January 16, 1982, in accordance with AS 01.10.07(c).

Editor's notes. — The provisions of this section were formerly contained in AS 37.05.315(d) as it existed prior to the 1982 amendment of that section.

Sec. 37.05.317. Grants to unincorporated communities. When an amount is appropriated or allocated as a grant under this section to an unincorporated community, it shall be disbursed as follows:

(1) Within 45 days after the effective date of the appropriation or allocation, the Department of Community and Regional Affairs shall notify the governing body of the unincorporated community, if any, that a grant is available.

(2) The Department of Community and Regional Affairs shall determine if there is a qualified incorporated entity in the community area that will agree to receive the grant and administer it, subject to terms generally applicable to private grantees. If there is more than one such entity, the Department of Community and Regional Affairs shall select the most qualified and the grant shall be awarded to that incorporated entity for the purposes specified in the appropriation act. However, the Department of Community and Regional Affairs shall give preference to a nonprofit corporation organized by a community for receipt of the grant.

(3) If there is no incorporated entity qualified to receive the grant, the Department of Community and Regional Affairs shall administer the program as specified in the appropriation act directly or through agents or contractors with whom it may contract in the community area. (§ 2 ch 4 SLA 1982)

Effective dates. — Section 3, ch. 4, SLA 1982, provides that this section take effect January 16, 1982, in accordance with AS 01.10.07(c).

Editor's notes. — The provisions of this section were formerly contained in AS 37.05.315(f), which was deleted by the 1982 amendment.

Sec. 37.05.318. Exemption from regulations. Notwithstanding the Administrative Procedure Act (AS 44.62), the Fiscal Procedures Act (AS 37.05), and the Executive Budget Act (AS 37.07), a state agency may not adopt regulations or impose additional requirements or procedures to implement, interpret, make specific, or otherwise carry out the provisions of AS 37.05.315 — 37.05.317 unless required

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§ 37.05.319

PUBLIC FINANCE

§ 37.07.010

by the federal government for participation in federal programs. (§ 2 ch 4 SLA 1982)

Effective dates. — Section 3, ch. 4, SLA 1982, provides that this section take effect January 16, 1982, in accordance with AS 01.10.07(c).

Editor's notes. — The provisions of this section were formerly contained in AS 37.05.315(g), which was deleted by the 1982 amendment.

Sec. 37.05.319. Definitions. In AS 37.05.315 — 37.05.317, "appropriation" and "allocation" have the meanings set out in AS 37.07.120(4) and (5). (§ 2 ch 4 SLA 1982)

Effective dates. — Section 3, ch. 4, SLA 1982, provides that this section take effect

January 16, 1982, in accordance with AS 01.10.07(c).

Chapter 07. Executive Budget Act.

Section

- 10. Statement of policy
- 20. Responsibilities of the governor
- 40. Division of budget and management

Section

- 60. Governor's recommendation
- 70. Legislative review
- 80. Program execution

NOTES TO DECISIONS

The University of Alaska is subject to the provisions of this chapter. February 28, 1977, Op. Att'y Gen. There is no constitutional obstacle to

making the University of Alaska subject to the provisions contained in this title. February 28, 1977, Op. Att'y Gen.

Sec. 37.07.010. Statement of policy. It is the purpose of this chapter to establish a comprehensive system for state program and financial management which furthers the capacity of the governor and legislature to plan and finance the services which they determine the state will provide for its citizens. The system shall include procedures for

(1) the orderly establishment, continuing review, and periodic revision of the program goals and policies of state agencies and financial goals and policies of the state;

(2) the development, coordination and review of long-range program and financial plans that will implement established state goals and policies;

(3) the preparation, coordination, analysis, and enactment of a budget which is organized to focus on the services provided by state agencies and on the cost of those services and which provides for implementation of policies and plans in the succeeding budget period;

Introduced: 5/3/83
Referred: Community & Regional
Affairs and Finance

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

1 IN THE HOUSE

2 HOUSE BILL NO. 396

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to certain audit and financial
7 statement requirements."

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

9 * Section 1. AS 29.23.56(a)(2) is amended to read:

10 (2) a copy of the annual audit or [IN THE CASE OF SECOND
11 CLASS CITIES AN AUDIT OR] statement of annual income and expenditures
12 prepared under AS 29.48.220;

13 * Sec. 2. AS 29.48.220 is amended to read:

14 Sec. 29.48.220. POST AUDIT. The assembly or council shall
15 provide for an annual independent audit of the accounts and financial
16 transactions of the municipality or, in the case of a second class
17 city that receives less than \$100,000 during the fiscal year under
18 AS 29.88, AS 29.89, AS 29.90, AS 29.95, AS 43.20.016, and AS 43.75.-
19 130, an audit or statement of annual income and expenditures. To make
20 the audit the assembly or council shall designate a public accountant
21 who has no personal interest, direct or indirect, in the fiscal
22 affairs of the municipality. Copies of the audit shall be available
23 to the public upon request. This section applies to home rule and
24 general law municipalities.

25 * Sec. 3. AS 37.05.318 is amended to read:

26 Sec. 37.05.318. EXEMPTION FROM REGULATIONS. Notwithstanding the
27 Administrative Procedure Act (AS 44.62), the Fiscal Procedures Act (AS
28 37.05), and the Executive Budget Act (AS 37.07), a state agency may
29 not adopt regulations or impose additional requirements or procedures

1 to implement, interpret, make specific, or otherwise carry out the
2 provisions of AS 37.05.315 - 37.05.317 unless required by the federal
3 government for participation in federal programs. However, the state
4 agency may require an independent audit of a capital improvement
5 project for which over \$100,000 is provided under AS 37.05.315 -
6 37.05.317.

Offered: 3/27/84
Referred: Finance

Original sponsors: Hayes and Martin

1 IN THE HOUSE BY THE TRANSPORTATION COMMITTEE
2 CS FOR HOUSE BILL NO. 399 (Transportation)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act naming 'A' Street in Anchorage Eisenhower
7 Boulevard and designating the Eisenhower Corridor."
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
9 * Section 1. AS 35.40 is amended by adding a new section to read:
10 Sec. 35.40.020. EISENHOWER BOULEVARD AND CORRIDOR. In Anchor-
11 age, from its northern end to the 36th Avenue intersection, "A" Street
12 is named Eisenhower Boulevard and the system of parks, trails, and
13 buffering areas between and along Eisenhower Boulevard and "C" Street
14 is named the Eisenhower Corridor.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CS HB 399 (Trans)
Title: Renaming A Street in Anch.

FISCAL DETAIL

Agency Affected: DOT/PF
Program Category Affected: _____

Sponsor: Hayes
Requestor: House Finance
Date of Request: 4/3/84

BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

~~xxx SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL xxx~~

DOT/PF indicates in their fiscal note of 3/23/84 that they can "absorb" the cost of this bill in their existing budget. Therefore, no funds are appropriated.

ANALYSIS: Attach a separate page for analysis

Prepared By: Al Adams Chair ^{APA} Phone: 465-3706
Division: House Finance Committee Date: 4/3/84

Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by Agency preparing fiscal note):

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

12/1/83

De Sup 112

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST Page 1 of 2 FISCAL DETAIL
 Bill/Resolution No.: CSHB 399 (Trsp) Agency Affected: DOT&PF
 Title: Naming "A" Street Program Category Affected: D&C
 Eisenhower Blvd.
 Sponsor: Haves & Martin BRU, Program or Subprogram(s) Affected:
 Requestor: House Transportation
 Date of Request: March 22, 1984

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL		15.0				
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		1.5				
FEDERAL FUNDS		13.5				
OTHER						
TOTAL		15.0				

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: William R. Snell Phone: 266-1462
 Division: Planning - Central Region Date: March 23, 1984

Approved by Commissioner: R. J. Knapp Date: March 27, 1984
 Agency: Transportation & Public Facilities

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

12/1/83

Naming "A" Street Eisenhower Blvd.

1. Analysis of the fiscal impact on existing programs.

The Department of Transportation of Public Facilities has completed the design work for the A-C Couplet and the project is ready to bid.

The fiscal impact would be accommodated through a construction charge order.


2. Analysis of fiscal impact of new programs or activities.

No impact.

3. Analysis of cost estimate:

The cost of street signs is dependent upon the square footage of the signs. There are three types of signs that will be used as part of the A-C Couplet project: Street name signs, overhead signs, and advanced notice street signs. The square footage of the total signs for "A" Street were pulled from the project plans. The square footage for similar signs for the name "Eisenhower Boulevard" was estimated. The difference in square footage for the two names was multiplied by the cost per square foot (approximately \$40).

Cost Estimate: \$15,000.00

 The Department can absorb this cost; however, the Commissioner is reviewing the cost per square foot for the signs.

Offered: 3/27/84
Referred: Finance

Original sponsors: Hayes and Martin

1 IN THE HOUSE BY THE TRANSPORTATION COMMITTEE
2 CS FOR HOUSE BILL NO. 399 (Transportation)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act naming 'A' Street in Anchorage Eisenhower
7 Boulevard and designating the Eisenhower Corridor."

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

9 * Section 1. AS 35.40 is amended by adding a new section to read:

10 Sec. 35.40.020. EISENHOWER BOULEVARD AND CORRIDOR. In Anchor-
11 age, from its northern end to the 36th Avenue intersection, "A" Street
12 is named Eisenhower Boulevard and the system of parks, trails, and
13 buffering areas between and along Eisenhower Boulevard and "C" Street
14 is named the Eisenhower Corridor.

Introduced: 5/5/83
Referred: Transportation

1 IN THE HOUSE

BY HAYES AND MARTIN

2

HOUSE BILL NO. 399

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act naming A and C Streets in Anchorage

7

Wickersham Boulevard and Eisenhower Boulevard."

8

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

9

* Section 1. AS 35.40 is amended by adding a new section to read:

10

Sec. 35.40.020. WICKERSHAM AND EISENHOWER BOULEVARDS. In

11

Anchorage, from its northern end to the 36th Avenue intersection, A

12

Street is named Wickersham Boulevard and from its northern end to its

13

terminus at Dimond Boulevard, C Street is named Eisenhower Boulevard.

Offered: 6/13/83
Referred: Finance

Original sponsors: Furnace and Fritz

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2

SENATE CS FOR HOUSE BILL NO. 403 (HESS)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to insurance trade practices; and

7

providing for an effective date."

8

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

9

* Section 1. AS 21.36.090 is amended by adding a new subsection to

10 read:

11

(d) A person may not practice or permit unfair discrimination

12

against a person who provides a service covered under a group dis-

13

ability policy that extends coverage on an expense incurred basis, or

14

under a group service or indemnity type contract issued by a nonprofit

15

corporation, if the service is within the scope of the provider's

16

occupational license. In this subsection, "provider" means a state

17

licensed physician, dentist, osteopath, optometrist, chiropractor, or

18

nurse midwife.

19

* Sec. 2. This Act takes effect January 1, 1984.

COMMITTEE REPORT

SENATE

FURTHER:

FINANCE

5/23/83

Date: June 10, 1983

Mr. President:

The Committee on HESS has had HB 403 am

Insurance trade practices; eff. date.

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

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 403 am same title
- do pass new title
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

V. Fischer

Henry Marx

Paul Frick

Steve [unclear]

Rick Halford

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Paul Frick
CHAIRMAN

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB 403
 Title: insurance trade practices
 Sponsor: Furnace
 Requestor: Labor & Commerce

II. FISCAL DETAIL

Agency Affected: Commerce & Ec. Dev.
 Program Category Affected: Public Prot.
 BRU, Program of Subprogram(s) Affected: Division of Insurance

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Kenneth C. Moore, Director
 Division: Insurance

Phone: 465-2515
 Date: 5/13/83

Approved by Commissioner: Richard A. Lyon
 Department: Commerce & Economic Development

Date: 5/13/83

Introduced: 5/5/83
Referred: Labor & Commerce

1 IN THE HOUSE

BY FURNACE AND FRITZ

2

HOUSE BILL NO. 403 am

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to insurance trade practices; and
7 providing for an effective date."

8

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

9

* Section 1. AS 21.36.090 is amended by adding a new subsection to
10 read:

11

(d) A person may not practice or permit discrimination against a

12

person who provides a service covered under a group disability policy

13

that extends coverage on an expense incurred basis, or under a group

14

service or indemnity type contract issued by a nonprofit corporation,

15

if the service is within the scope of the provider's occupational

16

license. In this subsection, "provider" means a state licensed physi-

17

cian, dentist, osteopath, optometrist, chiropractor, nurse midwife and

18

midwife.

19

* Sec. 2. This Act takes effect January 1, 1984.

Introduced: 5/9/83
Referred: State Affairs and
Finance

1 IN THE HOUSE

BY FULLER

2

HOUSE BILL NO. 406

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to a reenlistment bonus for members
7 of the Alaska National Guard and Alaska Naval Mili-
8 tia; and providing for an effective date."

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

10 * Section 1. AS 26.05.265 is repealed and reenacted to read:

11 Sec. 26.05.265. REENLISTMENT BONUS. (a) An enlisted member of
12 the Alaska National Guard or the Alaska Naval Militia who extends or
13 reenlists within 30 days after completing a term of service is enti-
14 tled to a bonus if

15 (1) the extension or reenlistment is for the maximum autho-
16 rized term;

17 (2) at the time of the extension or reenlistment the member
18 has not less than three years of service creditable for retirement
19 purposes; and

20 (3) on completion of the term for which the member extends
21 or reenlists, the member will have not more than 12 years of service
22 creditable for retirement purposes.

23 (b) The bonus is \$500 for each year of extension or reenlist-
24 ment, but may not exceed a total of \$3,000 for a member's entire
25 service. The bonus is payable at the satisfactory completion of each
26 year of extension or reenlistment.

27 * Sec. 2. An enlisted member of the Alaska National Guard or Alaska
28 Naval Militia who before July 1, 1981, was receiving an annual bonus in an
29 amount equal to 10 days of the member's base pay shall continue to receive

1 that annual bonus until the member retires, resigns, or is otherwise
2 released or discharged from the guard or militia if the member complies
3 with the requirements of the law in effect on June 30, 1981.

4 * Sec. 3. Section 2 of this Act is retroactive to July 1, 1981.

5 * Sec. 4. Section 1 of this Act takes effect July 1, 1983.

COMMITTEE REPORT
SENATE

FURTHER:

FINANCE

5/23/83

Date: 4/31/83

Mr. President:

The Committee on State Affairs has had HB 406

Reenlistment bonus for members of the Alaska National Guard and Alaska Naval Militia; eff. date.

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

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ 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:

Tom Kelle
Arthur Stanger
Don Rodery
Bill Ray

V. Fischer de Pass
 CHAIRMAN

Introduced: 5/9/83
Referred: State Affairs and
Finance

1 IN THE HOUSE

BY FULLER

2

HOUSE BILL NO. 406

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to a reenlistment bonus for members
7 of the Alaska National Guard and Alaska Naval Mili-
8 tia; and providing for an effective date."

9

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

10

* Section 1. AS 26.05.265 is repealed and reenacted to read:

11

Sec. 26.05.265. REENLISTMENT BONUS. (a) An enlisted member of
12 the Alaska National Guard or the Alaska Naval Militia who extends or
13 reenlists within 30 days after completing a term of service is enti-
14 tled to a bonus if

15

(1) the extension or reenlistment is for the maximum autho-
16 rized term;

17

(2) at the time of the extension or reenlistment the member
18 has not less than three years of service creditable for retirement
19 purposes; and

20

(3) on completion of the term for which the member extends
21 or reenlists, the member will have not more than 12 years of service
22 creditable for retirement purposes.

23

(b) The bonus is \$500 for each year of extension or reenlist-
24 ment, but may not exceed a total of \$3,000 for a member's entire
25 service. The bonus is payable at the satisfactory completion of each
26 year of extension or reenlistment.

27

* Sec. 2. An enlisted member of the Alaska National Guard or Alaska
28 Naval Militia who before July 1, 1981, was receiving an annual bonus in an
29 amount equal to 10 days of the member's base pay shall continue to receive

1 that annual bonus until the member retires, resigns, or is otherwise
2 released or discharged from the guard or militia if the member complies
3 with the requirements of the law in effect on June 30, 1981.

4 * Sec. 3. Section 2 of this Act is retroactive to July 1, 1981.

5 * Sec. 4. Section 1 of this Act takes effect July 1, 1983.

COMMITTEE REPORT

HOUSE

(11)

FURTHER:

5/10/83

Date:

5/17/83

Mr. Speaker:

The Committee on FINANCE has had HB 411

"An Act making a supplemental appropriation for the operation of the legislature; 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 ^{and fiscal} recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

William B. Adams

James Marshall

Donna F. Hester

Bill Hays

Donna F. Hester

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Frank F. Smith (No Rec)

James Patterson (none)

Tom Hester - out of office

Bill Patterson - out in Hall

William B. Adams

CHAIRMAN

Introduced: 5/10/83
Referred: Finance

Funding Information
General Fund \$902,500
Other Funds -0-
\$902,500

1 IN THE HOUSE

BY THE RULES COMMITTEE

2

HOUSE BILL NO. 411

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act making a supplemental appropriation for the
operation of the legislature; and providing for an
effective date."

7

8

9

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

10

* Section 1. The sum of \$902,500 is appropriated from the general fund
to the Legislative Affairs Agency for the operation of the Thirteenth
Legislature-First Session from the 121st through the 150th day. The
appropriation made by this section may not be directly or indirectly used
to pay for television coverage of the 1983 legislative session.

11

12

13

14

15

* Sec. 2. The unexpended and unobligated portion of the appropriation
made by this Act lapses into the general fund June 30, 1983.

16

17

* Sec. 3. This Act takes effect immediately in accordance with AS 01.-
10.070(c).

18

The following individual is expected to testify on HB
411:

Myrt Charney and Wally Harrison, Legislative Affairs
Agency, will be available for questions from the
Committee

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 16, 1983

TO: THE HONORABLE AL ADAMS
CHAIRMAN, HOUSE FINANCE COMMITTEE

FROM: Wally Harrison, Director *Wally Harrison*
Division of Administrative Services

SUBJECT: Breakout of Session Costs

Your office asked me for a breakdown of the session costs and the backup figures for House Bill No. 411. Following is a history of session costs calculations:

FY83 appropriations in regular budget =	\$51.7 daily	
	+ some fixed costs	= \$5,245.5
SB 240 (including \$89,535 for TV)		<u>\$1,640.5</u>
		\$6,886.0

This covered the first 120 days (through May 16).

Based on actual cost figures through April 30, from the Department of Administration, Division of Finance, we lowered our daily costs estimate to \$47.5 daily (a difference of \$4.2).

120 days @\$4.2	--	-----	= \$504.0
TV coverage cost included in SB 240 and not used			= <u>89.5</u>
Savings from first 120 days			\$593.5

or

Approximately 11 days of operation (through May 27).

HB 411 for 19 days @\$47.5 = \$902,500 (through June 15).

Estimated Breakout of \$47,500:

Personal Services	\$28,400
Travel & Per Diem	\$ 7,000
Contractual Services	\$10,800
Commodities	<u>\$ 1,300</u>
Total	\$47,500

Mr. Charney will be available for discussion on House Bill No. 411 at the House Finance Committee meeting this afternoon.

WH:mm

Copy to: M. E. Charney, Executive Director

Introduced: 5/10/83
Referred: Finance

Funding Information
General Fund \$902,500
Other Funds -0-
\$902,500

1 IN THE HOUSE

BY THE RULES COMMITTEE

2

HOUSE BILL NO. 411

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THIRTEENTH LEGISLATURE - FIRST SESSION

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16

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18

10.070(c).

CORRECTION

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

Introduced: 5/10/83
Referred: Finance

<u>Funding Information</u>	
General Fund	\$902,500
Other Funds	-0-
	<u>\$902,500</u>

1 IN THE HOUSE

BY THE RULES COMMITTEE

2

HOUSE BILL NO. 411

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

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18 10.070(c).