

LEGISLATIVE FINANCE-HOUSE / SENATE FINANCE COMM. FILES 8879

HB 284 - HB 290 500 91

HB

284

# SENATE FINANCE COMMITTEE REPORT

DATE: 4/26/90

FURTHER:

DATE TURNED INTO OFFICE: 4/30/90

The Finance Committee considered

CSHB 284 (L&C) am

Terms/conditions under which prime contractors/subconstructors are paid for materials and services provided to a public construction project; efd.

and recommended:

- replace with \_\_\_\_\_ CS \_\_\_\_\_
- or adopt S CS CSHB 284 (L&C)
- attached amendment(s)
- \_\_\_\_\_ letter of intent adopted

- same title
- new title
- technical title change (HB only)

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

**ATTACHES NEW FISCAL NOTE(S):**

fiscal note(s) \_\_\_\_\_ Dept/Date: \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

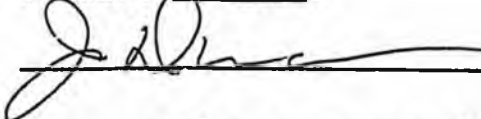
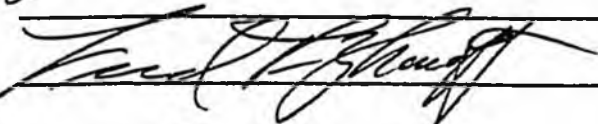

appropriation-no fiscal note

**APPROVES PREVIOUS:**

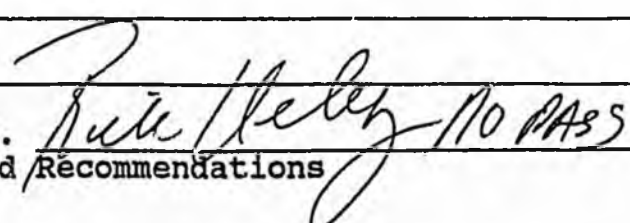
fiscal note(s) \_\_\_\_\_ Dept/Date: \_\_\_\_\_

zero fiscal note(s) DOT/PE 4/27/90

**SIGNING DO PASS:**

**OTHER RECOMMENDATIONS:**

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  


1. \_\_\_\_\_

2. Roll/Reley NO PASS

Co-Chairs: Signatures and Recommendations

**STATE OF ALASKA  
1989 LEGISLATIVE SESSION**

**BILL VERSION: CSCSHB 284(C&RA)  
PUBLISH DATE: 4/02/90**

**FISCAL NOTE**

Revision Date:  
Title: Public Construction Contract Payments

Agency Affected: DOT&PF  
BRU: Finance

Sponsor: Boyer  
Requestor: Boyer

Components:

**EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)**

| OPERATING         | FY 89 | FY 90 | FY 91 | FY 92 | FY 93 | FY 94 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | 0     | 0     | 0     | 0     | 0     | 0     |
| TRAVEL            | 0     | 0     | 0     | 0     | 0     | 0     |
| CONTRACTURAL      | 0     | 0     | 0     | 0     | 0     | 0     |
| SUPPLIES          | 0     | 0     | 0     | 0     | 0     | 0     |
| EQUIPMENT         | 0     | 0     | 0     | 0     | 0     | 0     |
| LAND & STRUCTURES | 0     | 0     | 0     | 0     | 0     | 0     |
| GRANTS, CLAIMS    | 0     | 0     | 0     | 0     | 0     | 0     |
| MISCELLANEOUS     | 0     | 0     | 0     | 0     | 0     | 0     |
| TOTAL OPERATING   | 0     | 0     | 0     | 0     | 0     | 0     |

|         |   |   |   |   |   |   |
|---------|---|---|---|---|---|---|
| CAPITAL | 0 | 0 | 0 | 0 | 0 | 0 |
|---------|---|---|---|---|---|---|

|         |   |   |   |   |   |   |
|---------|---|---|---|---|---|---|
| REVENUE | 0 | 0 | 0 | 0 | 0 | 0 |
|---------|---|---|---|---|---|---|

| FUNDING: (THOUSANDS OF DOLLARS) | FY 89 | FY 90 | FY 91 | FY 92 | FY 93 | FY 94 |
|---------------------------------|-------|-------|-------|-------|-------|-------|
| GENERAL FUND                    | 0     | 0     | 0     | 0     | 0     | 0     |
| FEDERAL FUNDS                   | 0     | 0     | 0     | 0     | 0     | 0     |
| OTHER*                          | 0     | 0     | 0     | 0     | 0     | 0     |
| TOTAL                           | 0     | 0     | 0     | 0     | 0     | 0     |

**POSITIONS:**

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

**ANALYSIS:**

Prepared by: Robert N. Bartholomew, Director *RNB*  
Division: Management and Finance

Phone: 465-3911  
Date: 4/25/90

Approved by Commissioner: *[Signature]*  
Agency: Department of Transportation and Public Facilities

Date: 4/27/90

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

Adopted

**Senate CS for CS for HB 284 (C&RA)**

It is the intent of the legislature that the provision in Sec. 36.90.200 (lines 24 through 29), relating to federal money, does not apply to the Department of Transportation and Public Facilities for federal cost-reimbursement programs. Examples of this include the federal-aid highway and aviation programs. Federal funds are not received prior to payment of bills, therefore, state general funds are initially expended to pay contractors. Projects performed under these programs are subject to the 30 day provision.

Original sponsor(s): REP. BOYER, Donley, Furnace, Grussendorf, Boucher,  
Foster, Gruenberg, Hudson, Koponen, Larson, Menard, Pettyjohn, Rieger,  
Sharp, Shultz, Taylor, Ulmer, Zawacki, Collins, Navarre, Leman

1 IN THE HOUSE BY THE C&RA COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 284 (C&RA)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the terms and conditions under  
7 which prime contractors and subcontractors are paid  
8 for materials and services provided to a public  
9 construction project; and providing for an effective  
10 date."

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

12 \* Section 1. AS 36.90 is amended by adding new sections to read:

13 ARTICLE 2. PUBLIC CONSTRUCTION CONTRACT PAYMENTS.

14 Sec. 36.90.200. PAYMENT DEADLINE AND INTEREST. (a) The state  
15 or a political subdivision of the state shall pay the prime contractor  
16 for satisfactory performance on a public construction or public works  
17 contract within 30 calendar days of the date the state or political  
18 subdivision receives a payment request from the prime contractor that  
19 complies with the contract. If a political subdivision is going to  
20 use grant money for the contract, the subdivision shall pay the prime  
21 contractor for satisfactory performance within 21 calendar days of the  
22 date the subdivision receives a payment request that complies with the  
23 contract or within 21 calendar days of the date the subdivision ac-  
24 tually receives the grant money, whichever is later. If the state is  
25 going to use federal money for the contract, the state shall pay the  
26 prime contractor for satisfactory performance within 21 calendar days  
27 of the date the state receives a payment request that complies with  
28 the contract or within 21 calendar days of the date the state actually  
29 receives the federal money, whichever is later.

1 (b) If the prime contractor is not paid as required by (a) of  
2 this section, the state or political subdivision shall pay interest on  
3 the unpaid amount of the required payment from the 21st calendar day  
4 after the date required for payment under (a) of this section at an  
5 interest rate that is equal to the amount set out in AS 45.45.010(a).

6 (c) If part or all of a payment is going to be withheld for  
7 unsatisfactory performance or if the payment request made under (a) of  
8 this section does not comply with the requirements of the contract,  
9 within eight working days after receipt of the payment request the  
10 state or political subdivision shall notify the prime contractor in  
11 writing stating specifically why part or all of the payment is being  
12 withheld and what remedial actions may be taken by the prime contrac-  
13 tor to receive the full payment.

14 (d) If the notification by the state or political subdivision  
15 required by (c) of this section does not comply with (c) of this  
16 section, the state or political subdivision shall pay interest on the  
17 withheld amount from the eighth working day after receipt of the  
18 initial payment request until the state or political subdivision  
19 provides notice that does comply with (c) of this section.

20 (e) If part or all of a payment is withheld under (c) of this  
21 section, the state or political subdivision shall pay the withheld  
22 amount within 21 calendar days after the prime contractor satisfac-  
23 torily completes the remedial actions identified in the notice. If a  
24 political subdivision is going to use grant money for the contract,  
25 the subdivision shall pay the prime contractor within 21 calendar days  
26 after the prime contractor satisfactorily completes the remedial  
27 actions identified in the notice or within 21 calendar days after the  
28 political subdivision actually receives the grant money, whichever is  
29 later. If the state is going to use federal money for the contract,

1 the state shall pay the prime contractor within 21 calendar days after  
2 the prime contractor satisfactorily completes the remedial actions  
3 identified in the notice, or within 21 calendar days after the subdivi-  
4 sion actually receives the money, whichever is later. If the with-  
5 held amount is not paid within the 21 calendar days, the state or  
6 political subdivision shall pay interest on the withheld amount from  
7 the 21st calendar day at an interest rate that is equal to the amount  
8 set out in AS 45.45.010(a).

9 (f) The obligation to pay interest under this section does not  
10 apply to retainage.

11 (g) This section does not apply to public construction or public  
12 works contracts made by a political subdivision that has a population  
13 under 800.

14 Sec. 36.90.210. REQUIRED CONTRACTUAL TERMS. (a) The prime  
15 contractor and a subcontractor on a public construction or public  
16 works contract shall include in a subcontract between the prime con-  
17 tractor and subcontractor for the public construction or public works  
18 a clause that requires the prime contractor

19 (1) to pay the subcontractor for satisfactory performance  
20 under the subcontract within eight working days after receiving pay-  
21 ment from which the subcontractor is to be paid;

22 (2) to pay the subcontractor all retainage due under the  
23 subcontract within eight working days after final payment is received  
24 from the state or political subdivision or after the notice period  
25 under AS 36.25.020(b) expires, whichever is later;

26 (3) to pay the subcontractor interest on an amount that is  
27 not paid in accordance with (1) of this subsection for the period  
28 beginning on the day after the required payment date and ending on the  
29 day on which payment of the amount due is made; the interest shall be

1        computed at an interest rate that is equal to the amount set out in  
2        AS 45.45.010(a);

3                (4) to pay interest on retainage withheld from the subcon-  
4        tractor at an interest rate that is equal to the amount set out in  
5        AS 45.45.010(a).

6                (b) A subcontractor on a public construction or public works  
7        contract shall include in each subcontract under which a person agrees  
8        to provide the subcontractor with services, other than as an employee,  
9        or supplies to be used in the public construction or public works  
10       project a clause that requires the subcontractor

11                (1) to pay the person for satisfactory performance under  
12        the subcontract within eight working days after receiving payment from  
13        which the person is to be paid;

14                (2) to pay the person all retainage due under the subcon-  
15        tract with the person within eight working days after the subcontrac-  
16        tor receives its share of the state-held retainage from the prime  
17        contractor or another subcontractor;

18                (3) to pay the person interest on an amount that is not  
19        paid in accordance with (1) of this subsection for the period begin-  
20        ning on the day after the required payment date and ending on the day  
21        on which payment of the amount due is made; the interest shall be  
22        computed at an interest rate that is equal to the amount set out in  
23        AS 45.45.010(a);

24                (4) to pay interest on retainage withheld from the person  
25        at an interest rate that is equal to the amount set out in AS 45.45.-  
26        010(a).

27                Sec. 36.90.220. OPTIONAL CONTRACTUAL TERMS. Notwithstanding  
28        AS 36.90.210 and 36.90.230, the prime contractor or a subcontractor  
29        may negotiate and include in a public construction or public works

1 subcontract a provision that

2 (1) permits the prime contractor or a subcontractor to  
3 determine that part or all of a subcontractor's request for payment  
4 may be withheld for unsatisfactory performance under the subcontract;  
5 and

6 (2) permits the prime contractor or a subcontractor to  
7 withhold payment for unsatisfactory performance without incurring an  
8 obligation to pay interest for late payment, if a notice complying  
9 with AS 36.90.240 has been previously furnished to the subcontractor  
10 and a copy of the notice is furnished to the contracting officer of  
11 the state or political subdivision.

12 Sec. 36.90.230. WITHHOLDING PAYMENT FOR UNSATISFACTORY PERFOR-  
13 MANCE. (a) If the prime contractor on a public construction or  
14 public works contract, after making a request for payment to the state  
15 or political subdivision but before paying a subcontractor for the  
16 subcontractor's performance covered by the payment request, discovers  
17 that part or all of the payment otherwise due to the subcontractor is  
18 subject to withholding from the subcontractor under the subcontract  
19 for unsatisfactory performance, the prime contractor may withhold the  
20 amount as allowed under the subcontract. If the prime contractor  
21 withholds an amount under this subsection, the prime contractor shall

22 (1) give the subcontractor a notice complying with AS 36.-  
23 90.240 as soon as practicable after determining the cause for the with-  
24 holding but before the due date for the subcontractor payment;

25 (2) give the contracting officer of the state or political  
26 subdivision a copy of the notice furnished to the subcontractor under  
27 (1) of this subsection;

28 (3) pay the subcontractor within eight working days after  
29 correction of the identified subcontractor performance deficiency.

1 (b) If the prime contractor does not comply with the notice and  
2 payment requirements of (a) of this section, the contractor shall pay  
3 the subcontractor interest on the withheld amount from the eighth  
4 working day at an interest rate that is equal to the amount set out in  
5 AS 45.45.010(a).

6 Sec. 36.90.240. FORM OF CERTAIN NOTICES. A notice under AS 36.-  
7 90.220(2) or 36.90.230(a)(1) must be in writing and must state the  
8 amount being withheld, the specific causes for the withholding under  
9 the terms of the subcontract, and the remedial actions to be taken by  
10 the subcontractor to receive payment of the amount withheld.

11 Sec. 36.90.250. RETAINAGE. (a) The state or a political subdi-  
12 vision of the state shall pay to the prime contractor interest on  
13 retainage, including warranty retainage, on a contract for public  
14 construction or public works at an interest rate that is equal to the  
15 amount set out in AS 45.45.010(a). Interest on retainage accrues from  
16 the date of approval of a pay request until the date of payment to the  
17 contractor.

18 (b) A political subdivision that has a population of 500 or less  
19 is exempt from the payment of interest under (a) of this section.

20 Sec. 36.90.260. MISCELLANEOUS PROVISIONS. (a) In AS 36.90.-  
21 210 - 36.90.290,

22 (1) a payment is considered to be made when mailed or  
23 personally delivered to the party being paid;

24 (2) a payment is considered to be received when it is  
25 endorsed for payment, if it is a check;

26 (3) an invoice is considered to be received when it is  
27 date-stamped or otherwise marked as delivered; if the invoice is not  
28 date-stamped or otherwise marked as delivered, the date of the invoice  
29 is considered to be the date when the invoice is received.

1 (b) A political subdivision that receives a state grant for a  
2 public construction or public works project may use money from the  
3 state grant to pay the interest under AS 36.90.200 - 36.90.290C.

4 Sec. 36.90.265. APPLICABILITY TO POLITICAL SUBDIVISIONS. AS 36.-  
5 90.200 - 36.90.290 apply to a public construction or public works con-  
6 tract of a political subdivision if the political subdivision has  
7 entered into a written contract with the state for the state to  
8 provide funds for the public construction or public work.

9 Sec. 36.90.270. WAIVER OF PROVISIONS PROHIBITED. A contract  
10 provision that waives a provision required by AS 36.90.200 - 36.90.290  
11 is void.

12 Sec. 36.90.290. DEFINITIONS. In AS 36.90.200 - 36.90.290,

13 (1) "prime contractor" means a person required to be regis-  
14 tered under AS 08.18 who has a contract with the state or a political  
15 subdivision of the state to provide materials or services, other than  
16 as an employee, for a public construction or public works project;

17 (2) "subcontractor" means a person at any level, other than  
18 a prime contractor, who provides materials or services, other than as  
19 an employee, to be used in a public construction or public works  
20 project;

21 (3) "working day" does not include a Saturday, Sunday, or a  
22 state holiday.

23 \* Sec. 2. AS 37.05.285(d) is amended to read:

24 (d) This section does not apply

25 (1) if the cost of the goods or services purchased exceeds  
26 \$500,000;

27 (2) to payment for specific goods or services in dispute  
28 after a seller of goods or services receives notice from the state  
29 official responsible for authorizing payment for goods and services

1       that the amount of the invoice or quality of specific goods or ser-  
2       vices is in dispute and stating the reasons for the dispute; the state  
3       agency shall pay for the specific goods or services in dispute within  
4       30 days after resolution of the dispute; or

5                   (3) to a contract covered by AS 36.90.200 - 36.90.290  
6       [AS 36.90.010].

7       \* Sec. 3. AS 36.90.010 is repealed.

8       \* Sec. 4. This Act applies to public construction and public works  
9       contracts that are entered into on or after the effective date of this Act.

10       \* Sec. 5. This Act takes effect July 1, 1990.

4/30/90

POSITION PAPER  
A.G.C. OF ALASKA  
TO THE  
SENATE FINANCE COMMITTEE  
ON  
HB 284

AN ACT RELATING TO THE TERMS AND CONDITIONS UNDER WHICH PRIME  
CONTRACTORS AND SUBCONTRACTORS ARE PAID FOR MATERIALS AND  
SERVICES PROVIDED TO A PUBLIC CONSTRUCTION PROJECT.



THANK YOU MR. CHAIRMAN. FOR THE RECORD, MY NAME IS RESA JERREL AND I AM THE DIRECTOR OF GOVERNMENTAL RELATIONS FOR THE ASSOCIATED GENERAL CONTRACTORS OF ALASKA (A.G.C.). ON BEHALF OF OUR OVER 600 MEMBER FIRMS WE APPRECIATE THE OPPORTUNITY TO TESTIFY IN FAVOR OF HB 284.

IN THE CONSTRUCTION INDUSTRY CASH FLOW IS IMPORTANT FOR THE SURVIVAL OF THE CONTRACTOR'S AND THE LOWER TIERED SUBCONTRACTOR'S BUSINESSES. THE FAILURE OF AN OWNER TO PROMPTLY PAY A GENERAL CONTRACTOR EFFECTS THE CASH FLOW OF NOT ONLY THE GENERAL CONTRACTOR BUT, THE CASH FLOW OF THE SUBCONTRACTOR, LOWER TIERED SUBCONTRACTOR AND SUPPLIER. LIKEWISE, THE FAILURE OF A GENERAL CONTRACTOR TO PROMPTLY PAY A SUBCONTRACTOR EFFECTS THE SUBS OF THE SUBCONTRACTOR AND SUPPLIER. A.G.C. OF ALASKA BELIEVES, INORDER TO PROMOTE FAIR DEALING AMONGST GOVERNMENT OWNERS, GENERAL CONTRACTORS, SUBCONTRACTORS AND SUPPLIERS IT IS ONLY REASONABLE TO EXPECT EACH SEGMENT TO PAY THEIR BILLS ON TIME.

IF YOU HAVE ANY QUESTIONS, I WOULD BE HAPPY TO TRY AND ANSWER THEM.

CSCSHB 284(C&RA)

CSCSHB 284(C&RA), "An Act relating to the terms and conditions under which prime contractors and subcontractors are paid for materials and services provided to a public construction project; and providing for an effective date".

CSCSHB 284(C&RA) represents the combined efforts of the Sponsor, the Alaska Municipal League, and the Association of General Contractors to shape a bill that encourages the State and its political subdivisions to pay contractors on public works projects in a prompt and timely manner.

This legislation is based on federal prompt pay statutes although the provisions are not as stringent. Whereas federal law mandates payment in seven days of the billing date, this bill requires that the state or its political subdivisions pay within 30 days after receiving progress payment application or they must pay interest. If the political subdivision is using federal money or grant money, they must pay within 21 days or pay interest.

Communities with a population of 800 or less are exempt from these provisions.

This bill extends these same obligations of prompt pay throughout the contracting structure in that there are required contractual terms between the prime contractor and the subcontractors and also between individual subcontractors. The payment schedule for subcontractors is 8 days after the prime contractor has received the money from which the subcontractor is to be paid.

There are further stipulations regarding the withholding

-SPONSOR'S BACKGROUND MATERIAL-

of money from contractors for unsatisfactory performance. Notification of this action must be prompt, in writing, state the specific causes for the withholding, the amount being withheld, and the remedial actions to be taken by the subcontractor to receive payment of the amount withheld. Payment in these cases must be within 21 days of completion of the corrective actions.

HB 284 passed the House unanimously. This legislation has been a top priority of the National Federation of Independent Businesses and is the number one legislative priority of the Association of General Contractors.

## PROMPT PAY

HB 234 was introduced April 12, 1989, by Representatives Boyer, Donley, Furnace, Grussendorf, Boucher, Foster, Gruenberg, Hudson, Koponen, Larson, Menard, Pettyjohn, Reiger, Sharp, Shultz, Taylor, Ulmer, Zawacki, Collins, Navarre and Leman. It passed the House May 7, 1989.

SB 289 was introduced April 18, 1989, by Senators Fahrenkamp, Rodey, Pourchot, Sturgulewski, Pearce, Frank and Coghill. Senator Szymanski added his name as a co-sponsor April 21, 1989.

The following are some highlights of CSHB 284(L&C) am:

- Government agencies are to pay prime contractors within 30 days after receiving progress payment application or pay interest. Communities with a population of 800 or less are exempt. The original bill contained 14 days and the Federal law is 7 days.
- Government agencies would pay interest on retainage. Communities with a population of 500 or less are exempt.
- Contract documents between prime contractor and subcontractors and between subcontractors and their subcontractors and supplies would require payment for satisfactory performance within 8 days after receiving payment or pay interest.
- If payment is withheld for unsatisfactory performance, by an agency, they are to notify the prime contractor and the remedial actions needed. The agency is to pay within 21 days after completion of the remedial action or within 21 days after a community actually receives its grant funds.

Provided by Associated General Contractors

Prompt Pay  
Page: 2

The following are the changes made by the Senate Community and Regional Affairs Committee.

Page 2 lines 9 and 17; Page 3, line 20 and 23; Page 4, lines 12 and 15; Page 5, line 28; Page 6, line 4 - changed calendar days to working days.

Page 3, lines 9-10 was added to clarify that the deadlines and interest would not apply during the warranty period in addition to the interest on retainage provision.

Page 3, lines 11-13 was moved from page 7, lines 8-10 of the House passed bill. The language on page 7 of the House passed bill was a floor amendment and was placed in an incorrect section of the bill.

Deleted the language on Page 4, lines 26-29 and page 5, lines 1-5 of the House passed bill. This section allowed the prime and subcontractor to negotiate provisions for retainage without cause and not have to pay interest except for pass through interest received on retainage from a community; when making these provisions they could take into consideration the ability of the subcontractor to furnish performance and payment bonds.

Page 7, lines 1-3 expanded language to allow communities to pay interest under the legislation from the state construction grant. Page 6, lines 22-24 of the House passed bill allowed communities to pay interest on retainage from the state construction grant.

Page 7, lines 4-8 was added to specify that the legislation would apply only when the community is using state funds.

Page 7, lines 21-22 added a new subsection to definitions - "working day".

Page 8, line 10 changed the effective date from July 1989 to July 1990.

## Department of Transportation &amp; Public Facilities



## POSITION PAPER

BILL NO. (S) HB No. 284

An act relating to terms & conditions under which prime contractors & subcontractors are paid for materials & services provided to a public construction project.

TITLE:

APPROVED: *M. K. D. [Signature]*

DATE:

April 19, 1989

The department is not opposed to this bill. The proposed legislation would reduce from 30 calendar days to 21 calendar days the period within which the state must make payment on public construction contractor payment requests or incur late payment interest costs. Any payment not made within 21 days of receipt would result in the state paying interest at the rate of 1.5% per month. AS 36.90.010 currently requires the state to "initiate procedures" to pay a contractor's payment request within 15 days with interest charges are only incurred for payments made 30 days after receipt.

Currently DOT&PF's payment process and experience indicates that the vast majority of standard contractor payments can be made within the proposed 21 day time frame. The shorter payment period (which includes weekends) would not allow for any margin of error in the department's review, approval and payment process. Significant budget reductions are being considered for all administrative units which would result in increased workloads and a slowdown in processing payment transactions. If those reductions are realized the department's ability to comply with the reduced timeframe would be impacted.

Current experience indicates that 8% of standard contractor payments could not be made within the shortened timeframe. This would result in an annual increased cost charged to the state's general fund capital budget of between \$80,000 and \$110,000 (fiscal note attached). Adverse effects of accounting staff budget cuts could increase the annual interest costs to between \$160,000 and \$200,000. Late payment fees are not eligible for federal participation.

(4)



# AMERICAN SUB CONTRACTORS ASSOCIATION OF ALASKA

2908 Commercial Drive  
Anchorage, Alaska 99501  
907 - 276 - 6893

## PRESIDENT

Frank Thomas-Mears  
Multiple Risk Mgrs.  
345-7181

## VICE PRESIDENT

Larry Phelps  
Capitol Glass  
272-4433

## SECRETARY

Rozanne Horschel  
ACME Fence Co.  
522-1155

## TREASURER

Earlene Carra  
S & S Welding  
276-5532

April 17, 1989

→ Have there been problems  
w/ fed prompt pay  
law

Rep. Mark Boyer  
P.O. Box V  
Juneau, Alaska 99519

Dear Representative Boyer,

On behalf of the Alaska Chapter of American Subcontractors Association, I want to thank you for your assistance in the prompt payment legislation.

Slow payment and retainage topped the list of concerns of subcontractors in 1988. A survey by A.S.A. in 1988 found that 81 percent of the subcontractors considered untimely final payments to be the most serious problem they have, with more than half that number rating it "a very major problem." This survey agrees with a 1982 survey on payment problems on federal construction. In that survey, A.S.A. learned that subcontractors wait an average of 120 days after they last perform labor or supply material to a federal construction job before receiving final payment. Subcontractors' problems typically begin long before the final payment. Seventy percent reported that untimely progress payments are a "serious problem" with half calling it a "very major problem." This reinforces a 1987 survey finding that subcontractors wait an average of 60 days after submitting a request to receive progress payments.

On October 17, 1988 President Reagan signed a prompt pay bill into law. The new law, which took effect April 1, 1989 makes clear for the first time that contractors and subcontractors of all types on federal construction projects must be paid promptly or receive interest. In Alaska, subcontractors received this victory news as a message that says subcontractors' cries have been heard.

In October of 1988 A.S.A. Alaska Chapter formed a task force to work on prompt pay legislation. The message this committee received was loud and clear. Untimely payments were now described as an overwhelming problem among 100% of the members and non-members contacted. The reason for the escalating problem was that most often given as a result in our declining economy where work starved general contractors are bidding jobs at prices barely covering their costs. By delaying payments to subs and material suppliers they in effect write themselves an interest free loan. The often times slow and inconsistent

payment policies among government agencies to general contractors was also listed as adding to the problem. Because subcontractors rely on receiving payments within a given amount of days after the prime contractor receives payment, it is often uncertain when effort to collect a sub's money should even begin.

Because the state of Alaska will be forced to comply with the Federal Prompt Payment Act Amendments of 1988 on all federally funded projects which address the immediate concerns of Alaskan subs, A.S.A. Alaska legislative task force felt it should follow this law as a guideline.

In January of 1989 it was decided to join forces with A.G.C. of Alaska to work on legislation fair to all contractors, subcontractors, material suppliers and government owners before presenting the principles in Juneau. In March a draft was presented to you with full support by A.S.A. and A.G.C. Alaska chapters.

We believe prompt pay as outlined in your bill HS284 is a positive step to assure fair dealings among the entire construction industry, and is asking for no more than what is now law on federal construction projects. As funds are available and set aside for public projects, passage of this bill will protect the interests of prime contractors, subcontractors, material suppliers, as well as government in the payment process.

Our sincere thanks to you and your staff for your hard work and support.

Sincerely,

A handwritten signature in cursive script, appearing to read "Roxanna Horschel".

Roxanna Horschel

**Sec. 45.45.010. Legal rate of interest.** (a) The rate of interest in the state is 10.5 percent a year and no more on money after it is due except as provided in (b) of this section.

(b) Interest may not be charged by express agreement of the parties in a contract or loan commitment that is more than five percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District on the day on which the contract or loan commitment is made. A contract or loan commitment in which the principal amount exceeds \$25,000 is exempt from the limitation of this subsection.

(c) *[Repealed, § 3 ch 84 SLA 1973.]*

(d) *[Repealed, § 2 ch 94 SLA 1981.]*

(e) *[Repealed, § 4 ch 146 SLA 1974.]*

(f) A bank, credit union, savings and loan institution, pension fund, insurance company or mortgage company may not require or accept any percent of ownership or profits above its interest rate. This subsection does not apply to a loan if the principal amount of the loan is \$1,000,000 or more and the term of the loan is five years or more.

(g) Loan contracts and commitments covering one- to four-family dwellings may be prepaid without penalty, except federally insured loans that require a prepayment penalty.

(h) If the limitations on interest rates provided for in this section are inconsistent with the provisions of any other statute covering maximum interest, service charges or discount rates then the provisions of the other statute prevail. (§ 25-1-1 ACLA 1949; am § 20 ch 143 SLA 1968; am § 2 ch 69 SLA 1969; am §§ 1, 2 ch 94 SLA 1969; am §§ 1, 2 ch 239 SLA 1970; am §§ 1 — 3 ch 84 SLA 1973; am §§ 1 — 4 ch 146 SLA 1974; am § 1 ch 110 SLA 1976; am § 1 ch 159 SLA 1976; am § 2 ch 107 SLA 1980; am §§ 1, 2 ch 94 SLA 1981; am § 1 ch 56 SLA 1982)

**Cross references.** — For maximum rates of interest applicable to: bank credit cards, see AS 06.05.209; bank revolving credit plans, see AS 06.05.208; credit unions, see AS 06.45.060; judgments, see AS 09.30.070; life insurance policy loans, see AS 21.45.060; premium finance agreements, see AS 06.40.120; retail installment contracts, see AS 45.10.120; small loan companies, see AS 06.20.230.

**Effect of amendments.** — The 1982 amendment, in subsection (f), inserted "credit union" in the first sentence and added the present second sentence.

**Legislative history reports.** — For report on ch. 84, SLA 1973 (FCCS HCSSB 37), see 1973 Senate Journal Supplement 16, pp. 1 and 2, following p. 766 of the 1973 Senate Journal.

**Opinions of attorney general.** — It is unlawful for a bank to charge or collect "points" which, when in combination with the interest charged for a loan, would exceed the usury ceiling established by subsection (b). 1979 Ops. Atty Gen. No. 6.

## Chapter 90. Miscellaneous Provisions.

| Section                                   | Section  |
|---|--|
| 10. Public construction contract payments | 100. Compliance of contracts with professional registration requirements |
| 50. Maintenance of state marine vessels   |  |

### *Sec. 36.90.001. (Renumbered as AS 36.90.010.)*

#### **Sec. 36.90.010. Public construction contract payments.**

(a) The state shall initiate procedures to pay the contractor under a public construction or public work contract within 15 days after the contractor submits to the state a bill for materials provided or services performed and a sworn statement that all employees employed on the project by the contractor and all subcontractors have been paid not less than the established prevailing rate of pay as determined and published by the Department of Labor.

(b) If the state fails to make a payment due the contractor under this section within 30 days after receiving a contractor's billing, the state shall pay interest to the contractor under AS 45.45.010(a) on the amount due.

(c) The state or a political subdivision of the state is liable to a contractor registered under AS 08.18 for interest at the rate provided in AS 45.45.010(a) on retainage on a contract for public works or public construction. Interest on retainage accrues from the date of approval of a pay estimate until the date of payment to the contractor. A contract provision purporting to waive the interest provisions of this subsection is void as contrary to public policy.

(d) A political subdivision that has a population of 500 or less is exempt from the payment of interest provided in (c) of this section.

(e) A political subdivision that receives a state grant for a public construction or public works project may use money from the state grant to pay the interest on retainage under contracts for the project as required by (c) of this section. (§ 1 ch 85 SLA 1982)

*Revisor's notes. — Formerly AS 36.90.001. Renumbered in 1986.*

*Editor's notes. — Section 3, ch. 85, SLA 1982, provides that the provisions of the act apply to contracts entered into after July 1, 1982.*

**Sec. 36.90.050. Maintenance of state marine vessels.** (a) A marine vessel owned by the state may not be transported outside of the state for the purpose of maintenance or repair unless the commissioner of transportation and public facilities determines that there is no facility in the state able to perform the maintenance at a price that is in the state's best interests. In making this determination, the commissioner shall consider, and document through written findings

THANK YOU MR. CHAIRMAN. FOR THE RECORD, MY NAME IS RESA JERREL AND I AM THE DIRECTOR OF GOVERNMENTAL RELATIONS FOR THE ASSOCIATED GENERAL CONTRACTORS OF ALASKA (A.G.C.). ON BEHALF OF OUR OVER 600 MEMBER FIRMS WE APPRECIATE THE OPPORTUNITY TO TESTIFY IN FAVOR OF HB 284.

I HAVE BEEN ASKED BY SOME LEGISLATORS WHAT LEAD TO THE NEED FOR THIS LEGISLATION: QUITE SIMPLY GENERAL CONTRACTORS, SUBCONTRACTORS, SUBS OF SUBCONTRACTORS AND SUPPLIERS WERE NOT BEING PAID IN A TIMELY MANNER.

IN THE CONSTRUCTION INDUSTRY CASH FLOW IS IMPORTANT FOR THE SURVIVAL OF THE CONTRACTOR'S AND THE LOWER TIERED SUBCONTRACTOR'S BUSINESSES. THE FAILURE OF AN OWNER TO PROMPTLY PAY A GENERAL CONTRACTOR EFFECTS THE CASH FLOW OF NOT ONLY THE GENERAL CONTRACTOR BUT, THE CASH FLOW OF THE SUBCONTRACTOR, LOWER TIERED SUBCONTRACTOR AND SUPPLIER. LIKEWISE, THE FAILURE OF A GENERAL CONTRACTOR TO PROMPTLY PAY A SUBCONTRACTOR EFFECTS THE SUBS OF THE SUBCONTRACTOR AND SUPPLIER. A.G.C. OF ALASKA BELIEVES, IN ORDER TO PROMOTE FAIR DEALING AMONGST GOVERNMENT OWNERS, GENERAL CONTRACTORS, SUBCONTRACTORS AND SUPPLIERS IT IS ONLY REASONABLE TO EXPECT EACH SEGMENT TO PAY THEIR BILLS ON TIME.

IF YOU HAVE ANY QUESTIONS, I WOULD BE HAPPY TO TRY AND ANSWER THEM.

# Alaska State Legislature

REPRESENTATIVE  
MARK BOYER

VICE-CHAIRMAN, HOUSE  
HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE

MEMBER, HOUSE LABOR AND  
COMMERCE COMMITTEE

CHAIR, CHILDREN'S CAUCUS



House of Representatives

FAIRBANKS

1098 LAKEVIEW TERRACE  
FAIRBANKS, ALASKA 99701  
(907) 456-6473

JUNEAU

P.O. BOX V  
STATE CAPITOL  
JUNEAU, ALASKA 99811  
(907) 465-3466

## MEMORANDUM

To: Senator Dick Eliason  
Chairman, Labor and Commerce Committee

From: Representative Mark Boyer *MB*

Date: April 2, 1990

Re: HB 284, Public Construction  
Contract Payments

SCSCSHB 284 (C&RA) has recently been referred to the Senate Labor and Commerce Committee. This bill had great support in the House last year, having been passed to the Senate in less than a month. Last week, in the Community and Regional Affairs Committee, the representatives from Associated General Contractors and the Alaska Municipal League came together on a compromise package that has all their major problems worked out.

The bill mandates that the state and its political subdivisions pay their public construction work project bills in a timely fashion and sets the interest and penalty percentages for noncompliance. It further authorizes the payment of interest on retainage and the withholding of payments for unsatisfactory performance. It is based on Federal prompt pay legislation.

I formally request a hearing on this bill and I can reasonably assure you that the Senate L&C CS has the support of all affected parties.

Thank you for your early consideration.

FAIRBANKS 208



STATE OF ALASKA  
1990 LEGISLATIVE SESSION

BILL VERSION: SCS CSHB284 (C&RA)  
PUBLISH DATE: 4/2/90

REQUEST: FISCAL NOTE

Revision Date:  
Title: "An Act relating to Public Construction  
Contract Payments"  
Sponsor: Boyer  
Requestor: House Labor and Commerce

Agency Affected: DOT&PF  
BRU: Finance  
Components:

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING         | FY 91 | FY 92 | FY 93 | FY 94 | FY 95 | FY 96 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | 0     | 0     | 0     | 0     | 0     | 0     |
| TRAVEL            | 0     | 0     | 0     | 0     | 0     | 0     |
| CONTRACTURAL      | 0     | 0     | 0     | 0     | 0     | 0     |
| SUPPLIES          | 0     | 0     | 0     | 0     | 0     | 0     |
| EQUIPMENT         | 0     | 0     | 0     | 0     | 0     | 0     |
| LAND & STRUCTURES | 0     | 0     | 0     | 0     | 0     | 0     |
| GRANTS, CLAIMS    | 0     | 0     | 0     | 0     | 0     | 0     |
| MISCELLANEOUS     | 0     | 0     | 0     | 0     | 0     | 0     |
| TOTAL OPERATING   | 0     | 0     | 0     | 0     | 0     | 0     |
| CAPITAL           | 0     | 0     | 110.0 | 110.0 | 110.0 | 110.0 |
| REVENUE           | 0     | 0     | 0     | 0     | 0     | 0     |

FUNDING: (Thousands of Dollars)

|               |   |   |       |       |       |       |
|---------------|---|---|-------|-------|-------|-------|
| GENERAL FUND  | 0 | 0 | 110.0 | 110.0 | 110.0 | 110.0 |
| FEDERAL FUNDS | 0 | 0 | 0     | 0     | 0     | 0     |
| OTHER         | 0 | 0 | 0     | 0     | 0     | 0     |
| TOTAL         | 0 | 0 | 110.0 | 110.0 | 110.0 | 110.0 |

POSITIONS:

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

ANALYSIS: The annual increased costs can only be estimated. Based on prior experience, 8% of all contractor payments could not be paid within the proposed 21 day time frame and would require payment of interest costs. The estimated increased costs are between \$80,000 and \$110,000. These costs would be funded out of General Fund capital appropriations allocated for "state match" or projects ineligible for federal participation. The costs reflected are calculated based on late payments incurring 15 days of interest charges. Significant budget reductions being considered for all administrative units would cause a delay in the processing of payments and could increase the annual costs to approximately \$200,000. Each administrative unit lost at least one position effective 10-01-89. The effect on contractor payments of this reduction will not be known until 1990 construction season.

Prepared by: Robert N. Bartholomew, Director  
Division: Administrative Services

Phone: 465-3911  
Date: April 2, 1990

Approved by Commissioner: Mark S. Hickey  
Agency: Department of Transportation and Public Facilities

Date: 4/2/90

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

**STATE OF ALASKA  
1989 LEGISLATIVE SESSION**

**BILL VERSION: CSHB 284 (L&C)  
PUBLISH DATE: HOUSE 5/1/89**

**FISCAL NOTE**

Revision Date:  
Title: Public Construction Contract Payments

Agency Affected: DOT&PF  
BRU: Finance

Sponsor: Boyer  
Requestor: House Labor and Commerce

Components:

**EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)**

| OPERATING         | FY 89 | FY 90 | FY 91 | FY 92 | FY 93 | FY 94 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | 0     | 0     | 0     | 0     | 0     | 0     |
| TRAVEL            | 0     | 0     | 0     | 0     | 0     | 0     |
| CONTRACTURAL      | 0     | 0     | 0     | 0     | 0     | 0     |
| SUPPLIES          | 0     | 0     | 0     | 0     | 0     | 0     |
| EQUIPMENT         | 0     | 0     | 0     | 0     | 0     | 0     |
| LAND & STRUCTURES | 0     | 0     | 0     | 0     | 0     | 0     |
| GRANTS, CLAIMS    | 0     | 0     | 0     | 0     | 0     | 0     |
| MISCELLANEOUS     | 0     | 0     | 0     | 0     | 0     | 0     |
| TOTAL OPERATING   | 0     | 0     | 0     | 0     | 0     | 0     |

|         |   |       |       |       |       |       |
|---------|---|-------|-------|-------|-------|-------|
| CAPITAL | 0 | 146.0 | 146.0 | 146.0 | 146.0 | 146.0 |
|---------|---|-------|-------|-------|-------|-------|

|         |   |   |   |   |   |   |
|---------|---|---|---|---|---|---|
| REVENUE | 0 | 0 | 0 | 0 | 0 | 0 |
|---------|---|---|---|---|---|---|

**FUNDING: (THOUSANDS OF DOLLARS)**

|               |   |       |       |       |       |       |
|---------------|---|-------|-------|-------|-------|-------|
| GENERAL FUND  | 0 | 146.0 | 146.0 | 146.0 | 146.0 | 146.0 |
| FEDERAL FUNDS | 0 | 0     | 0     | 0     | 0     | 0     |
| OTHER         | 0 | 0     | 0     | 0     | 0     | 0     |
| TOTAL         | 0 | 0     | 0     | 0     | 0     | 0     |

**POSITIONS:**

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

**ANALYSIS:**

The annual costs are based on the fact that 15% of all contractor payments could not be paid within the proposed 14 day time frame and would require payment of increased interest costs. The costs reflected are calculated based on late payments incurring 15 days of interest charges. Significant budget reductions being considered for all administrative units would cause a delay in the processing of payments and could increase the annual costs to approximately \$300,000.

Prepared by: Robert N. Bartholomew, Director  
Division: Management and Finance

Phone: 465-3911  
Date: 4/17/89

Approved by Commissioner: Mark S. Hickey  
Agency: Department of Transportation and Public Facilities

Date: 4/19/89

Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor

H

B

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6

# HOUSE COMMITTEE REPORT

File

(11)

Date Referred: March 8, 1990

FURTHER REFERRALS:

Date of Committee Action: 5/1/90

The FINANCE Committee considered:

HB 286

HOUSE BILL NO. 286

PENALTIES FOR OSHA VIOLATIONS

"An Act relating to penalties for violation of workplace safety laws."

### RECOMMENDATIONS:

- [  ] be replaced with CS HB 286 (JUD) [  ] the same title
- [  ] a new title
- [  ] have attached amendment(s)
- [  ] do pass
- [  ] do not pass
- [  ] no recommendation
- [  ] individual recommendations
- [  ] additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of intent

ATTACHES NEW FISCAL NOTE(S):  
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- [  ] fiscal impact \_\_\_\_\_
- [  ] zero fiscal note HFC
- [  ] zero with analysis \_\_\_\_\_

- [  ] fiscal note(s) \_\_\_\_\_
- [  ] zero fiscal note(s) \_\_\_\_\_
- [  ] zero fn/analysis \_\_\_\_\_

### SIGNING DO PASS:

### SIGNING:

(Check approp. column)

Do Not Pass No Rec Amend

|                                   |                                 |                                     |  |  |
|-----------------------------------|---------------------------------|-------------------------------------|--|--|
| <u>Ronald J. Larson</u> Larson    | <u>Dick Shultz</u> Shultz       | <input checked="" type="checkbox"/> |  |  |
| <u>Ed Swackhammer</u> Swackhammer | <u>ROD E. PHILLIPS</u> Phillips | <input checked="" type="checkbox"/> |  |  |
| <u>Fan Brown</u> Brown            | <u>R. Barnes</u> Barnes         | <input checked="" type="checkbox"/> |  |  |
| <u>W. Koponen</u> Koponen         |                                 |                                     |  |  |
| <u>J. Ullmer</u> Ullmer           |                                 |                                     |  |  |
|                                   |                                 |                                     |  |  |
|                                   |                                 |                                     |  |  |
|                                   |                                 |                                     |  |  |
|                                   |                                 |                                     |  |  |
|                                   |                                 |                                     |  |  |

Co Chairman's Signature  
Ronald J. Larson Larson

**FISCAL NOTE**

**REQUEST:**

Revision Date: \_\_\_\_\_  
Title: An Act relating to penalties for violation of workplace safety laws  
Sponsor: Rep. Koponen, et al  
Requestor: House Finance Committee

Agency Affected: Labor  
BRU: Labor Standards and Safety  
Components: Occupational Safety & Health

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

| OPERATING              | FY 91 | FY 92 | FY 93 | FY 94 | FY 95 | FY 96 |
|------------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES      |       |       |       |       |       |       |
| TRAVEL                 |       |       |       |       |       |       |
| CONTRACTUAL            |       |       |       |       |       |       |
| SUPPLIES               |       |       |       |       |       |       |
| EQUIPMENT              |       |       |       |       |       |       |
| LAND & STRUCTURES      |       |       |       |       |       |       |
| GRANTS, CLAIMS         |       |       |       |       |       |       |
| MISCELLANEOUS          |       |       |       |       |       |       |
| <b>TOTAL OPERATING</b> | -0-   | -0-   | -0-   | -0-   | -0-   | -0-   |
| <b>CAPITAL</b>         | -0-   | -0-   | -0-   | -0-   | -0-   | -0-   |
| <b>REVENUE</b>         | -0-   | -0-   | -0-   | -0-   | -0-   | -0-   |

**FUNDING: (Thousands of Dollars)**

|               |     |     |     |     |     |     |
|---------------|-----|-----|-----|-----|-----|-----|
| GENERAL FUND  | -0- | -0- | -0- | -0- | -0- | -0- |
| FEDERAL FUNDS |     |     |     |     |     |     |
| OTHER         |     |     |     |     |     |     |
| <b>TOTAL</b>  | -0- | -0- | -0- | -0- | -0- | -0- |

**POSITIONS:**

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

**ANALYSIS :** (Attach a separate page if necessary)

Prepared by: House Finance Committee Phone: 465-3727  
Division: Co-Chairman Ron Larson Date: 5/1/90

Approved by Commissioner: Co-Chairman Lyman Hoffman Date: 5/1/90  
Agency: [Signature]

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

Adopted

Original sponsor(s): REP. KOPONEN, Donley, Navarre, Brown, Spoinholz,  
Goll, Ellis, M.Davis, Menard

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 286 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to penalties for violation of work-  
7 place safety laws; and assessing costs for an em-  
8 ployer's failure to appear at certain hearings of the  
9 OSHA Review Board."

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

11 \* Section 1. AS 18.60.093 is amended by adding a new subsection to  
12 read:

13 (f) If an employer fails without good cause to appear at a  
14 hearing held under this section after receiving proper notice of the  
15 hearing, the OSHA Review Board may order the employer to pay all  
16 reasonable expenses incurred by the board for the hearing, including  
17 the board's actual travel expenses and per diem.

18 \* Sec. 2. AS 18.60.095(a) is amended to read:

19 (a) An employer who knowingly [WILFULLY] or repeatedly violates  
20 a provision of AS 18.60.010 - 18.60.105 that is applicable to the  
21 employer or a standard or regulation adopted under AS 18.60.010 -  
22 18.60.105 may be assessed by the commissioner a civil penalty of not  
23 more than \$30,000 [\$10,000] for each violation.

24 \* Sec. 3. AS 18.60.095(b) is amended to read:

25 (b) An employer who receives a citation for a serious violation  
26 of a provision of AS 18.60.010 - 18.60.105 that is applicable to the  
27 employer or of a standard or regulation adopted under AS 18.60.010 -  
28 18.60.105 shall be assessed by the commissioner a civil penalty of up  
29 to \$3,000 [\$1,000] for each violation. For purposes of this

1 by both.

2 \* Sec. 7. AS 18.60.095(f) is amended to read:

3 (f) A person who knowingly makes a false statement, representa-  
4 tion, or certification in an application, record, report, plan or  
5 other document filed or required to be maintained under AS 18.60.010 -  
6 18.60.105, upon conviction, is punishable by a fine of not more than  
7 \$30,000 [\$10,000], or by imprisonment for not more than six months, or  
8 by both.

9 \* Sec. 8. AS 18.60.095(g) is amended to read:

10 (g) An employer who violates the posting requirements of this  
11 chapter shall be assessed by the commissioner a civil penalty of up to  
12 \$3,000 [\$1,000] for each violation.

# Alaska State Legislature




## House of Representatives House Judiciary Committee

P. O. Box V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4990  
(907) 465-4712

### M E M O R A N D U M

**TO:** Representative Lyman Hoffman, Co-Chair  
Representative Ron Larson, Co-Chair  
House Finance Committee

**FROM:** Representative Peter Goll, Co-Chair   
House Judiciary Committee

**DATE:** March 7, 1990

**SUBJECT:** CSHB 286 (JUD)

The House Judiciary Committee respectfully requests careful review of the justification for the fiscal note submitted by the Department of Labor in the amount of \$40.0.

**Alaska State Legislature  
Representative Niilo Koponen**

Pouch V  
Juneau, Alaska 99811  
(907) 465-4992

House District 21

119 N. Cushman, Suite 207  
Fairbanks, Alaska 99701  
(907) 456-8172

\* **Position Paper** \*  
**HB 286**

This legislation would reinforce the legislative findings in AS 18.60.010 which state that "...personal injuries and illnesses arising out of work situations impose a substantial burden upon, and are a hindrance to, the people of the state in terms of loss of production, wage loss, medical expenses and disability compensation payments."

According to the latest available statistics, Alaska has the third highest rate of occupational injuries in the nation. House Bill 286 is designed to reduce the incidence of work related hazards by increasing penalties for serious workplace safety violations. At present, the maximum amount that can be levied for a serious violation is \$1,000. The same violation in the state of Washington carries a \$50,000 fine.

Alaska's already small penalty is further reduced by the federal Occupational Safety and Health Administration (OSHA), taking into consideration such factors as the size of the employer's business, good faith of the employer and previous history of violations. Last year's average fine after such adjustments was \$192. This penalty structure has been unchanged for 18 years.

This bill will triple the allowable level of fines. In addition, it makes the fines applicable to those who knowingly violate the law. Current statutes require the state to prove willful violation.

HB 286 is intended to encourage businesses to conform to workplace safety laws and regulations. As businesses adjust to a tight economic environment, it is important that worker health and safety not be sacrificed. There is no reason why an employer cannot abide by the standards established by federal and state statutes.

It is my sincere hope that this legislation will result in fewer injuries, fewer fines and lower workers' compensation insurance cost. The rising number of injuries and fatalities to Alaskan workers testifies to the insufficiency of our present statutes. So long as it is cheaper to pay the fine than to correct a dangerous situation we cannot expect improvement.

COMPARISON OF 1987 ALASKA AND NATIONAL  
OCCUPATIONAL INJURY AND ILLNESS INCIDENCE RATES

|                                  | <u>Alaska Rate</u> | <u>National Rate</u> |
|----------------------------------|--------------------|----------------------|
| Oil and Gas Extraction           | 9.0                | 8.3                  |
| General Building Construction    | 17.5               | 14.2                 |
| Heavy Construction               | 19.4               | 14.5                 |
| Special Trade Construction       | 15.0               | 15.0                 |
| Canned and Cured Fish Processing | 35.2               | 26.4                 |
| Fresh/Frozen Fish Processing     | 35.3               | 18.8                 |
| Logging Camps and Contractors    | 51.8               | 19.3                 |
| Trucking and Warehousing         | 17.7               | 12.3                 |
| Water Transportation             | 13.2               | 12.9                 |
| Tranportation by Air             | 13.9               | 14.3                 |
| All Private Industries           | 10.9               | 8.3                  |

TABLE A-11  
Incidence rates of Occupational Injuries and Illnesses  
Comparison of all States - Private Sector  
1983 to 1987

|                | 1983 | 1984 | 1985 | 1986 | 1987 |
|----------------|------|------|------|------|------|
| USA            | 7.6  | 8.0  | 7.9  | 7.9  | 8.3  |
| Alabama        | 7.9  | 8.3  | 8.4  | 8.7  |      |
| Alaska         | 10.6 | 10.3 | 10.7 | 10.2 | 10.9 |
| Arizona        | 9.3  | 9.5  | 9.2  | 8.9  | 9.0  |
| Arkansas       | 8.1  | 8.0  | 8.0  | 8.4  |      |
| California     | 9.1  | 9.3  | 9.1  | 8.9  | 8.8  |
| Colorado       | --   | --   | --   | --   | --   |
| Connecticut    | 8.0  | 8.3  | 8.3  | 8.2  |      |
| Delaware       | 5.3  | 5.5  | 5.6  | 6.0  |      |
| Florida        | 8.7  | 8.9  | 8.8  | 8.8  |      |
| Georgia        | --   | --   | --   | --   | --   |
| Hawaii         | 10.6 | 10.0 | 9.6  | 9.5  | 9.8  |
| Idaho          | --   | --   | --   | --   | --   |
| Illinois       | --   | --   | --   | --   | --   |
| Indiana        | 7.3  | 7.7  | 7.7  | 8.2  |      |
| Iowa           | 7.8  | 8.1  | 8.2  | 8.4  |      |
| Kansas         | 7.5  | 7.7  | 7.7  | 7.6  |      |
| Kentucky       | 7.6  | 8.3  | 8.3  | 8.4  |      |
| Louisiana      | 7.4  | 7.9  | 7.3  | 7.0  |      |
| Maine          | 11.0 | 13.2 | 12.5 | 12.9 |      |
| Maryland       | 7.6  | 7.8  | 7.9  | 7.8  |      |
| Massachusetts  | --   | --   | --   | --   | --   |
| Michigan       | 6.8  | 7.6  | 8.0  | 8.2  |      |
| Minnesota      | 7.3  | 7.7  | 7.6  | 7.3  |      |
| Mississippi    | --   | 8.0  | 7.8  | 8.0  |      |
| Missouri       | 7.5  | 8.0  | 7.9  | 8.5  |      |
| Montana        | --   | 8.5  | 8.0  | 8.2  |      |
| Nebraska       | 8.4  | 8.8  | 7.9  | 8.1  |      |
| Nevada         | 9.0  | 9.0  | 8.5  | 8.4  | 9.4  |
| New Hampshire  | --   | --   | --   | --   | --   |
| New Jersey     | --   | --   | --   | --   | --   |
| New Mexico     | 7.8  | 8.7  | 8.4  | 7.7  |      |
| New York       | --   | --   | --   | --   | --   |
| North Carolina | 6.8  | 7.2  | 7.4  | 7.2  |      |
| North Dakota   | --   | --   | --   | --   | --   |
| Ohio           | --   | --   | --   | --   | --   |
| Oklahoma       | 8.9  | 9.8  | 9.5  | 8.1  |      |
| Oregon         | 9.8  | 10.6 | 10.5 | 10.7 | 10.9 |
| Pennsylvania   | --   | --   | --   | --   | --   |
| Rhode Island   | 8.3  | 8.4  | 8.9  |      |      |
| South Carolina | 6.7  | 6.9  | 7.1  | 6.9  |      |
| South Dakota   | --   | --   | --   | --   | --   |
| Tennessee      | 7.9  | 8.6  | 8.2  |      |      |
| Texas          | --   | --   | --   | --   | --   |
| Utah           | 8.5  | 9.2  | 8.5  | 9.1  |      |
| Vermont        | 9.2  | 10.0 | 9.1  | 8.9  |      |
| Virginia       | 7.0  | 7.6  | 7.3  | 7.6  |      |
| Washington     | 9.7  | 9.9  | 9.4  | 9.8  | 10.6 |
| West Virginia  | 6.7  | 7.2  | 7.2  | 7.7  |      |
| Wisconsin      | --   | --   | --   | --   | --   |
| Wyoming        | 7.9  | 8.6  | 7.4  | 7.6  |      |
| American Samoa | 2.5  | 3.0  | 3.6  | 3.2  | 2.6  |
| Guam           | 2.7  | 2.8  | 3.6  | 3.7  | 3.6  |
| Puerto Rico    | 4.2  | 3.9  | 3.8  | 3.9  |      |
| Virgin Islands | 2.8  | 2.4  | 2.4  | 2.4  |      |

SOURCE: Bureau of Labor Statistics.

-- = Publishable Rate Unavailable.

X = 1987 data not available at time of publication.

TABLE A-3  
Incidence Rates of Recordable Occupational Injuries and Illnesses  
Industry Data Time Series, Alaska 1978 to 1987

| Industry                                | SIC Code | 1978 | 1979 | 1980 | 1981 | 1982 | 1983 | 1984 | 1985 | 1986 | 1987 |
|---|----------|------|------|------|------|------|------|------|------|------|------|
| TOTAL PRIVATE AND PUBLIC SECTOR.....    |          | 9.4  | 9.2  | 9.1  | 9.2  | 9.5  | 9.9  | 9.7  | 10.1 | 9.6  | 10.1 |
| TOTAL PRIVATE SECTOR.....               |          | 10.0 | 10.1 | 10.4 | 10.0 | 10.3 | 10.6 | 10.3 | 10.7 | 10.2 | 10.9 |
| MINING.....                             |          | 15.2 | 14.0 | 12.1 | 15.4 | 14.8 | 11.5 | 10.5 | 9.4  | 8.1  | 8.9  |
| Oil and Gas Extraction.....             | 13       | 15.7 | 13.7 | 12.4 | 15.8 | 15.3 | 11.8 | 10.6 | 9.7  | 8.2  | 9.0  |
| Petroleum & Gas Production.....         | 131      | --   | --   | 2.5  | 7.3  | 6.7  | 5.1  | 2.8  | 2.6  | 2.1  | 3.5  |
| Oil & Gas Field Services.....           | 138      | 22.6 | 23.0 | 23.8 | 24.9 | 24.6 | 19.6 | 22.0 | 17.4 | 14.8 | 15.2 |
| CONSTRUCTION.....                       |          | 16.4 | 16.4 | 16.5 | 17.2 | 19.4 | 17.6 | 16.9 | 19.4 | 16.2 | 17.1 |
| General Building Contractors.....       | 15       | 17.1 | 14.3 | 16.5 | 19.8 | 19.6 | 21.6 | 17.7 | 19.5 | 17.6 | 17.5 |
| Residential Buildings.....              | 152      | 16.5 | 11.9 | 15.1 | 15.6 | 16.5 | 17.7 | 13.4 | 15.4 | 18.0 | 17.0 |
| Nonresidential Buildings.....           | 154      | 18.0 | 15.8 | 18.0 | 23.7 | 21.9 | 26.0 | 22.0 | 22.9 | 17.3 | 17.7 |
| Heavy Construction Contractors.....     | 16       | 14.2 | 16.6 | 17.3 | 15.1 | 20.9 | 14.9 | 15.7 | 18.9 | 16.5 | 19.4 |
| Highway and Street Construction... 161  |          | 9.7  | 18.8 | 19.2 | 17.8 | 27.6 | 19.0 | 19.8 | 16.6 | 20.8 | 14.4 |
| Heavy Construction, Except Hwy... 162   |          | 16.4 | 15.1 | 16.4 | 14.0 | 16.8 | 12.9 | 13.9 | 20.3 | 14.3 | 22.8 |
| Special Trade Contractors.....          | 17       | 17.6 | 17.4 | 15.9 | 17.8 | 17.9 | 17.7 | 17.1 | 19.8 | 14.9 | 15.0 |
| Plumbing, Heating & Air Condit.... 171  |          | 14.6 | 14.8 | 16.7 | 17.8 | 17.0 | 25.6 | 23.3 | 18.9 | 16.0 | 14.4 |
| Electrical Work.....                    | 173      | 17.0 | 10.8 | 16.5 | 15.4 | 16.6 | 13.2 | 14.3 | 16.4 | 15.9 | 15.4 |
| Misc Special Trade Contractors.... 179  |          | --   | 23.1 | 16.3 | 21.6 | 18.6 | 14.6 | 20.6 | 23.6 | 15.9 | 12.6 |
| MANUFACTURING.....                      |          | 21.4 | 26.1 | 23.3 | 19.1 | 17.9 | 23.2 | 23.0 | 26.3 | 28.3 | 29.5 |
| Food and Kindred Products.....          | 20       | 21.8 | 25.7 | 26.7 | 22.2 | 20.2 | 29.5 | 25.0 | 32.5 | 33.3 | 34.5 |
| Misc Food Prep & Kindred Prod.... 209   |          | 22.3 | 26.0 | 26.9 | 22.5 | 20.8 | 30.1 | 25.7 | 32.9 | 33.4 | 35.3 |
| Canned & Cured Fish & Seafoods... 2091  |          | 18.7 | 23.5 | 21.4 | 19.9 | 18.6 | 21.4 | 25.0 | 30.3 | 34.3 | 35.2 |
| Fresh/Froz Pkgd Fish & Seafoods... 2092 |          | 27.4 | 29.2 | 31.7 | 24.6 | 21.8 | 32.9 | 26.1 | 33.9 | 33.0 | 35.3 |
| Lumber & Wood Prod Except Furniture 24  |          | 31.8 | 31.0 | 32.5 | 26.8 | 26.9 | 31.2 | 43.0 | 38.6 | 50.9 | 48.5 |
| Logging Camps & Contractors..... 241    |          | 38.6 | 39.1 | 37.3 | 27.2 | 30.8 | 35.7 | 45.6 | 45.0 | 56.6 | 51.8 |
| Printing, Publishing & Allied Ind... 27 |          | --   | --   | 2.5  | 3.1  | 5.7  | 6.3  | 6.2  | 5.1  | 6.5  | 5.8  |
| TRANSPORTATION AND PUBLIC UTILITIES...  |          | 11.4 | 11.4 | 12.2 | 11.6 | 10.7 | 11.4 | 12.1 | 11.3 | 11.3 | 10.9 |
| Local & Interurban Passenger Transit 41 |          | --   | 5.1  | 4.8  | 6.7  | 4.9  | --   | 7.1  | 6.3  | 11.3 | 12.8 |
| Trucking and Warehousing.....           | 42       | 21.4 | 20.6 | 21.7 | 17.8 | 14.0 | 20.7 | 24.2 | 17.4 | 19.5 | 17.7 |
| Trucking, Local and Long Distance. 421  |          | 21.3 | 21.0 | 22.1 | 18.0 | 13.8 | 19.8 | 23.9 | 17.5 | 19.7 | 17.9 |
| Water Transportation.....               | 44       | 18.6 | 16.0 | 16.2 | 16.6 | 11.7 | 11.9 | 10.8 | 16.2 | 10.7 | 13.2 |
| Transportation by Air.....              | 45       | 15.2 | 12.4 | 13.2 | 13.6 | 12.7 | 10.7 | 14.2 | 14.0 | 13.3 | 13.9 |
| Communication.....                      | 48       | 3.0  | 6.9  | 9.1  | 8.4  | 8.6  | 9.6  | 5.7  | 6.7  | 6.2  | 4.5  |
| Electric, Gas and Sanitary Services. 49 |          | 15.5 | 14.6 | 14.6 | 13.9 | 14.8 | 16.4 | 19.4 | 16.0 | 16.2 | 15.5 |
| WHOLESALE AND RETAIL TRADE.....         |          | 8.2  | 7.9  | 7.7  | 8.0  | 9.3  | 10.2 | 9.9  | 10.0 | 8.9  | 9.3  |
| WHOLESALE TRADE.....                    |          | 12.2 | 11.4 | 10.9 | 9.8  | 9.6  | 12.3 | 11.7 | 10.9 | 8.0  | 9.4  |
| Durable Goods.....                      | 50       | 12.2 | 11.6 | 8.5  | 7.9  | 7.4  | 8.9  | 9.7  | 8.9  | 5.8  | 7.7  |
| Non-durable Goods.....                  | 51       | 8.1  | 11.0 | 15.4 | 12.8 | 13.4 | 18.0 | 15.1 | 14.4 | 11.5 | 11.5 |
| RETAIL TRADE.....                       |          | 7.4  | 6.9  | 6.8  | 7.4  | 9.3  | 9.6  | 9.5  | 9.8  | 9.2  | 9.3  |
| Building Materials & Garden Supplies 52 |          | 8.9  | 6.2  | 9.4  | 12.3 | 13.7 | 20.5 | 17.7 | 17.6 | 11.3 | 12.7 |
| Lumber & Bldg Materials.....            | 521      | --   | --   | --   | --   | 17.2 | 25.5 | 22.6 | 21.3 | 12.4 | --   |
| General Merchandise Stores.....         | 53       | 9.2  | 8.8  | 6.0  | 7.1  | 8.2  | 12.3 | 10.4 | 9.3  | 10.7 | 10.8 |
| Food Stores.....                        | 54       | 9.5  | 8.9  | 10.1 | 8.5  | 11.8 | 9.7  | 15.8 | 15.5 | 18.0 | 15.6 |
| Auto Dealers and Service Stations... 55 |          | 10.2 | 8.5  | 9.5  | 8.9  | 8.1  | 10.4 | 10.5 | 10.8 | 8.3  | 8.7  |
| Apparel and Accessory Stores..... 56    |          | 3.4  | 2.7  | 2.1  | 2.4  | 1.0  | 1.0  | 1.5  | 2.5  | 0.4  | 3.3  |
| Furniture, Home Furnishings..... 57     |          | --   | --   | --   | --   | 4.8  | 3.5  | 4.4  | 5.2  | 6.4  | 5.8  |
| Eating and Drinking Places.....         | 58       | 6.6  | 7.2  | 6.5  | 8.1  | 11.2 | 9.8  | 6.6  | 8.5  | 8.3  | 8.9  |
| Miscellaneous Retail.....               | 59       | 4.7  | 3.9  | 2.9  | 5.1  | 5.5  | 6.4  | 6.6  | 5.9  | 4.3  | 3.6  |
| FINANCE, INSURANCE AND REAL ESTATE      |          | 0.7  | 1.4  | 1.3  | 1.5  | 1.5  | 2.0  | 1.7  | 2.1  | 3.3  | 2.8  |
| Banking.....                            | 60       | 1.1  | 2.1  | 1.9  | 2.2  | 1.8  | 2.9  | 2.1  | 2.6  | 2.6  | 3.3  |
| Credit Agencies.....                    | 61       | --   | --   | --   | --   | 1.5  | 1.1  | 1.6  | 0.7  | 1.7  | 3.2  |
| Real Estate.....                        | 65       | 0.8  | 0.1  | 2.8  | 1.9  | 2.3  | 2.1  | 2.4  | 4.1  | 4.9  | 2.7  |
| Holding & Other Investment Offices.. 67 |          | 0.3  | 1.8  | 0.0  | 1.2  | 0.7  | 1.3  | 1.3  | 2.3  | --   | 3.5  |
| SERVICES.....                           |          | 4.3  | 4.0  | 4.3  | 4.3  | 4.4  | 4.7  | 5.1  | 5.5  | 5.4  | 6.5  |
| Hotels and Other Lodging Places..... 70 |          | 5.5  | 7.9  | 9.3  | 6.8  | 7.0  | 9.9  | 11.0 | 10.0 | 13.4 | 13.6 |
| Personal Services.....                  | 72       | 0.6  | 1.3  | 2.5  | 2.8  | 1.7  | 4.1  | 5.3  | 6.3  | 1.7  | 3.7  |
| Business Services.....                  | 73       | 7.2  | 3.8  | 6.7  | 3.7  | 6.7  | 3.9  | 3.4  | 2.6  | 4.5  | 5.0  |
| Automotive Services.....                | 75       | --   | --   | --   | 7.5  | 8.4  | 8.2  | 6.6  | 9.9  | 6.3  | 11.2 |
| Health Services.....                    | 80       | 4.0  | 3.7  | 3.6  | 5.4  | 4.1  | 5.5  | 7.9  | 8.9  | 6.3  | 8.0  |
| Legal Services.....                     | 81       | 0.5  | 1.0  | 0.2  | --   | 0.3  | 0.1  | 0.1  | 0.8  | 1.1  | 0.7  |
| Social Services.....                    | 83       | 4.3  | 4.9  | 3.5  | 3.9  | 3.7  | 4.2  | 3.5  | 7.3  | 3.0  | 3.7  |
| Membership Organizations.....           | 86       | 2.9  | 2.9  | 3.1  | 3.0  | 2.8  | 3.0  | 0.7  | 1.8  | 4.0  | 5.8  |
| Miscellaneous Services.....             | 89       | 2.9  | 1.8  | 2.8  | 3.0  | 2.0  | 1.1  | 2.6  | 2.6  | 2.8  | 2.7  |
| STATE AND LOCAL GOVERNMENT.....         |          | 7.1  | 6.3  | 4.9  | 6.5  | 6.7  | 7.3  | 7.7  | 8.1  | 7.7  | 7.3  |
| STATE GOVERNMENT.....                   |          | 6.2  | 3.8  | 3.3  | 4.7  | 4.6  | 5.5  | 5.5  | 5.2  | 6.0  | 6.0  |
| LOCAL GOVERNMENT.....                   |          | 8.1  | 8.7  | 6.3  | 8.1  | 8.6  | 8.7  | 9.5  | 10.5 | 9.0  | 8.4  |

See footnotes at end of section.  
-- = Publishable rate unavailable.

45 H.E.S

TABLE B-1  
Incidence Rates of Recordable Occupational Injuries and Illnesses  
U.S. Private Sector, Select Industries, 1978 to 1987

| Industry                                       | SIC Code | Incidence Rate for Total Cases (per 100 workers) % |      |      |      |      |      |      |      |      |      |
|--|----------|--|------|------|------|------|------|------|------|------|------|
|  |          | 1978   | 1979 | 1980 | 1981 | 1982 | 1983 | 1984 | 1985 | 1986 | 1987 |
| <b>TOTAL PRIVATE SECTOR</b> .....              |          | 9.4  | 9.5  | 8.7  | 8.3  | 7.7  | 7.6  | 8.0  | 7.9  | 7.9  | 8.3  |
| <b>AGRICULTURE</b> .....                       |          | 11.6   | 11.7 | 11.9 | 12.3 | 11.8 | 11.9 | 12.0 | 11.6 | 11.2 | 11.2 |
| <b>MINING</b> .....                            |          | 11.5   | 11.6 | 11.2 | 11.6 | 10.1 | 8.6  | 9.7  | 8.4  | 7.4  | 8.5  |
| Oil and Gas Extraction..... 13                 |          | 13.9   | 13.6 | 13.0 | 14.1 | 12.1 | 9.8  | 11.8 | 10.1 | 8.1  | 8.3  |
| Petroleum & Gas Production..... 131            |          | 4.4  | 5.4  | 3.8  | 4.1  | 4.3  | 3.5  | 3.0  | 2.7  | 2.6  | 2.5  |
| Oil & Gas Field Services..... 138              |          | 20.0   | 18.9 | 19.3 | 19.7 | 16.8 | 14.3 | 18.2 | 15.8 | 13.8 | 16.0 |
| <b>CONSTRUCTION</b> .....                      |          | 16.0   | 16.2 | 15.7 | 15.1 | 16.8 | 16.8 | 15.5 | 15.2 | 15.2 | 14.7 |
| General Building Contractors..... 15           |          | 15.9   | 16.3 | 15.5 | 15.1 | 14.1 | 14.4 | 13.4 | 13.2 | 14.9 | 14.3 |
| Residential Buildings..... 152                 |          | 13.3   | 13.0 | 11.9 | 11.9 | 10.8 | 11.9 | 12.6 | 12.3 | 12.5 | 10.9 |
| Nonresidential Buildings..... 154              |          | 19.2   | 19.7 | 19.4 | 18.5 | 17.1 | 17.3 | 18.9 | 18.7 | 17.9 | 18.5 |
| Heavy Construction Contractors..... 16         |          | 16.6   | 16.6 | 16.3 | 14.9 | 15.1 | 15.4 | 14.9 | 14.9 | 14.7 | 14.5 |
| Highway and Street Construction... 161         |          | 15.2   | 15.5 | 15.0 | 18.0 | 13.4 | 18.3 | 14.6 | 13.8 | 13.9 | 14.2 |
| Heavy Construction, Except Hwy... 162          |          | 17.2   | 17.1 | 16.4 | 15.3 | 15.7 | 15.9 | 18.1 | 14.8 | 15.1 | 14.7 |
| Special Trade Contractors..... 17              |          | 15.8   | 16.0 | 15.5 | 15.2 | 14.7 | 14.8 | 15.8 | 15.4 | 15.6 | 15.0 |
| Plumbing, Heating & Air Condit.... 171         |          | 16.9   | 17.0 | 16.3 | 15.7 | 15.3 | 15.7 | 15.4 | 15.7 | 16.1 | 16.0 |
| Electrical Work..... 173                       |          | 14.0   | 14.0 | 14.2 | 14.0 | 13.9 | 13.7 | 14.6 | 14.3 | 15.2 | 13.8 |
| Misc. Special Trade Contractors... 179         |          | 16.9   | 17.5 | 16.3 | 17.1 | 15.9 | 15.1 | 15.8 | 18.5 | 15.7 | 18.8 |
| <b>MANUFACTURING</b> .....                     |          | 13.2   | 13.3 | 12.2 | 11.5 | 10.2 | 10.0 | 10.6 | 10.4 | 10.4 | 11.9 |
| Food and Kindred Products..... 20              |          | 19.6   | 19.9 | 18.7 | 17.8 | 16.7 | 16.5 | 16.7 | 16.7 | 16.5 | 17.7 |
| Misc. Food Prep. & Kind. Prod.... 209          |          | 16.3   | 16.0 | 15.3 | 15.0 | 14.2 | 14.1 | 14.3 | 14.7 | 14.1 | 15.1 |
| Canned & Cured Fish & Seafoods.. 2091          |          | 27.3   | 24.4 | 20.2 | 22.4 | 17.8 | 17.1 | --   | --   | 19.1 | 26.4 |
| Fresh/Pres. Pkgd. Fish & Seafoods.. 2092       |          | 20.4   | 22.0 | 19.4 | 18.4 | 17.1 | 17.9 | 17.9 | 19.2 | 18.2 | 18.8 |
| Lumber & Wood Prod. except Furniture 24        |          | 22.6   | 20.7 | 18.4 | 17.6 | 16.9 | 18.3 | 19.6 | 18.5 | 18.9 | 18.9 |
| Logging Camps & Contractors..... 241           |          | 25.9   | 24.2 | 22.7 | 19.3 | 20.4 | 21.5 | 21.7 | 20.0 | 19.1 | 19.3 |
| Paper and Allied Products..... 26              |          | 13.3   | 13.5 | 12.7 | 11.6 | 10.6 | 10.0 | 10.8 | 10.2 | 10.5 | 11.8 |
| Printing, Publishing & Allied Ind... 27        |          | 6.9  | 7.1  | 6.9  | 6.7  | 6.6  | 6.6  | 6.5  | 6.3  | 6.5  | 6.7  |
| <b>TRANSPORTATION AND PUBLIC UTILITIES</b> ... |          | 10.1   | 10.0 | 9.4  | 9.0  | 8.5  | 8.2  | 8.4  | 8.6  | 8.2  | 8.4  |
| Local & Interurban Passenger Transit 41        |          | 8.7  | 9.3  | 9.5  | 9.3  | 9.3  | 9.7  | 9.0  | 9.4  | 9.3  | 9.2  |
| Trucking and Warehousing..... 42               |          | 16.2   | 15.8 | 14.9 | 14.7 | 14.2 | 13.3 | 14.5 | 13.9 | 13.1 | 12.3 |
| Trucking, Local and Long Distance.. 421        |          | 16.9   | 15.7 | 14.8 | 14.7 | 14.2 | 13.3 | 14.6 | 14.0 | 13.2 | 12.3 |
| Water Transportation..... 44                   |          | 14.4   | 14.1 | 14.2 | 12.5 | 13.4 | 10.8 | 13.2 | 13.0 | 12.7 | 12.9 |
| Transportation by Air..... 45                  |          | 13.4   | 13.7 | 13.3 | 13.5 | 13.6 | 12.7 | 13.1 | 13.1 | 13.0 | 14.3 |
| Communication..... 48                          |          | 2.7  | 2.8  | 2.8  | 2.7  | 2.8  | 2.9  | 2.7  | 2.9  | 2.7  | 2.8  |
| Electric, Gas and Sanitary Services.. 49       |          | 9.0  | 8.9  | 8.6  | 8.3  | 7.6  | 7.2  | 7.4  | 6.9  | 6.8  | 7.6  |
| <b>WHOLESALE &amp; RETAIL TRADE</b> .....      |          | 7.9  | 8.0  | 7.4  | 7.3  | 7.2  | 7.2  | 7.4  | 7.4  | 7.7  | 7.7  |
| <b>WHOLESALE TRADE</b> .....                   |          | 8.9  | 8.6  | 8.2  | 7.7  | 7.1  | 7.0  | 7.2  | 7.2  | 7.3  | 7.4  |
| Durable Goods..... 50                          |          | 8.6  | 8.6  | 7.8  | 7.3  | 6.7  | 6.4  | 6.7  | 6.5  | 6.3  | 6.7  |
| Non-durable Goods..... 51                      |          | 9.3  | 9.1  | 8.7  | 8.3  | 7.8  | 7.9  | 8.0  | 8.2  | 8.7  | 8.6  |
| <b>RETAIL TRADE</b> .....                      |          | 7.5  | 7.7  | 7.1  | 7.1  | 7.2  | 7.3  | 7.5  | 7.5  | 7.8  | 7.8  |
| Building Materials & Garden Supplies 52        |          | 9.8  | 9.5  | 8.4  | 8.3  | 8.4  | 8.5  | 9.6  | 9.8  | 10.2 | 10.2 |
| General Merchandise Stores..... 53             |          | 9.1  | 9.8  | 9.3  | 9.0  | 9.2  | 9.7  | 9.4  | 10.0 | 10.4 | 10.6 |
| Food Stores..... 54                            |          | 10.7   | 11.7 | 10.6 | 10.4 | 10.3 | 10.4 | 10.8 | 10.4 | 10.7 | 10.9 |
| Auto Dealers and Service Stations... 55        |          | 8.0  | 7.9  | 7.2  | 6.8  | 6.9  | 6.8  | 7.0  | 6.9  | 7.1  | 6.8  |
| Apparel and Accessory Stores..... 56           |          | 2.3  | 2.6  | 2.2  | 2.2  | 2.5  | 2.4  | 2.4  | 2.6  | 2.9  | 3.2  |
| Furniture, Home Furnishings..... 57            |          | 5.1  | 4.7  | 4.7  | 4.3  | 3.9  | 3.7  | 4.3  | 4.2  | 4.9  | 4.6  |
| Eating and Drinking Places..... 58             |          | 7.5  | 7.6  | 6.9  | 7.1  | 7.6  | 7.8  | 7.8  | 8.2  | 8.2  | 8.3  |
| Miscellaneous Retail..... 59                   |          | 3.8  | 3.8  | 3.5  | 3.5  | 3.7  | 3.6  | 3.9  | 3.7  | 4.2  | 4.3  |
| <b>FINANCE, INSURANCE AND REAL ESTATE</b> .... |          | 2.1  | 2.1  | 2.0  | 1.9  | 2.0  | 2.0  | 1.9  | 2.0  | 2.0  | 2.0  |
| Banking..... 60                                |          | 1.9  | 1.7  | 1.5  | 1.6  | 1.7  | 1.6  | 1.6  | 1.6  | 1.6  | 1.4  |
| Credit Agencies..... 61                        |          | 1.1  | 1.3  | 1.1  | 1.3  | 1.3  | 1.3  | 1.4  | 1.2  | 1.2  | 1.3  |
| Insurance..... 63                              |          | 1.9  | 2.0  | 1.7  | 1.8  | 1.9  | 1.8  | 1.7  | 1.8  | 1.9  | 1.8  |
| Real Estate..... 65                            |          | 4.9  | 4.7  | 4.4  | 4.0  | 4.4  | 4.4  | 4.5  | 4.2  | 4.8  | 4.7  |
| Holding & Other Investment Offices.. 67        |          | --   | --   | 1.7  | 1.8  | 1.9  | 1.7  | --   | 2.2  | --   | 1.5  |
| <b>SERVICES</b> .....                          |          | 5.5  | 5.5  | 5.2  | 5.0  | 4.9  | 5.1  | 5.2  | 5.4  | 5.3  | 5.9  |
| Hotels and Other Lodging Places.... 70         |          | 9.2  | 9.1  | 8.9  | 8.8  | 9.0  | 9.2  | 9.8  | 10.0 | 10.0 | 10.6 |
| Personal Services..... 72                      |          | 3.5  | 3.2  | 2.9  | 2.8  | 3.1  | 2.9  | 2.9  | 2.9  | 3.2  | 3.1  |
| Business Services..... 73                      |          | 4.9  | 5.0  | 4.6  | 4.6  | 4.4  | 4.7  | 4.9  | 4.7  | 4.9  | 4.6  |
| Automotive Services..... 75                    |          | 8.2  | 8.0  | 7.5  | 7.6  | 7.6  | 7.1  | 6.9  | 6.5  | 6.8  | 6.7  |
| Health Services..... 80                        |          | 6.8  | 6.8  | 6.4  | 6.1  | 5.9  | 6.3  | 6.3  | 7.1  | 6.4  | 7.2  |
| Legal Services..... 81                         |          | --   | --   | 0.4  | 0.4  | 0.5  | 0.5  | 0.5  | 0.6  | 0.5  | 0.6  |
| Social Services..... 83                        |          | 6.0  | 5.9  | 5.1  | 5.2  | 5.0  | 5.3  | 5.3  | 6.0  | 5.4  | 5.9  |
| Membership Organizations..... 86               |          | --   | --   | 3.0  | 3.3  | --   | 2.6  | --   | --   | --   | --   |
| Miscellaneous Services..... 89                 |          | 1.9  | 2.2  | 1.6  | 1.6  | 1.3  | 1.3  | 1.4  | 1.7  | 1.6  | 1.6  |

**Bill No:** Committee Substitute for  
House Bill 286(JUD)

**Date:** March 26, 1990

**Title:** "An Act relating to penalties for violation of workplace safety laws; and assessing costs for an employer's failure to appear at certain hearings of the OSH Review Board."

**Contact:** Richard Arab  
465-4855  
Eileen Plate  
465-2700

Committee Substitute for House Bill No. 286(JUD) proposes that the penalties the Department of Labor may assess for violations of Alaska's Occupational Safety and Health law and regulations be increased to keep pace with inflation. The bill also provides for the OSH Review Board to require an employer who fails to appear for a board hearing to reimburse the Board for all reasonable expenses incurred to conduct the hearing.

Specifically, the provisions of this bill relating to penalties will:

- (1) increase the maximum penalty for willful or repeat violations from \$10,000 to \$30,000;
- (2) increase the maximum penalty for a serious or non-serious violation from \$1,000 to \$3,000;
- (3) increase the daily penalty for not correcting a violation from \$1,000 to \$3,000;
- (4) increase the maximum penalty for a willful or repeat violation which results in the death of a worker from \$10,000 to \$30,000; and increase from \$20,000 to \$60,000 the maximum penalty for a second conviction of a willful or repeat violation causing death;
- (5) increase from \$10,000 to \$30,000 the maximum penalty for falsifying or otherwise misrepresenting occupational safety and health records or documents; and
- (6) increase the maximum penalty for a violation of occupational safety and health posting requirements from \$1,000 to \$3,000.

**POSITION PAPER/Department of Labor**

The provision that will allow the OSH Review Board to require an employer who, without good cause, fails to appear at a hearing is designed to discourage employers from filing frivolous contests with the Board. An employer who contests a citation issued by the Department for an occupational safety and health violation does not have to correct the hazard or pay the assessed penalty until the Board hears the case and makes a decision. Some employers request Board hearings simply to avoid paying the penalty with no intention of appearing at the hearing.

The increase in penalties is required because the penalties currently in effect have not been increased since Alaska's occupational safety and health law was initially enacted in 1973. The state's penalty structure is based on the federal OSH Act that was adopted in 1970. Since 1970, the rate of inflation has increased by 300 percent. This bill, therefore, reflects the inflationary increase that has occurred since the penalty amounts were established in 1970.

More important than providing for an overdue inflationary increase in the penalty structure, however, the increased penalties would serve as an effective deterrent to workplace safety and health violations. This, of course, will translate into safer workplaces, and a reduced risk of injury and illness to Alaska's workers. Alaska's occupational injury and illness rate is one of the highest in the nation. The latest available information indicates that the Alaska rate stands at 10.8 injuries and illnesses per 100 full-time workers. Only Maine had higher rates in 1987. In addition, there are some industries in Alaska with some of the highest rates in the nation. For example in 1987, the injury and illness rate for logging was 51.8 which means that one out of two workers in this industry suffered an injury.

The need for increasing the penalty amount for occupational safety and health violations is becoming evident throughout the nation. The states of Washington, Oregon, California, Arizona, Utah, and Vermont have passed legislation to increase penalties, and legislation has been introduced in the U.S. Congress this year to increase federal OSH penalties to the same amounts as proposed by HB 286.

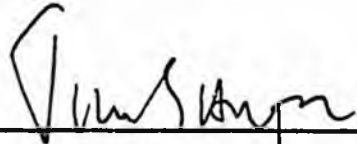
CS HB 286(JUD)

March 26, 1990

Page 3

The Department of Labor supports the increased penalties for violations of Alaska's occupational safety and health laws and regulations as provided in this bill.

APPROVED:

A handwritten signature in cursive script, appearing to read "Jim Sampson", written over a horizontal line.

Jim Sampson, Commissioner  
Department of Labor

POSITION PAPER  
A.G.C. OF ALASKA

ON  
HB 286

AN ACT RELATING TO PENALTIES FOR VIOLATIONS OF WORK PLACE  
SAFETY LAWS.



THANK YOU MR. CHAIRMAN. FOR THE RECORD, MY NAME IS RESA JERREL AND I AM THE DIRECTOR OF GOVERNMENTAL RELATIONS FOR THE ASSOCIATED GENERAL CONTRACTORS OF ALASKA (A.G.C.). ON BEHALF OF OUR OVER 600 MEMBER FIRMS WE APPRECIATE THE OPPORTUNITY TO TESTIFY ON HB 286 - PENALTIES FOR VIOLATIONS OF WORK PLACE SAFETY LAWS.

WHILE A.G.C. OF ALASKA IS A STRONG ADVOCATE FOR SAFETY IN THE WORK PLACE, WE DO HAVE SOME SERIOUS CONCERNS REGARDING THIS LEGISLATION. THERE IS NO EVIDENCE INDICATING THAT HIGHER OSHA FINES BRINGS ABOUT BETTER WORK PLACE SAFETY OR FEWER ON THE JOB INJURIES.

A.G.C. WOULD SUGGEST TWO WAYS TO IMPROVE WORK PLACE SAFETY: FINDING WAYS TO AVOID EMPLOYEE INADVERTENT OR CARELESS ACCIDENTS AND ASSIGNING THE PENALTY FOR A VIOLATION TO THE RESPONSIBLE PARTY.

FIRST: A 1986 NATIONAL SURVEY OF EMPLOYEE ATTITUDES BY SIROTA AND ALPER ASSOCIATED, INC. OF NEW YORK FOUND THAT:

"ONE IN FIVE EMPLOYEES SAY WORKPLACE DRUG USE SERIOUSLY AFFECTS THEIR ORGANIZATIONS ABILITY TO GET THE JOB DONE . . . MORE THAN TWO-THIRDS OF THOSE SURVEYED SUPPORT DRUG TESTING FOR NEW JOB APPLICANTS AND FOR SUSPECTED USERS."

IN RESPONSE TO THE INCREASED CONCERN REGARDING THE ISSUES OF POTENTIAL SAFETY HAZARDS, INCREASING ABSENTEEISM, LOWER PRODUCTIVITY, RISING HEALTH CARE COSTS AND DECLINING EMPLOYEE MORALE THE FEDERAL GOVERNMENT AND STATES HAVE PASSED LEGISLATION TO MINIMIZE THE NEGATIVE EFFECTS OF DRUG AND ALCOHOL ABUSE IN THE WORK PLACE. THE STATUTES VARY BUT SOME OF THE PROVISIONS REQUIRE WRITTEN ALCOHOL AND DRUG TESTING POLICY, NOTIFICATION OF COMPANY'S DRUG POLICY, JOB APPLICANT

TESTING, RANDOM TESTING, REASONABLE SUSPICION TESTING,  
DISCIPLINE AND DRUG AWARENESS PROGRAMS.

SECONDLY: IN BRITISH COLUMBIA THE PERSON THAT CAUSES A  
VIOLATION IS ASSIGNED THE PENALTY. THE EMPLOYER, SUPERVISOR,  
WORKER OR PERSON THAT IS NEITHER AN EMPLOYER NOR A WORKER IS  
LIABLE FOR THE PENALTY. A COPY OF THE BRITISH COLUMBIA  
STATUTE HAS BEEN GIVEN TO STAFF FOR YOUR REVIEW.

IN CONCLUSION, MR. CHAIRMAN, A.G.C. OF ALASKA WOULD URGE  
THIS COMMITTEE TO TAKE INTO ACCOUNT THAT THERE ARE NUMEROUS  
VARIABLES ON A CONSTRUCTION JOB SITE AND CONSIDER SOME OF THE  
ALTERNATIVES WE SUGGESTED IN INSTEAD OF RAISING THE PENALTIES  
IMPOSED UPON THE EMPLOYER.

**INDUSTRIAL HEALTH & SAFETY REGULATIONS**

**INDUSTRIAL HEALTH & SAFETY**

(3) No appeal in itself shall operate as a stay in respect of any order or directive or penalty assessment.

**"NOTICE TO WORKERS"**

Posting of "Notice to Workers" placards  
2.18. Every employer shall cause conspicuous placard at each place of work or notice issued by the Board in words "Notice to Workers".

**INSPECTION REPORTS**

**PUBLISHED REGULATIONS**

*Posting of inspection reports*

Availability to employees  
2.20. Every employer shall keep a copy of the regulations readily available at each place of work by all employees.

2.14. (1) Where an inspection report is given or sent to an employer for posting at a place of employment, it shall be posted forthwith by the employer at the place of employment covered by the report in a location conspicuous to workers engaged at that place.

*Period of posting*

(2) An inspection report shall remain posted for a minimum of 7 days.

*Transient operations*

(3) Where, as in transient operations, the posting of an inspection report is not feasible, the employer shall adopt other measures, appropriate to the circumstances, to bring the contents of the report to the attention of the affected workers.

*Distribution of inspection reports*

(4) Where an Industrial Health & Safety Committee is required at the place of employment, the employer shall produce for the committee the inspection report or a copy thereof at or before the next meeting of the Committee.

**CONTRAVENTION OF REGULATIONS**

*Contravention by persons subject to regulations*

2.16 (1) Contravention of a regulation shall be deemed to be a contravention by the employer and shall make that employer liable for the penalty prescribed by the Workers' Compensation Act, but nothing in this clause shall relieve the supervisor or worker.

(2) Contravention of a regulation by a supervisor or a worker shall be deemed to be a contravention by the supervisor and shall make that supervisor liable for the penalty prescribed, but nothing in this clause shall relieve the worker.

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(3) Contravention of a regulation by a worker shall make that worker liable for the penalty prescribed.

(4) Contravention of a regulation by a person working in or contributing to the production of an industry within the scope of Part I of the Workers' Compensation Act, being neither an employer nor a worker, shall make that person liable for the penalty prescribed.

*Workers  
Compensation  
Board of British  
Columbia  
Industrial Health &  
Safety Regulations*

COMPARISON OF 1987 ALASKA AND NATIONAL  
OCCUPATIONAL INJURY AND ILLNESS INCIDENCE RATES

|                                  | <u>Alaska Rate</u> | <u>National Rate</u> |
|----------------------------------|--------------------|----------------------|
| Oil and Gas Extraction           | 9.0                | 8.3                  |
| General Building Construction    | 17.5               | 14.2                 |
| Heavy Construction               | 19.4               | 14.5                 |
| Special Trade Construction       | 15.0               | 15.0                 |
| Canned and Cured Fish Processing | 35.2               | 26.4                 |
| Fresh/Frozen Fish Processing     | 35.3               | 18.8                 |
| Logging Camps and Contractors    | 51.8               | 19.3                 |
| Trucking and Warehousing         | 17.7               | 12.3                 |
| Water Transportation             | 13.2               | 12.9                 |
| Transportation by Air            | 13.9               | 14.3                 |
| All Private Industries           | 10.9               | 8.3                  |

TABLE A-11  
Incidence rates of Occupational Injuries and Illnesses  
Comparison of all States - Private Sector  
1983 to 1987

|                | 1983 | 1984 | 1985 | 1986 | 1987 |
|----------------|------|------|------|------|------|
| USA            | 7.6  | 8.0  | 7.9  | 7.9  | 8.3  |
| Alabama        | 7.9  | 8.3  | 8.4  | 8.7  |      |
| Alaska         | 10.6 | 10.3 | 10.7 | 10.2 | 10.9 |
| Arizona        | 9.3  | 9.5  | 9.2  | 8.9  | 9.0  |
| Arkansas       | 8.1  | 8.0  | 8.0  | 8.4  |      |
| California     | 9.1  | 9.3  | 9.1  | 8.9  | 8.8  |
| Colorado       | --   | --   | --   | --   | --   |
| Connecticut    | 8.0  | 8.3  | 8.3  | 8.2  |      |
| Delaware       | 5.3  | 5.5  | 5.6  | 6.0  |      |
| Florida        | 8.7  | 8.9  | 8.8  | 8.8  |      |
| Georgia        | --   | --   | --   | --   | --   |
| Hawaii         | 10.6 | 10.0 | 9.6  | 9.5  | 9.8  |
| Idaho          | --   | --   | --   | --   | --   |
| Illinois       | --   | --   | --   | --   | --   |
| Indiana        | 7.3  | 7.7  | 7.7  | 8.2  |      |
| Iowa           | 7.8  | 8.1  | 8.2  | 8.4  |      |
| Kansas         | 7.5  | 7.7  | 7.7  | 7.6  |      |
| Kentucky       | 7.6  | 8.3  | 8.3  | 8.4  |      |
| Louisiana      | 7.4  | 7.9  | 7.3  | 7.0  |      |
| Maine          | 11.0 | 13.2 | 12.5 | 12.9 |      |
| Maryland       | 7.6  | 7.8  | 7.9  | 7.8  |      |
| Massachusetts  | --   | --   | --   | --   | --   |
| Michigan       | 6.8  | 7.6  | 8.0  | 8.2  |      |
| Minnesota      | 7.3  | 7.7  | 7.6  | 7.3  |      |
| Mississippi    | --   | 8.0  | 7.8  | 8.0  |      |
| Missouri       | 7.5  | 8.0  | 7.9  | 8.5  |      |
| Montana        | --   | 8.5  | 8.0  | 8.2  |      |
| Nebraska       | 8.4  | 8.8  | 7.9  | 8.1  |      |
| Nevada         | 9.0  | 9.0  | 8.5  | 8.4  | 9.4  |
| New Hampshire  | --   | --   | --   | --   | --   |
| New Jersey     | --   | --   | --   | --   | --   |
| New Mexico     | 7.8  | 8.7  | 8.4  | 7.7  |      |
| New York       | --   | --   | --   | --   | --   |
| North Carolina | 6.8  | 7.2  | 7.4  | 7.2  |      |
| North Dakota   | --   | --   | --   | --   | --   |
| Ohio           | --   | --   | --   | --   | --   |
| Oklahoma       | 8.9  | 9.8  | 9.5  | 8.1  |      |
| Oregon         | 9.8  | 10.6 | 10.5 | 10.7 | 10.9 |
| Pennsylvania   | --   | --   | --   | --   | --   |
| Rhode Island   | 8.3  | 8.4  | 8.9  |      |      |
| South Carolina | 6.7  | 6.9  | 7.1  | 6.9  |      |
| South Dakota   | --   | --   | --   | --   | --   |
| Tennessee      | 7.9  | 8.6  | 8.2  |      |      |
| Texas          | --   | --   | --   | --   | --   |
| Utah           | 8.5  | 9.2  | 8.5  | 9.1  |      |
| Vermont        | 9.2  | 10.0 | 9.1  | 8.9  |      |
| Virginia       | 7.0  | 7.6  | 7.3  | 7.6  |      |
| Washington     | 9.7  | 9.9  | 9.4  | 9.8  | 10.6 |
| West Virginia  | 6.7  | 7.2  | 7.2  | 7.7  |      |
| Wisconsin      | --   | --   | --   | --   | --   |
| Wyoming        | 7.9  | 8.6  | 7.4  | 7.6  |      |
| American Samoa | 2.5  | 3.0  | 3.6  | 3.2  | 2.6  |
| Guam           | 2.7  | 2.8  | 3.6  | 3.7  | 3.6  |
| Puerto Rico    | 4.2  | 3.9  | 3.8  | 3.9  |      |
| Virgin Islands | 2.8  | 2.4  | 2.4  | 2.4  |      |

SOURCE: Bureau of Labor Statistics.

-- = Publishable Rate Unavailable.

X = 1987 data not available at time of publication.

1 ALASKA

TABLE A-3  
Incidence Rates of Recordable Occupational Injuries and Illnesses  
Industry Data Time Series, Alaska 1978 to 1987

| Industry                                  | SIC Code | 1978 | 1979 | 1980 | 1981 | 1982 | 1983 | 1984 | 1985 | 1986 | 1987 |
|---|----------|------|------|------|------|------|------|------|------|------|------|
| TOTAL PRIVATE AND PUBLIC SECTOR.....      |          | 9.4  | 9.2  | 9.1  | 9.2  | 9.5  | 9.9  | 9.7  | 10.1 | 9.6  | 10.1 |
| TOTAL PRIVATE SECTOR.....                 |          | 10.0 | 10.1 | 10.4 | 10.0 | 10.3 | 10.6 | 10.3 | 10.7 | 10.2 | 10.9 |
| MINING.....                               |          | 15.2 | 14.0 | 12.1 | 15.4 | 14.8 | 11.5 | 10.5 | 9.4  | 8.1  | 8.9  |
| Oil and Gas Extraction.....               | 13       | 15.7 | 13.7 | 12.4 | 15.8 | 15.3 | 11.8 | 10.6 | 9.7  | 8.2  | 9.0  |
| Petroleum & Gas Production.....           | 131      | ..   | ..   | 2.5  | 7.3  | 6.7  | 5.1  | 2.8  | 2.6  | 2.1  | 3.5  |
| Oil & Gas Field Services.....             | 138      | 22.6 | 23.0 | 23.8 | 24.9 | 24.6 | 19.6 | 22.0 | 17.4 | 14.8 | 15.2 |
| CONSTRUCTION.....                         |          | 16.4 | 16.4 | 18.5 | 17.2 | 19.4 | 17.6 | 16.9 | 19.4 | 16.2 | 17.1 |
| General Building Contractors.....         | 15       | 17.1 | 14.3 | 16.5 | 19.8 | 19.6 | 21.6 | 17.7 | 19.5 | 17.6 | 17.5 |
| Residential Buildings.....                | 152      | 18.5 | 11.9 | 15.1 | 15.6 | 16.5 | 17.7 | 13.4 | 15.4 | 18.0 | 17.0 |
| Nonresidential Buildings.....             | 154      | 18.0 | 16.8 | 18.0 | 23.7 | 21.9 | 26.0 | 22.0 | 22.9 | 17.3 | 17.7 |
| Heavy Construction Contractors.....       | 16       | 14.2 | 16.6 | 17.3 | 15.1 | 20.9 | 14.9 | 15.7 | 18.9 | 16.5 | 19.4 |
| Highway and Street Construction... 161    |          | 9.7  | 18.8 | 19.2 | 17.8 | 27.6 | 19.0 | 19.8 | 16.6 | 20.8 | 14.4 |
| Heavy Construction, Except Hwy.... 162    |          | 16.4 | 15.1 | 16.4 | 14.0 | 16.8 | 12.9 | 13.9 | 20.3 | 14.3 | 22.8 |
| Special Trade Contractors.....            | 17       | 17.6 | 17.4 | 15.9 | 17.8 | 17.9 | 17.7 | 17.1 | 19.8 | 14.9 | 15.0 |
| Plumbing, Heating & Air Condit.... 171    |          | 14.6 | 14.8 | 16.7 | 18.8 | 17.0 | 25.6 | 23.3 | 18.9 | 16.0 | 14.4 |
| Electrical Work.....                      | 173      | 17.0 | 10.8 | 16.5 | 15.4 | 16.6 | 13.2 | 14.3 | 16.4 | 15.9 | 15.4 |
| Misc Special Trade Contractors.... 179    |          | ..   | 23.1 | 16.2 | 21.6 | 18.6 | 14.6 | 20.6 | 23.6 | 15.9 | 12.6 |
| MANUFACTURING.....                        |          | 21.4 | 24.1 | 23.3 | 19.1 | 17.9 | 23.2 | 23.0 | 26.3 | 28.3 | 29.5 |
| Food and Kindred Products.....            | 20       | 21.8 | 25.7 | 26.7 | 22.2 | 20.2 | 29.5 | 25.0 | 32.5 | 33.3 | 34.5 |
| Misc Food Prep & Kindred Prod.... 209     |          | 22.3 | 26.0 | 26.9 | 22.5 | 20.8 | 30.1 | 25.7 | 32.9 | 33.4 | 35.3 |
| Canned & Cured Fish & Seafoods.. 2091     |          | 18.7 | 23.5 | 21.4 | 19.9 | 18.6 | 21.4 | 25.0 | 30.3 | 34.3 | 35.2 |
| Fresh/Froz Pkgd Fish & Seaids... 2092     |          | 27.4 | 29.2 | 31.7 | 24.6 | 21.8 | 32.9 | 26.1 | 33.9 | 33.0 | 35.3 |
| Lumber & Wood Prod Except Furniture 24    |          | 31.8 | 31.0 | 32.5 | 26.8 | 26.9 | 31.2 | 43.0 | 38.6 | 50.9 | 48.5 |
| Logging Camps & Contractors..... 241      |          | 38.6 | 39.1 | 37.3 | 27.2 | 30.8 | 35.7 | 45.6 | 45.0 | 56.6 | 51.8 |
| Printing, Publishing & Allied Ind... 27   |          | ..   | ..   | 2.5  | 3.1  | 5.7  | 6.3  | 6.2  | 5.1  | 6.5  | 5.8  |
| TRANSPORTATION AND PUBLIC UTILITIES... 41 |          | 11.4 | 11.4 | 12.2 | 11.6 | 10.7 | 11.4 | 12.1 | 11.3 | 11.3 | 10.9 |
| Local & Interurban Passenger Transit 41   |          | ..   | 5.1  | 4.8  | 6.7  | 4.9  | ..   | 7.1  | 6.3  | 11.3 | 12.8 |
| Trucking and Warehousing.....             | 42       | 21.4 | 20.6 | 21.7 | 17.8 | 14.0 | 20.7 | 24.2 | 17.4 | 19.5 | 17.7 |
| Trucking, Local and Long Distance. 421    |          | 21.3 | 21.0 | 22.1 | 18.0 | 13.8 | 19.8 | 23.9 | 17.5 | 19.7 | 17.9 |
| Water Transportation.....                 | 44       | 18.6 | 16.0 | 16.2 | 16.6 | 11.7 | 11.9 | 10.8 | 16.2 | 10.7 | 13.2 |
| Transportation by Air.....                | 45       | 15.2 | 12.4 | 13.2 | 13.6 | 12.7 | 10.7 | 14.2 | 14.0 | 13.3 | 13.9 |
| Communication.....                        | 48       | 3.0  | 6.9  | 9.1  | 8.4  | 8.6  | 9.6  | 5.7  | 6.7  | 6.2  | 4.5  |
| Electric, Gas and Sanitary Services. 49   |          | 15.5 | 14.6 | 14.6 | 13.9 | 14.8 | 16.4 | 19.4 | 16.0 | 16.2 | 15.5 |
| WHOLESALE AND RETAIL TRADE.....           |          | 8.2  | 7.9  | 7.7  | 8.0  | 9.3  | 10.2 | 9.9  | 10.0 | 8.9  | 9.3  |
| WHOLESALE TRADE.....                      |          | 12.2 | 11.4 | 10.9 | 9.8  | 9.6  | 12.3 | 11.7 | 10.9 | 8.0  | 9.4  |
| Durable Goods.....                        | 50       | 12.2 | 11.6 | 8.5  | 7.9  | 7.4  | 8.9  | 9.7  | 8.9  | 5.8  | 7.7  |
| Nondurable Goods.....                     | 51       | 8.1  | 11.0 | 15.4 | 12.3 | 13.4 | 18.0 | 15.1 | 14.4 | 11.5 | 11.5 |
| RETAIL TRADE.....                         |          | 7.4  | 6.9  | 6.8  | 7.4  | 9.3  | 9.6  | 9.5  | 9.8  | 9.2  | 9.3  |
| Building Materials & Garden Supplies 52   |          | 8.9  | 6.2  | 9.4  | 12.3 | 13.7 | 20.5 | 17.7 | 17.6 | 11.3 | 12.7 |
| Lumber & Bldg Materials.....              | 521      | ..   | ..   | ..   | ..   | 17.2 | 25.5 | 22.6 | 21.3 | 12.4 | ..   |
| General Merchandise Stores.....           | 53       | 9.2  | 8.8  | 6.0  | 7.1  | 8.2  | 12.3 | 10.4 | 9.3  | 10.7 | 10.8 |
| Food Stores.....                          | 54       | 9.5  | 8.9  | 10.1 | 8.5  | 11.8 | 9.7  | 15.8 | 15.5 | 18.0 | 15.6 |
| Auto Dealers and Service Stations... 55   |          | 10.2 | 8.5  | 9.5  | 8.9  | 8.1  | 10.4 | 10.5 | 10.8 | 8.3  | 8.7  |
| Apparel and Accessory Stores.....         | 56       | 3.4  | 2.7  | 2.1  | 2.4  | 1.0  | 1.0  | 1.5  | 2.5  | 0.4  | 3.3  |
| Furniture, Home Furnishings.....          | 57       | ..   | ..   | ..   | ..   | 4.8  | 3.5  | 4.4  | 5.2  | 6.4  | 5.8  |
| Eating and Drinking Places.....           | 58       | 6.6  | 7.2  | 6.5  | 8.1  | 11.2 | 9.8  | 6.6  | 8.5  | 8.3  | 8.9  |
| Miscellaneous Retail.....                 | 59       | 4.7  | 3.9  | 2.9  | 5.1  | 5.5  | 6.4  | 6.6  | 5.9  | 4.3  | 3.6  |
| FINANCE, INSURANCE AND REAL ESTATE        |          | 0.7  | 1.4  | 1.3  | 1.5  | 1.5  | 2.0  | 1.7  | 2.1  | 3.3  | 2.8  |
| Banking.....                              | 60       | 1.1  | 2.1  | 1.9  | 2.2  | 1.8  | 2.9  | 2.1  | 2.6  | 2.6  | 3.3  |
| Credit Agencies.....                      | 61       | ..   | ..   | ..   | ..   | 1.5  | 1.1  | 1.6  | 0.7  | 1.7  | 3.2  |
| Real Estate.....                          | 65       | 0.8  | 0.1  | 2.8  | 1.9  | 2.3  | 2.1  | 2.4  | 4.1  | 4.9  | 2.7  |
| Holding & Other Investment Offices.. 67   |          | 0.3  | 1.8  | 0.0  | 1.2  | 0.7  | 1.3  | 1.3  | 2.3  | ..   | 3.5  |
| SERVICES.....                             |          | 4.3  | 4.0  | 4.3  | 4.3  | 4.4  | 4.7  | 5.1  | 5.5  | 5.4  | 6.5  |
| Hotels and Other Lodging Places..... 70   |          | 5.5  | 7.9  | 9.3  | 6.8  | 7.0  | 9.9  | 11.0 | 10.0 | 13.4 | 13.6 |
| Personal Services.....                    | 72       | 0.6  | 1.3  | 2.5  | 2.8  | 1.7  | 4.1  | 5.3  | 6.3  | 1.7  | 3.7  |
| Business Services.....                    | 73       | 7.2  | 3.8  | 6.7  | 3.7  | 6.7  | 3.9  | 3.4  | 2.6  | 4.5  | 5.0  |
| Automotive Services.....                  | 75       | ..   | ..   | ..   | 7.5  | 8.4  | 8.2  | 6.6  | 9.9  | 6.3  | 11.2 |
| Health Services.....                      | 80       | 4.0  | 3.7  | 3.6  | 5.4  | 4.1  | 5.5  | 7.9  | 8.9  | 6.3  | 8.0  |
| Legal Services.....                       | 81       | 0.5  | 1.0  | 0.2  | ..   | 0.3  | 0.1  | 0.1  | 0.8  | 1.1  | 0.7  |
| Social Services.....                      | 83       | 4.3  | 4.9  | 3.5  | 3.9  | 3.7  | 4.2  | 3.5  | 7.3  | 3.0  | 3.7  |
| Membership Organizations.....             | 86       | 2.9  | 2.9  | 3.1  | 3.0  | 2.8  | 3.0  | 0.7  | 1.8  | 4.0  | 5.8  |
| Miscellaneous Services.....               | 89       | 2.9  | 1.8  | 2.8  | 3.0  | 2.0  | 1.1  | 2.6  | 2.6  | 2.8  | 2.7  |
| STATE AND LOCAL GOVERNMENT.....           |          | 7.1  | 6.3  | 6.9  | 6.5  | 6.7  | 7.3  | 7.7  | 8.1  | 7.7  | 7.3  |
| STATE GOVERNMENT.....                     |          | 6.2  | 3.8  | 3.3  | 4.7  | 4.6  | 5.5  | 5.5  | 5.2  | 6.0  | 6.0  |
| LOCAL GOVERNMENT.....                     |          | 8.1  | 8.7  | 6.3  | 8.1  | 8.6  | 8.7  | 9.5  | 10.5 | 9.0  | 8.4  |

See footnotes at end of section.  
.. = Publishable rate unavailable.

15 4.5

TABLE A-8  
Incidence Rates of Recordable Occupational Injuries and Illnesses  
U.S. Private Sector, Select Industries, 1978 to 1987

| Industry                                      | SIC Code | Incidence Rate for Total Cases (per 100 workers) 5/ |      |      |      |      |      |      |      |      |      |
|---|----------|---|------|------|------|------|------|------|------|------|------|
|   |          | 1978  | 1979 | 1980 | 1981 | 1982 | 1983 | 1984 | 1985 | 1986 | 1987 |
| <b>TOTAL PRIVATE SECTOR.....</b>              |          | 9.4   | 9.5  | 8.7  | 8.3  | 7.7  | 7.6  | 8.0  | 7.9  | 7.9  | 8.3  |
| <b>AGRICULTURE.....</b>                       |          | 11.6  | 11.7 | 11.9 | 12.3 | 11.8 | 11.9 | 12.0 | 12.4 | 11.2 | 11.2 |
| <b>MINING.....</b>                            |          | 11.5  | 11.4 | 11.2 | 11.6 | 10.5 | 8.4  | 9.7  | 8.4  | 7.4  | 8.5  |
| Oil and Gas Extraction.....                   | 13       | 13.9  | 13.6 | 13.6 | 14.1 | 12.1 | 9.0  | 11.8 | 10.1 | 8.1  | 8.3  |
| Petroleum & Gas Production.....               | 131      | 4.4   | 5.4  | 3.8  | 4.1  | 4.3  | 3.5  | 3.0  | 2.7  | 2.6  | 2.5  |
| Oil & Gas Field Services.....                 | 138      | 20.0  | 18.9 | 19.3 | 19.7 | 16.8 | 14.3 | 18.2 | 15.8 | 13.6 | 14.0 |
| <b>CONSTRUCTION.....</b>                      |          | 16.0  | 16.3 | 15.7 | 15.1 | 14.6 | 14.8 | 15.5 | 15.2 | 15.2 | 14.7 |
| General Building Contractors.....             | 15       | 15.9  | 16.3 | 15.5 | 15.1 | 14.1 | 14.4 | 15.4 | 15.2 | 14.9 | 14.3 |
| Residential Buildings.....                    | 152      | 17.3  | 17.0 | 16.9 | 16.9 | 16.8 | 16.9 | 17.6 | 17.3 | 17.5 | 16.9 |
| Nonresidential Buildings.....                 | 154      | 19.2  | 19.7 | 19.4 | 18.5 | 17.1 | 17.3 | 18.9 | 18.7 | 17.9 | 18.5 |
| Heavy Construction Contractors.....           | 16       | 16.6  | 16.6 | 16.3 | 14.9 | 15.1 | 15.4 | 14.9 | 14.5 | 14.7 | 14.5 |
| Highway and Street Construction.....          | 162      | 15.1  | 15.5 | 15.6 | 14.0 | 14.4 | 16.3 | 14.6 | 13.8 | 13.9 | 14.2 |
| Heavy Construction, Except Hvy.....           | 162      | 17.2  | 17.1 | 16.6 | 15.3 | 15.7 | 15.9 | 15.1 | 14.8 | 15.1 | 14.7 |
| Special Trade Contractors.....                | 17       | 15.8  | 16.0 | 15.5 | 15.2 | 14.7 | 14.8 | 15.8 | 15.4 | 15.6 | 15.0 |
| Plumbing, Heating & Air Condit.....           | 171      | 16.9  | 17.0 | 16.2 | 15.7 | 15.3 | 15.7 | 16.4 | 15.7 | 16.1 | 16.4 |
| Electrical Work.....                          | 173      | 18.0  | 18.0 | 18.2 | 18.0 | 17.9 | 17.7 | 18.6 | 18.3 | 18.2 | 17.8 |
| Misc. Special Trade Contractors... 179        | 16.9     | 17.5  | 16.2 | 17.1 | 15.9 | 15.1 | 15.8 | 16.5 | 15.7 | 15.8 |      |
| <b>MANUFACTURING.....</b>                     |          | 13.2  | 13.3 | 12.2 | 11.5 | 10.2 | 10.0 | 10.6 | 10.4 | 10.6 | 11.9 |
| Food and Kindred Products.....                | 20       | 19.4  | 19.9 | 18.7 | 17.8 | 16.7 | 16.5 | 16.7 | 16.7 | 16.5 | 17.7 |
| Misc. Food Prep. & Kind. Prod..... 209        | 16.3     | 16.8  | 15.3 | 15.0 | 14.2 | 14.1 | 14.3 | 14.7 | 14.1 | 15.1 |      |
| Canned & Cured Fish & Seafoods.. 2091         | 22.3     | 24.4  | 20.2 | 22.4 | 17.8 | 17.1 | --   | --   | 19.1 | 26.4 |      |
| Fresh/Frozen, Pkgd. Fish & Seafoods.. 2092    | 10.4     | 22.0  | 19.4 | 18.6 | 17.1 | 17.9 | 17.3 | 19.2 | 18.2 | 19.8 |      |
| Lumber & Wood Prod. except Furniture 20       | 22.6     | 20.7  | 18.6 | 17.8 | 16.9 | 18.3 | 19.6 | 18.5 | 18.9 | 18.9 |      |
| Luggage Cases & Contractors..... 241          | 25.9     | 24.2  | 22.7 | 19.3 | 20.4 | 21.5 | 21.7 | 20.0 | 19.1 | 19.3 |      |
| Paper and Allied Products.....                | 26       | 13.3  | 13.5 | 12.7 | 11.6 | 10.6 | 10.0 | 10.4 | 10.2 | 10.5 | 12.8 |
| Printing, Publishing & Allied Ind... 27       | 6.9      | 7.1   | 6.9  | 6.7  | 6.6  | 6.6  | 6.5  | 6.3  | 6.5  | 6.7  |      |
| <b>TRANSPORTATION AND PUBLIC UTILITIES...</b> |          | 10.1  | 10.0 | 9.4  | 9.0  | 8.5  | 8.2  | 8.1  | 8.6  | 8.2  | 8.4  |
| Local & Interurban Passenger Transit 41       | 8.7      | 9.3   | 9.5  | 9.3  | 9.3  | 9.7  | 9.0  | 9.4  | 9.3  | 9.2  |      |
| Trucking and Warehousing.....                 | 42       | 16.2  | 15.8 | 14.9 | 14.7 | 14.2 | 13.3 | 14.5 | 13.9 | 13.1 | 12.3 |
| Trucking, Local and Long Distance.. 421       | 16.3     | 15.7  | 14.8 | 14.7 | 14.2 | 13.3 | 14.6 | 14.0 | 13.8 | 12.3 |      |
| Water Transportation.....                     | 44       | 14.4  | 14.1 | 14.2 | 12.5 | 11.4 | 10.8 | 11.2 | 13.0 | 12.7 | 12.9 |
| Transportation by Air.....                    | 45       | 13.4  | 13.7 | 13.3 | 13.5 | 13.6 | 12.7 | 13.2 | 13.1 | 13.9 | 14.3 |
| Communication.....                            | 48       | 2.7   | 2.4  | 2.8  | 2.7  | 2.8  | 2.9  | 2.7  | 2.9  | 2.7  | 2.8  |
| Electric, Gas and Sanitary Services.. 49      | 9.0      | 8.9   | 8.6  | 8.3  | 7.6  | 7.2  | 7.4  | 6.9  | 6.8  | 7.6  |      |
| <b>RETAIL &amp; WHOLE TRADE.....</b>          |          | 7.9   | 8.0  | 7.4  | 7.3  | 7.2  | 7.2  | 7.4  | 7.4  | 7.7  | 7.7  |
| <b>RETAIL TRADE.....</b>                      |          | 8.9   | 8.8  | 8.2  | 7.7  | 7.1  | 7.0  | 7.2  | 7.2  | 7.2  | 7.4  |
| Durable Goods.....                            | 50       | 8.6   | 8.6  | 7.8  | 7.3  | 6.7  | 6.4  | 6.7  | 6.5  | 6.3  | 6.7  |
| Nondurable Goods.....                         | 51       | 9.3   | 9.1  | 8.7  | 8.3  | 7.8  | 7.9  | 8.0  | 8.2  | 7.7  | 8.5  |
| <b>WHOLE TRADE.....</b>                       |          | 7.5   | 7.7  | 7.1  | 7.1  | 7.2  | 7.3  | 7.5  | 7.5  | 7.8  | 7.8  |
| Building Materials & Garden Supplies 52       | 9.8      | 9.5   | 8.4  | 8.3  | 8.4  | 8.5  | 9.6  | 9.8  | 10.2 | 10.2 |      |
| General Merchandise Stores.....               | 53       | 9.1   | 9.8  | 9.3  | 9.0  | 9.3  | 9.7  | 9.8  | 10.0 | 10.4 | 10.0 |
| Food Stores.....                              | 54       | 10.7  | 11.7 | 10.6 | 10.4 | 10.1 | 10.4 | 10.8 | 10.6 | 10.7 | 10.9 |
| Auto Dealers and Service Stations... 55       | 8.0      | 7.9   | 7.2  | 6.8  | 6.9  | 6.8  | 7.0  | 6.9  | 7.1  | 6.8  |      |
| Apparel and Accessory Stores.....             | 56       | 2.3   | 2.6  | 3.2  | 2.2  | 2.5  | 2.4  | 2.8  | 2.6  | 2.9  | 3.2  |
| Furniture, Home Furnishings.....              | 57       | 5.1   | 4.7  | 4.7  | 4.3  | 3.9  | 3.7  | 4.3  | 4.2  | 4.9  | 4.6  |
| Cutting and Drapery Places.....               | 58       | 7.5   | 7.6  | 6.9  | 7.3  | 7.6  | 7.8  | 7.8  | 8.2  | 8.2  | 8.3  |
| Miscellaneous Retail.....                     | 59       | 3.8   | 3.8  | 3.5  | 3.5  | 3.7  | 3.6  | 3.9  | 3.7  | 4.2  | 4.3  |
| <b>FINANCE, INSURANCE AND REAL ESTATE...</b>  |          | 2.1   | 2.1  | 2.0  | 1.9  | 2.0  | 2.0  | 1.9  | 2.0  | 2.0  | 2.0  |
| Banking.....                                  | 60       | 1.5   | 1.7  | 1.5  | 1.6  | 1.7  | 1.6  | 1.6  | 1.6  | 1.6  | 1.4  |
| Credit Agencies.....                          | 61       | 1.1   | 1.2  | 1.1  | 1.3  | 1.3  | 1.4  | 1.4  | 1.2  | 1.2  | 1.3  |
| Insurance.....                                | 63       | 1.9   | 2.0  | 1.7  | 1.8  | 1.9  | 1.8  | 1.7  | 1.8  | 1.9  | 1.8  |
| Real Estate.....                              | 65       | 4.9   | 4.7  | 4.4  | 4.0  | 4.4  | 4.4  | 4.5  | 4.2  | 4.8  | 4.7  |
| Holding & Other Investment Offices.. 67       | --       | --  | 1.7  | 1.8  | 1.9  | 1.7  | --   | 2.2  | --   | 1.5  |      |
| <b>SERVICES.....</b>                          |          | 5.5   | 5.5  | 5.2  | 5.0  | 4.9  | 5.1  | 5.2  | 5.4  | 5.3  | 5.5  |
| Eating and Other Lodging Places..... 70       | 9.2      | 9.1   | 8.9  | 8.8  | 9.0  | 9.2  | 9.8  | 10.0 | 10.3 | 10.6 |      |
| Personal Services.....                        | 72       | 3.5   | 3.2  | 2.9  | 2.8  | 3.1  | 2.9  | 2.9  | 2.9  | 3.2  | 3.1  |
| Business Services.....                        | 73       | 4.9   | 5.0  | 4.4  | 4.4  | 4.4  | 4.7  | 4.9  | 4.7  | 4.9  | 6.6  |
| Automotive Services.....                      | 75       | 8.2   | 8.0  | 7.5  | 7.6  | 7.6  | 7.1  | 6.9  | 6.5  | 6.8  | 6.7  |
| Health Services.....                          | 80       | 6.8   | 6.8  | 6.4  | 6.1  | 5.9  | 6.3  | 6.3  | 7.1  | 6.4  | 7.2  |
| Legal Services.....                           | 81       | --  | --   | 0.4  | 0.4  | 0.5  | 0.5  | 0.5  | 0.6  | 0.5  | 0.6  |
| Social Services.....                          | 83       | 6.0   | 5.9  | 5.1  | 5.2  | 5.0  | 5.3  | 5.3  | 6.0  | 5.4  | 5.9  |
| Membership Organizations.....                 | 86       | --  | --   | 3.4  | 2.3  | --   | 2.6  | --   | --   | --   | --   |
| Miscellaneous Services.....                   | 89       | 1.9   | 2.2  | 1.6  | 1.6  | 1.3  | 1.3  | 1.4  | 1.7  | 1.6  | 1.6  |

# Repetitive-motion disorders account for increase in U.S. workers' injuries

By JOHN KING  
The Associated Press

WASHINGTON — The number of injuries and illnesses reported in American workplaces was up significantly last year, with nearly half of the problems blamed on repetitive-motion disorders, according to Labor Department data.

Department and labor union analysts said the reported jump in injuries and illnesses from 6 million in 1987 to 6.4 million last year is at least partly attrib-

able to improved reporting by employers.

About 3,300 workplace deaths were reported by the department's Bureau of Labor Statistics.

Margaret Seminario, the AFL-CIO's associate safety director, said Thursday that improved reporting stems from more aggressive enforcement of reporting requirements by the Labor Department's Occupational Safety and Health Administration.

"OSHA's heavy hand has

employers more thoroughly reporting data," Seminario said.

Still, she said that even considering the impact of improved reporting on the numbers the data still indicated that safety problems in American workplaces were getting worse.

The Bureau of Labor Statistics said in a report released Wednesday that the reported increases last year brought the rate of injuries

Please see Back Page, **STUDY**

## STUDY: Job injuries up

Continued from Page A-1

and illnesses to 8.6 for every 100 full-time workers, up from 8.3 in 1987. The number of incidents that resulted in lost workdays rose to 4 for every 100 workers in 1988, up from 3.8 percent in 1987.

The number of reported injuries and illnesses was up in every sector of the economy, with more than 200,000 of the increase in reported injuries coming in manufacturing, which reported 2.46 million on-the-job injuries and illnesses last year.

The highest incidence of injuries came in automobile manufacturing, where 19.5 injuries were reported for every 100 full-time workers last year.

Of 240,000 illnesses reported by employers for 1988, 115,400 — 48 percent — were associated with repeated trauma, the department's term for illnesses blamed on ergonomic problems such as



repetitive motion.

The number of reported cases in that category was up 58 percent, a factor interpreted by analysts as evidence that repetitive motion problems are being clearly identified in manufacturing, meatpacking, construction and other sectors of the economy where they are most common.

Labor Secretary Elizabeth Dole has promised to encourage OSHA to take an aggressive stance in seeking to eliminate repetitive-motion problems, and the agency has entered into agreements designed to do just that with several companies in recent months.

ADW 10/10/89

## Mill worker dies

The Associated Press

SITKA — A worker died early Wednesday in an accident at the Alaska Pulp Corp. mill, the company reported.

Joseph E. Lau, 28, of Sitka was killed at 6 a.m. as he was changing a 16-foot-wide pulp roll. Police said Lau was killed when he fell or got caught on rollers.

He is survived by his wife, Sheila, and two children.

*get info on*

# Pilot, mill worker die in separate accidents

By BARBARA ROGERS  
Times Writer

9/28/89 - Times

Separate accidents killed two men as an Anchorage pilot in a homebuilt airplane crashed in Palmer and a sawmill employee was crushed in a Ketchikan industrial accident Wednesday.

The pilot, whose name was not released this morning pending notification of his family, took off from Anchorage International Airport about 8 p.m. Wednesday en route to the Birchwood Airstrip, Palmer and then back to Anchorage, said Paul Steucke of the Federal Aviation Administration.

He was reported overdue by his wife at 10 p.m. and a helicopter search was begun by Alaska State Troopers this morning, Steucke said.

The wreckage of his homebuilt Long-Eze was found spread over a swampy area of the Matanuska River Park about 8:30 a.m. today after searchers picked up a signal from the aircraft's emergency locator transmitter, said Palmer Police Department Sgt. Greg Carpenter.

The body of the pilot was found in the cockpit of the single-seater, Carpenter said. He was pronounced dead at the scene.

In Ketchikan, a 60-year-old man died Wednesday afternoon when he was crushed between a gate and an upper structural bar at Ketchikan Sawmill, troopers report.

Dead is Francis K. Glover, who was leaning on a hydraulically operated gate when the gate lifted him, crushing his body, troopers and a Ketchikan Pulp Co. spokesman said.

Also Wednesday, in a traffic accident on Minnesota Drive just south of Tudor Road, two small boys were injured when the station wagon they were riding in was struck from the rear by another car.

Michael Nichols, 5, was in fair condition this morning while Justin Bushre, 7, was in serious condition at Providence Hospital, a spokeswoman said today. Both received head injuries in the accident, said Sgt. Greg Stewart of the Anchorage Police Department.

Stewart said the station wagon was southbound on Minnesota Drive when its engine quit as the car was about halfway up the bridge over the Alaska Railroad tracks.

Driver Terry Risinger, 32, turned on the emergency flashers and was trying to restart the car when it was struck from behind by a car driven by Afualo Uatisona, Stewart said.

The force of the accident collapsed the rear of the station wagon, pinning the seatbelted boys inside, Stewart said. Rescue workers got them from the car and took them to the hospital, where they originally were listed in critical condition.

# American sailors world over brush up on safety

By D.W. PAGE  
The Associated Press

NORFOLK, Va. — In Navy wardrooms and engine compartments, flight decks and hangars, sailors around the world were busy Thursday in lectures and training in an unprecedented, two-day "stand-down" to brush up on safety.

The Navy ordered the halt to normal operations Tuesday after an unmatched string of accidents over the last three weeks killed 10 people and injured at least 71.

Aboard the guided missile cruiser USS Josephus Daniels docked at the Norfolk Naval Station, Petty Officer Mike Ballard instructed seamen in damage control.

Again and again, Ballard walked sailors through the proper way to wear fire-fighting equipment and the necessary checks for each safety device.

Every sailor is trained in damage control, according to Lt. j.g. Paul Ward, the ship's assistant damage control officer. He said the ship runs a

daily fire or rescue drill. Ward saw the stand-down as a good way to stress safety to all hands.

"Our job is to carry out our mission while sustaining damage. Everyone here has to be a capable firefighter.

When there is a fire on board, you can't just run away. ... There is nowhere to run," Ward said.

Throughout the ship, sailors gathered in compartments for talks about electrical safety, fire aid and

weapons handling.

While sailors were going to school aboard the Daniels, 30 miles away at the Oceana Naval Air Station the pilots of Squadron VF-41 were in

their ready room going over data on the flight performance of the F-14 Tomcat.

The squadron already had been scheduled for a safety inspection today by the Na-

val Safety Center, so the stand-down did not affect the flight schedule. One pilot characterized the exercise as a "two-day stand-around."

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able to improved reporting by employers.

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## STUDY: Job injuries up

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Labor Secretary Elizabeth Dole has promised to encourage OSHA to take an aggressive stance in seeking to eliminate repetitive-motion problems, and the agency has entered into agreements designed to do just that with several companies in recent months.

# HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE


P.O. BOX Y, JUNEAU 99811

(907) 465-3892



September 26, 1989

To: David Teal, Director  
House Research Agency

From: Representative Dave Donley, Chair   
House Labor and Commerce Committee

Re: Research request - Workplace Safety information

In preparation for consideration of legislation dealing with workplace safety issues, I'm writing to ask that your agency gather information on the following:

1. Los Angeles, California criminally prosecutes executives of companies where workplace safety violations have occurred that resulted in the death of a worker and the number of workplace deaths has subsequently dropped. I would like any information you can find on this issue, including copies of legislation, articles, publications, and background information for any other state where such prosecutions occur.
2. Scandinavian countries are highly industrialized with many hazardous occupations such as shipbuilding and iron work. Historically they have far fewer workplace deaths or serious injuries than their American counterparts. I would like any information you can find as to what is unique about the way these countries deal with workplace safety that may account for their excellent record and any articles, studies, publications or model legislation that may be useful to Alaska in trying to develop workplace safety programs.
3. Is there a "model" workplace safety program that is recognized by 1) Alaska, 2) any other state, or 3) the federal government, that could be used by Alaska businesses? In working with the workers' compensation reform package last year, we considered mandating a five percent rate decrease for any company that instituted a workplace safety program. The problem is we couldn't find a "model" program that was recognized by insurers or easily adopted into various workplace situations. If you can not find an existing program, please forward to me any articles, publications or studies you locate that could help us develop a model program.

Please contact Ginger Baim at 561-7629 if you have any questions or need additional information.

## The Job Safety and Health Act of 1989

### Title One: Joint Worker/Management Committees

- A. Worker/Management Committees must be authorized to:
  - 1. Stop work until hazardous conditions are abated.
  - 2. Review appointment and employment of safety and health personnel.
  - 3. Conduct monthly inspections.
  - 4. Obtain employer's information concerning safety and health practices.
  - 5. Investigate accidents.
- B. Worker participation must be legitimate.
- C. Committee members must receive sufficient training.
- D. All businesses with eleven or more employees must designate a safety and health officer.

### Title Two: Rights of Victims and Whistleblowers

- A. Victims must have:
  - 1. The right to obtain copies of OSHA investigative files and citations quickly and free of charge.
  - 2. The right to participate in appropriate deliberations and adjudicative processes, personally or through their representatives, as proposed in the Construction Safety and Health Improvement Act, S. 2518.
- B. Whistleblowers must have:
  - 1. The right to disclose hazards which violate federal law or threaten health and safety.
  - 2. The right to participate in a federal agency proceeding relating to the dangerous activities of an employer.
  - 3. The right to refuse to perform dangerous work, as proposed in the Uniform Health and Safety Whistleblower Act, S. 2095.

### Title Three: Civil and Criminal Penalty Structures

- A. Civil penalty changes.
  - 1. Minimum penalty increases should:
    - a. Adjust all civil penalties for inflation (a maximum willful violation penalty would be increased from \$10,000 to \$29,700).
    - b. Tie future penalties to the cost-of-living index, as proposed in the Federal Civil Penalties Inflation Adjustment Act, S. 1014.
  - 2. NSWI recommends penalty increases of:
    - a. \$50,000 (up from \$10,000) for a willful violation.
    - b. \$10,000 (up from \$1,000) for a serious violation.
- B. Penalty settlement guidelines.
  - 1. Penalty reductions must not exceed 30%.
  - 2. Settlement discussions must not occur until after abatement of hazardous conditions.

3. Written rationalizations for any reduction must be made available to all concerned parties.
  4. Settlements over \$100,000 should be entered into U.S. District Court records.
- C. Criminal penalties.
1. Current maximum fine of \$10,000 and a six month prison sentence for an individual or a corporation are too weak.
  2. An increased fine of \$250,000 for an individual and \$500,000 for a corporation (as proposed by former Assistant Attorney General William Weld) should set the new standard.
- D. Willfulness.
1. The current willfulness standard, requiring an employer to have a history of previous citations, and subsequently to have a repeat violation involving a fatality, makes it very difficult to convict serious offenders.
  2. A new definition of willfulness, based on the California penal code, should be adopted.
- E. Reckless endangerment.
1. A new standard for reckless endangerment should be based on the following criteria:
    - a. Any violator with one serious or willful violation during the previous four years would potentially be liable of reckless endangerment.
    - b. Willfulness would not be considered in applying the reckless endangerment test.
    - c. Reckless endangerment would carry a maximum fine of \$100,000 and a prison sentence of one-to-five years.
- F. Fatalities.
1. Increase penalties for violations involving fatalities to a maximum prison sentence of 20 years, as proposed in S. 2518.

#### **Title Four: Public Welfare Cost Recovery**

- A. In cases where federal funds provide support for victims of job-related injury or illness, the government should litigate to recover costs from employers for standards-related violations.
- B. The Departments of Labor and Justice would litigate under this provision.

#### **Title Five: Rights of Local and State Governments**

- A. Current case law discourages a state or local government from pressing criminal charges against an employer in a federally-regulated OSHA state.
- B. Federal preemption of state or local laws, including criminal laws, which provides more stringent job safety and health standards should be prohibited, as proposed in S. 2518.

#### **Title Six: State-Plan States**

- A. State-Plan States should be encouraged to experiment in developing safer workplaces by providing a grant program for special initiatives.
- B. The Secretary of Labor should develop standard reporting measures for State-Plan States and make reports available to the public.
- C. Workers in State-Plan States should have the right to demand inspections by federal officials when state inspections fail to eliminate hazardous conditions.
- D. The Secretary of Labor should terminate inadequate State-Plan programs.

**Title Seven: Safety and Health Standards**

- A. The revision of existing standards and promulgation of new standards lags far behind sound scientific knowledge.
- B. The Secretary of Labor's responsibility to promulgate standards should be strengthened by:
  - 1. Reasserting the right to propose individual standards.
  - 2. Reasserting the right to promulgating consensus standards.

**Title Eight: Licensed Technicians**

- A. In oversight of all high-risk activities, the law should:
  - 1. Require licensing of all key supervisory personnel.
  - 2. Provide general definitions of the work functions to be supervised by licensed technicians.
- B. An employer's failure to comply with this provision should constitute a serious violation.

**How tough is that doggie in the window?**



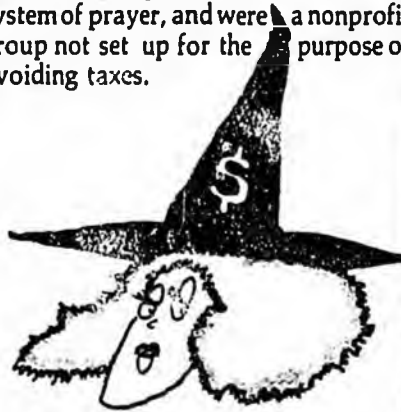
The case of two Cambodian refugees, who were prosecuted in California last spring for killing a German shepherd for food, was dismissed after a judge ruled that there was no law against eating dogs. There is now. Newly enacted California legislation makes it a misdemeanor to possess, sell or give away for the sole purpose of killing for food any animal "commonly kept as a pet or companion." Violators can receive up to six months in jail and a \$1,000 fine. Livestock, poultry, fish and game are exempted; in case hasenpfeffer lovers wonder, rabbits are classified as livestock.

**New ECS report surveys state plans for tuition programs**

A new survey of state programs to help parents pay for their children's college education reports that 11 states (up from nine in 1988) have passed laws giving parents the opportunity to invest with the state a certain sum of money now in exchange for guaranteed payment of their children's tuition in the future. Three of these 11 states—Florida, Michigan and Wyoming—are already selling contracts. The survey is available at \$5 per copy from the Education Commission of the States Distribution Center, 1860 Lincoln St., Suite 300, Denver, CO 80295.

**Rhode Island grants tax exemption to witches' coven**

In Rhode Island, a witches' coven has been granted a state sales tax break on the grounds that it is a church. In a reversal of an earlier ruling, the state exempted the Rosegate Coven, a.k.a. Our Lady of the Roses Church, from the sales tax on equipment and supplies for the church. Tax department officials decided that the witches had specific doctrines and a system of prayer, and were a nonprofit group not set up for the purpose of avoiding taxes.



**Bush administration appoints legislators to executive posts**

The Bush administration has named several state legislators to executive posts, among them John Turner, ex-president of the Wyoming Senate, director of the Fish and Wildlife Service; Deborah Anderson, former speaker of the South Dakota House, director of the Office of Intergovernmental Affairs; Paul Coverdell, ex-minority leader of the Georgia Senate, director, Peace Corps; Susan Engeleiter, ex-minority leader of the Wisconsin Senate, administrator of the Small Business Administration; Tom Stroock, vice president of the Wyoming Senate, ambassador to Guatemala; and Mary McClure of South Dakota, ex-Senate president pro tem, special assistant to the president for intergovernmental affairs. (Senator McClure is currently on leave because of an illness in her family.)

**U.S. Supreme Court allows states to sue on workplace hazards**

The U.S. Supreme Court, by declining in October to review an Illinois court ruling in *Asta vs. State of Illinois*, left the states free to prosecute corporate officials for workplace hazards that are also regulated by the federal Occupational Safety and Health Act (OSHA). The Illinois Supreme Court ruling of a year ago resulted in the reinstatement of criminal charges of aggravated battery against officers of the Chicago Magnet Wire Corporation. The firm and its executives had been indicted by a Chicago grand jury on charges of "knowingly and recklessly" failing to protect workers from hazardous chemicals, allowing injuries to 42 employees. Industry representatives have expressed concern that state criminal prosecution of corporate officers for injuries or deaths resulting from workplace conditions frustrates the operation of OSHA regulations. The state of Illinois, however, argued that federal law does not pre-empt state prosecution for murder or aggravated battery that happens to occur in the workplace and does not "immunize employers as a class from criminal prosecution."

**Fatalities are up since speed limits rose to 65 mph**

After Congress permitted states to raise the speed limit to 65 mph on rural interstate highways in 1987, 40 states did so. And in those 40 states, traffic fatalities on rural interstates have increased 21 percent in two years, according to the National Highway Traffic Safety Administration. Fatality rates on other roads showed only minor changes.

STATE OF ALASKA  
1990 LEGISLATIVE SESSION

BILL VERSION: CSHB 286 (Jud)  
PUBLISH DATE: \_\_\_\_\_

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Labor  
Title: "An Act relating to penalties for  
violation of workplace safety laws." BRU: Labor Standards & Safety  
Sponsor: Koponen, et al. Components: \_\_\_\_\_  
Requestor: House Finance Occupational Safety & Health

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING         | FY 91 | FY 92 | FY 93 | FY 94 | FY 95 | FY 96 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES |       |       |       |       |       |       |
| TRAVEL            | 10.0  | 10.0  |       |       |       |       |
| CONTRACTUAL       | 30.0  | 30.0  |       |       |       |       |
| SUPPLIES          |       |       |       |       |       |       |
| EQUIPMENT         |       |       |       |       |       |       |
| LAND&STRUCTURES   |       |       |       |       |       |       |
| GRANTS,CLAIMS     |       |       |       |       |       |       |
| MISCELLANEOUS     |       |       |       |       |       |       |
| TOTAL OPERATING   | 40.0  | 40.0  | 0.0   | 0.0   | 0.0   | 0.0   |

|         |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|
| CAPITAL |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|

|         |       |      |      |      |     |     |
|---------|-------|------|------|------|-----|-----|
| REVENUE | 104.0 | 54.0 | 35.0 | 15.0 | 0.0 | 0.0 |
|---------|-------|------|------|------|-----|-----|

FUNDING: (Thousands of Dollars)

|               |      |      |     |     |     |     |
|---------------|------|------|-----|-----|-----|-----|
| GENERAL FUND  | 40.0 | 40.0 |     |     |     |     |
| FEDERAL FUNDS |      |      |     |     |     |     |
| OTHER         |      |      |     |     |     |     |
| TOTAL         | 40.0 | 40.0 | 0.0 | 0.0 | 0.0 | 0.0 |

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Note: There will be no impact on FY 90.

Prepared by: Tom Stuart, Director Phone: 465-2712  
Division: Labor Standards & Safety Date: 3/14/90  
Approved by Commissioner: Jim Sampson Date: 3/14/90  
Agency: Department of Labor

Distribution (by preparer) :  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency,(ies)

Fiscal Note Analysis  
for

"An Act relating to penalties for violation of workplace safety laws."

This bill would increase the penalties charged for the violation of workplace safety laws. Because of the increase in penalties, we expect an increase in the number of contested violations and in the number of requests for informal conferences. This increased workload would result in additional travel for existing staff as well as the OSHA Review Board members. Additional legal support would also be required. The additional costs are summarized as follows:

|                                       |                |
|---------------------------------------|----------------|
| Travel                                | \$ 10.0        |
| OSHA Review Board (6.0)               |                |
| Existing staff (4.0)                  |                |
| Contractual                           | \$ 30.0        |
| Legal support for Review Board (10.0) |                |
| Legal support for department (20.0)   |                |
| <u>Total Cost</u>                     | <u>\$ 40.0</u> |

These costs should decrease after the first two years if the bill achieves its goal of providing more incentive for employers to voluntarily correct hazards so that we find fewer serious violations. Therefore we should have no additional costs beyond 1992.

The Department assessed a total of \$272,296 in penalties in FY 1989 of which we collected \$101,394. Given that this bill will increase penalties by 200 percent, it is reasonable to project at least an increase of \$100,000 in actual revenues during the first year and this hopefully would decline as employers voluntarily correct hazards and fewer violations are detected.

This bill would also permit the collection of expense incurred when employers fail to appear at a OSH Review Board Hearing. The average daily cost for the OSHA Review Board to hold hearings is \$800. If it must cancel five days of hearings because employers do not appear at hearings, the Board could ask for \$4,000 in reimbursable expenses from employers. Once employers understand that they may be liable for such costs, the number of cancellations should decrease and therefore, it is expected after the second year, no significant revenue will be raised under this provision.

Total Revenue in FY91 therefore equals \$100,000 + 4,000 or \$104,000.

H

B

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# HOUSE COMMITTEE REPORT

File

(11)

Date Referred: March 8, 1990

FURTHER REFERRALS:

Date of Committee Action: 4/20/90

The FINANCE Committee considered:

HB 290

HOUSE BILL NO. 290

RECREATION FACILITY LEASE OF STATE LAND

"An Act relating to the leasing of state land for recreational facilities development."

**RECOMMENDATIONS:**

- be replaced with CS HB 290 (FIN)  the same title
- a new title
- have attached amendment(s)
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of intent

ATTACHES NEW FISCAL NOTE(s):  
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact \_\_\_\_\_
- (2)  zero fiscal note DNR  
FGI
- zero with analysis \_\_\_\_\_

- fiscal note(s) \_\_\_\_\_
- zero fiscal note(s) 3/8/90 / H.RES.CM
- zero fn/analysis \_\_\_\_\_

**SIGNING DO PASS:**

**SIGNING:**

(Check approp. column)

Do Not  
Pass      No Rec      Amend

| <u>Ronald J. Larson</u> LARSON       | <u>Alan Rieger</u> RIEGER    | / |  |
|--------------------------------------|------------------------------|---|--|
| <u>Cliff Swackhammer</u> SWACKHAMMER | <u>Bill Shultz</u> SHULTZ    | / |  |
| <u>Herb Brown</u> BROWN              | <u>Rod Phillips</u> PHILLIPS | / |  |
| <u>Harold Koponen</u> KOPONEN        |                              |   |  |
| <u>William Wimer</u> WIMER           |                              |   |  |
| <u>Barney Barnes</u> BARNES          |                              |   |  |
|                                      |                              |   |  |
|                                      |                              |   |  |
|                                      |                              |   |  |

Ronald J. Larson LARSON  
Chairman's Signature

**FISCAL NOTE**

CC

**REQUEST:**

Revision Date: \_\_\_\_\_  
Title: Recreational Facility Lease of  
State Land  
Sponsor: Resources Committee  
Requestor: House Resources Committee

Agency Affected: All Agencies  
BRU: \_\_\_\_\_  
Components: \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

| OPERATING              | FY 91    | FY 92    | FY 93    | FY 94    | FY 95    | FY 96    |
|------------------------|----------|----------|----------|----------|----------|----------|
| PERSONAL SERVICES      | 0        | 0        | 0        | 0        | 0        | 0        |
| TRAVEL                 | 0        | 0        | 0        | 0        | 0        | 0        |
| CONTRACTUAL            | 0        | 0        | 0        | 0        | 0        | 0        |
| SUPPLIES               | 0        | 0        | 0        | 0        | 0        | 0        |
| EQUIPMENT              | 0        | 0        | 0        | 0        | 0        | 0        |
| LAND & STRUCTURES      | 0        | 0        | 0        | 0        | 0        | 0        |
| GRANTS, CLAIMS         | 0        | 0        | 0        | 0        | 0        | 0        |
| MISCELLANEOUS          | 0        | 0        | 0        | 0        | 0        | 0        |
| <b>TOTAL OPERATING</b> | <b>0</b> | <b>0</b> | <b>0</b> | <b>0</b> | <b>0</b> | <b>0</b> |

|                |          |          |          |          |          |          |
|----------------|----------|----------|----------|----------|----------|----------|
| <b>CAPITAL</b> | <b>0</b> | <b>0</b> | <b>0</b> | <b>0</b> | <b>0</b> | <b>0</b> |
|----------------|----------|----------|----------|----------|----------|----------|

|                |          |          |          |          |          |          |
|----------------|----------|----------|----------|----------|----------|----------|
| <b>REVENUE</b> | <b>0</b> | <b>0</b> | <b>0</b> | <b>0</b> | <b>0</b> | <b>0</b> |
|----------------|----------|----------|----------|----------|----------|----------|

**FUNDING: (Thousands of Dollars)**

|               |          |          |          |          |          |          |
|---------------|----------|----------|----------|----------|----------|----------|
| GENERAL FUND  | 0        | 0        | 0        | 0        | 0        | 0        |
| FEDERAL FUNDS | 0        | 0        | 0        | 0        | 0        | 0        |
| OTHER         | 0        | 0        | 0        | 0        | 0        | 0        |
| <b>TOTAL</b>  | <b>0</b> | <b>0</b> | <b>0</b> | <b>0</b> | <b>0</b> | <b>0</b> |

**POSITIONS:**

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

**ANALYSIS : (Attach a separate page if necessary)**

Prepared by: House Resources Committee Phone: 4944  
Division: Representative Curt Menard Date: 3/7/90  
Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
Agency: \_\_\_\_\_

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

Adopted

**FISCAL NOTE**

**REQUEST:**

Revision Date: 3/6/90 Agency Affected: Department of Fish and Game  
 Title: An Act Relating to Leasing of State Land for Recreational Facilities BRU: Habitat  
 Sponsor: Resources Committee Components: Habitat  
 Requestor: Department of Natural Resources

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

| OPERATING         | FY 91 | FY 92 | FY 93 | FY 94 | FY 95 | FY 96 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | 0     |       |       |       |       |       |
| TRAVEL            | 0     |       |       |       |       |       |
| CONTRACTUAL       | 0     |       |       |       |       |       |
| SUPPLIES          | 0     |       |       |       |       |       |
| EQUIPMENT         | 0     |       |       |       |       |       |
| LAND & STRUCTURES | -     |       |       |       |       |       |
| GRANTS, CLAIMS    | -     |       |       |       |       |       |
| MISCELLANEOUS     | -     |       |       |       |       |       |
| TOTAL OPERATING   | 0     | 0     | 0     | 0     | 0     | 0     |

|         |   |  |  |  |  |  |
|---------|---|--|--|--|--|--|
| CAPITAL | 0 |  |  |  |  |  |
|---------|---|--|--|--|--|--|

|         |   |  |  |  |  |  |
|---------|---|--|--|--|--|--|
| REVENUE | 0 |  |  |  |  |  |
|---------|---|--|--|--|--|--|

**FUNDING: (Thousands of Dollars)**

|               |   |  |  |  |  |  |
|---------------|---|--|--|--|--|--|
| GENERAL FUND  | 0 |  |  |  |  |  |
| FEDERAL FUNDS | - |  |  |  |  |  |
| OTHER         | - |  |  |  |  |  |
| TOTAL         | 0 |  |  |  |  |  |

**POSITIONS:**

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

**ANALYSIS : (Attach a separate page if necessary)**

No fiscal impact on FY 90 Budget

Prepared by: Frank Rue, Director  
 Division: Habitat

Phone: 465-4105  
 Date: 3/7/90

Approved by Commissioner: [Signature]  
 Agency: Department of Fish and Game

Date: 3/8/90

**Distribution (by preparer):**

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

Adopted

STATE OF ALASKA  
1990 LEGISLATIVE SESSION

BILL VERSION : CSHB 290 (FIN)  
PUBLISH DATE : \_\_\_\_\_

FISCAL NOTE

REQUEST:

Revision Date: 27-Mar-90 Agency Affected: Natural Resources  
 Title: An Act relating to the leasing of state BRU: Land & Water Mgmt  
land for recreational facilities development.  
 Sponsor: House Resources Components: Land & Water Mgmt  
 Requestor: House Finance

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING         | FY 91 | FY 92 | FY 93 | FY 94 | FY 95 | FY 96 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES |       |       |       |       |       |       |
| TRAVEL            |       |       |       |       |       |       |
| CONTRACTUAL       |       |       |       |       |       |       |
| SUPPLIES          |       |       |       |       |       |       |
| EQUIPMENT         |       |       |       |       |       |       |
| LAND&STRUCTURES   |       |       |       |       |       |       |
| GRANTS,CLAIMS     |       |       |       |       |       |       |
| MISCELLANEOUS     |       |       |       |       |       |       |
| TOTAL OPERATING   | 0.0   | 0.0   | 0.0   | 0.0   | 0.0   | 0.0   |

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| CAPITAL |  |  |  |  |  |  |
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|---------|--|--|--|--|--|--|
| REVENUE |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|

FUNDING: (Thousands of Dollars)

|               |     |     |     |     |     |     |
|---------------|-----|-----|-----|-----|-----|-----|
| GENERAL FUND  |     |     |     |     |     |     |
| FEDERAL FUNDS |     |     |     |     |     |     |
| OTHER         |     |     |     |     |     |     |
| TOTAL         | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Larry Ostrovsky Phone: 465-2400  
 Division: \_\_\_\_\_ Date: 27-Mar-90  
 Approved by Commissioner: [Signature] Lennie Gorsuch Date: 27-Mar-90  
 Agency: Department of Natural Resources

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

Adopted

Original sponsor(s): Resources Committee

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 290 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the leasing of state land for  
7 recreational facilities development."

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

9 \* Section 1. AS 38.05 is amended by adding a new section to read:

10 Sec. 38.05.073. RECREATIONAL FACILITIES DEVELOPMENT LEASING.

11 (a) To identify land suitable for recreational facilities development  
12 leasing, the commissioner shall make the identification through a  
13 regional land use plan or a site specific land use plan adopted under  
14 AS 38.04.065. If an adopted land use plan specifically allows the  
15 type of development under consideration, the commissioner may request  
16 proposals from potential lessees under (c) of this section. Consis-  
17 tent with AS 38.04.065, the development of a land use plan used to  
18 identify land suitable for recreational facilities development leasing  
19 must consider the supply of recreational opportunities and alterna-  
20 tives, economic and social factors, and fish, wildlife, and other  
21 resources affected by the specific type and location of recreational  
22 facilities development under consideration.

23 (b) AS 38.05.070(a), 38.05.085(c), 38.05.090, and 38.05.103  
24 apply to leasing under this section. The other provisions of AS 38.-  
25 05.070 - 38.05.105 do not apply to leasing under this section.

26 (c) If the commissioner identifies land for recreational facili-  
27 ties development leasing under (a) of this section, the commissioner  
28 shall prepare a written request for proposals that includes

29 (1) the specific type of recreational facilities

1 development for which the land may be leased;

2 (2) the form of compensation that the commissioner intends  
3 to require for the lease under (1) of this subsection;

4 (3) the selection criteria that the commissioner will use  
5 to determine the eligibility of a developer, including the developer's  
6 financial backing and capability, experience in the proposed undertak-  
7 ing, ability to meet bonding or insurance requirements, and ability to  
8 comply with resource and environmental analysis requirements; and

9 (4) the criteria that the commissioner will use to deter-  
10 mine the suitability of proposals.

11 (d) After preparing a request for proposals under (c) of this  
12 section, the commissioner may issue the request to solicit proposals  
13 from persons who are interested in leasing the land for recreational  
14 facilities development. The request for proposals must be advertised  
15 at least three times in a newspaper of general circulation in the  
16 state. The proposals submitted to the commissioner must include the  
17 specific facts on which the potential lessee bases its ability to  
18 develop the land, including its ability to comply with the items  
19 identified in (c)(1) - (4) of this section.

20 (e) After soliciting proposals under (d) of this section, if the  
21 commissioner determines that only one potential lessee is acceptable,  
22 the commissioner may begin negotiations with the potential lessee to  
23 develop the terms and conditions for the lease.

24 (f) After soliciting proposals under (d) of this section, if the  
25 commissioner determines that two or more potential lessees are accept-  
26 able, the commissioner may select the potential lessee who submits the  
27 highest bid during an auction or by sealed bids, whichever method the  
28 commissioner chooses. The minimum bid must equal the amount estab-  
29 lished by the commissioner plus the administrative fee established

1 under (j) of this section. The commissioner shall also require the  
2 potential lessee to make an earnest money deposit under AS 38.05.-  
3 860(b). After the commissioner selects a potential lessee, the com-  
4 missioner may begin negotiations with the potential lessee to develop  
5 the terms and conditions for the lease.

6 (g) After developing proposed lease terms and conditions with a  
7 potential lessee under (e), (f), or (i) of this section, the commis-  
8 sioner may issue a preliminary decision under AS 38.05.035(e) that  
9 leasing the land to the potential lessee on the proposed terms and  
10 conditions serves the best interests of the state. During preparation  
11 of the preliminary decision, the commissioner shall consult with  
12 affected state agencies regarding issues within the agencies' areas of  
13 responsibility and expertise. The commissioner shall give public  
14 notice of the preliminary decision under AS 38.05.945 and request  
15 comments from the public and state agencies. The preliminary decision  
16 must include

17 (1) a statement of the specific type of recreational facil-  
18 ities development for which the land will be leased;

19 (2) an analysis of alternative sites;

20 (3) a statement of the terms and conditions to be required  
21 in the proposed lease agreement;

22 (4) a statement of the compensation that the state may  
23 require under the proposed lease agreement;

24 (5) a statement of the potential economic, social, and  
25 environmental effects of the proposed development, including the  
26 effect on water quality and the traditional and recreational uses of  
27 the land;

28 (6) a statement of the long-term commitments of fish,  
29 wildlife, and other natural resources that would be involved in the

1 proposed development;

2 (7) a statement of alternatives to the commitments identi-  
3 fied under (6) of this subsection and alternatives or measures that  
4 may reduce or eliminate the effects identified under (5) of this  
5 subsection;

6 (8) an identification of any studies, including economic  
7 feasibility studies, or plans to be required by the commissioner; and

8 (9) for a large project, a preliminary assessment of the  
9 project's economic feasibility based on available information.

10 (h) After reviewing the comments received under (g) of this  
11 section, the commissioner shall make a final determination whether the  
12 proposed lease will serve the best interests of the state. If the  
13 commissioner determines that the proposed lease will serve the best  
14 interests of the state, the commissioner shall offer the lease to the  
15 proposed lessee subject to the terms, conditions, and study require-  
16 ments the commissioner determines to be necessary. If a study or plan  
17 is required, the potential lessee may be required to provide and pay  
18 for the study or plan. For a large project where the commissioner has  
19 determined under (g) of this section that there may be significant  
20 economic, social, or environmental effects or long-term commitments of  
21 fish, wildlife, or other natural resources, the commissioner shall  
22 require the potential lessee to prepare and submit a comprehensive  
23 economic feasibility study to be completed no later than 18 months  
24 after the execution of the lease. State agencies with pertinent  
25 expertise or responsibilities shall be involved in the review of  
26 required plans and studies. If the plan or study involves fish, game,  
27 or customary and traditional use of natural resources, the Department  
28 of Fish and Game shall review the aspects of the methodology and scope  
29 of the plan or study that deal with fish and game. If the Department

1 of Fish and Game determines that the aspects of the methodology and  
2 scope that deal with fish and game are appropriate for the plan or  
3 study, the aspects of the methodology and scope that deal with fish  
4 and game may be used for the plan or study.

5 (i) If a potential lessee who was selected under (f) of this  
6 section declines the lease offer made under (h) of this section, the  
7 commissioner may begin negotiations with the potential lessee who  
8 provided the next highest bid under (f) of this section to develop  
9 under (f) of this section the terms and conditions for a lease.

10 (j) The commissioner shall require the potential lessee awarded  
11 the right to negotiate a lease under (e), (f), or (i) of this section  
12 to pay a nonrefundable administrative fee of at least \$250.

13 (k) The commissioner shall reject all proposals or bids for a  
14 lease when it is in the best interest of the state.

15 (l) The compensation to be paid to the state for a lease issued  
16 under this section may include, in the discretion of the commissioner,

17 (1) a percentage of the annual gross receipts as reported  
18 to the United States Internal Revenue Service;

19 (2) a guaranteed annual minimum rent or a percentage of  
20 gross receipts, whichever is greater;

21 (3) the fair market rental value;

22 (4) a fixed annual rent that is not less than the fair  
23 market rental value of the land;

24 (5) a fee for each user;

25 (6) other compensation acceptable to the commissioner; or

26 (7) a combination of the above.

27 (m) The annual compensation paid to the state for a recreational  
28 facilities development lease shall be reevaluated and adjusted at  
29 five-year intervals. The annual compensation for each five-year

1 period after the initial five years of the lease shall be calculated  
2 by the same method used to establish the compensation for the initial  
3 five-year period.

4 (n) Before a lease is issued under this section, the land to be  
5 covered by the lease shall be surveyed. The survey must be adequate  
6 to describe the land to be covered by the lease.

7 (o) Before entering into a lease under this section, the commis-  
8 sioner shall require the lessee to post a performance bond or provide  
9 other security acceptable to the commissioner to cover the costs to  
10 the department of one or more of the following, as determined by the  
11 commissioner:

12 (1) completing the development, including site planning,  
13 under the terms and conditions of the lease;

14 (2) maintaining the development under the terms and con-  
15 ditions of the lease;

16 (3) restoring the lease site if the lease is abandoned or  
17 terminated.

18 (p) The term of the lease may not exceed 55 years. At the  
19 expiration of the lease, the commissioner may offer the lessee a right  
20 of first refusal on a new lease under this section for the same land  
21 if the commissioner determines that leasing the land for an additional  
22 term serves the best interests of the state.

23 (q) The lessee's violation of a provision of this section or of  
24 a term or provision of a lease issued under this section subjects the  
25 lessee to appropriate legal action and penalties, including a forfei-  
26 ture of the lease.

27 (r) The commissioner of administration shall separately account  
28 for all money collected under this section that the department de-  
29 posits in the general fund. The annual estimated balance in the

1 account may be used by the legislature to make appropriations to the  
2 department to carry out the purposes of this section.

3 (s) In this section, "recreational facilities development"  
4 includes the development of lodges, resorts, and other tourism and  
5 recreation-related facilities.  
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# Alaska State Legislature

Official Business

P.O. Box V  
State Capitol  
Juneau, Alaska 99811

## MEMORANDUM

TO: REP. RON LARSON, CO-CHAIR HOUSE FINANCE COMMITTEE  
REP. LYMAN HOFFMAN, CO-CHAIR HOUSE FINANCE COMMITTEE

FROM: REP. CURT MENARD, CO-CHAIR HOUSE RESOURCES COMMITTEE

DATE: MARCH 8, 1990

RE: REQUEST FOR HEARING ON CS HB 290 (RESOURCES)

*Curt*

---

I would like to request that the House Finance Committee hear HB 290 at the earliest available date. This is a very important piece of legislation which would significantly improve our current recreational facilities leasing program.

~~Also, please find attached two memorandums from Terry Bannister with the Legislative Affairs Agency regarding potential ambiguities in specific language which was added just prior to Committee action on the bill. She has suggested alternative language which removes the ambiguities and successfully accomplishes our intent. I would appreciate your attention to these two items.~~

Thank you for your consideration of my requests.

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
707 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 7, 1990

SUBJECT: Ambiguity in CSHB 290 (Resources)

TO: Representative Curt Menard  
Co-Chair, House Resources Committee

FROM: Theresa L. Bannister *tb*  
Legislative Counsel

This memo accompanies the draft of CSHB 290 (Resources) that you have requested. Please be aware that one part of the draft contains an ambiguity that could defeat what I understand to be your intent. With regard to the first sentence of sec. 38.05.073, it is my understanding that the committee wants to prohibit the commissioner from making the land identification unless the commissioner does it through certain land use plans. However, due to the nature of the word "only", the sentence could be interpreted differently from your intent. The "only" could be read as modifying "recreational facilities development leasing" or as modifying "through a regional land use plan...." If it is read as modifying the development leasing phrase, the sentence would not prohibit the commissioner from making the identification through other approaches than the land use plans.

To eliminate the ambiguity, you may wish to retain the language as it existed in the 3-6-90 draft or you could rephrase it as follows: "To identify land suitable for recreational facilities development leasing, the commissioner shall make the identification through a regional land use plan or a site specific land use plan adopted under AS 38.04.065." If this language is not exactly what you need, I would be happy to assist you to redraft it to achieve your intent.

TLB:lmb  
L10/003

Enclosure

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU ALASKA 99801  
777 465 1800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 7, 1990

SUBJECT: Additional ambiguity in CSHB 290 (Resources)

TO: Representative Curt Menard  
Co-Chair, House Resources Committee

FROM: Theresa L. Bannister *TB*  
Legislative Counsel

This memo accompanies the final version of CSHB 290 (Resources) that you have requested. In addition to the ambiguity identified in my memo of March 7, 1990, this version contains an additional ambiguity that may thwart the intent of the committee. It is my understanding that the committee wants the Department of Fish and Game to review and perhaps establish the methodology and scope for certain plans and studies. The relevant language begins on page 4, at line 26. Because the sentence uses "shall approve" without any qualification, the sentence could be interpreted to mandate that the department approve the methodology and scope of the plan or study even if it does not believe that the methodology and scope are appropriate. If the sentence were interpreted that way, the committee's intent would not be achieved.

To remove the problem, you could replace "approve" with another verb, such as "establish", or you could rewrite the language. For example, the language could read: "If the plan or study involves fish, game, or the customary and traditional use of natural resources, the Department of Fish and Game shall review the methodology and scope of the plan or study. If the Department of Fish and Game determines that the methodology and scope are appropriate for the plan or study, the methodology and scope may be used for the plan or study."

If I can be of further assistance with this matter, please advise.

TLB:pl  
WKP3/025

A M E N D M E N T

OFFERED IN THE HOUSE

BY REP. MENARD

TO: CSHB 290 (Resources)

Page 1, lines 11 - 13:

Delete "The commissioner may identify land suitable for recreational facilities development leasing only through a regional land use plan or a site specific land use plan adopted under AS 38.04.065."

Insert "To identify land suitable for recreational facilities development leasing, the commissioner shall make the identification through a regional land use plan or a site specific land use plan adopted under AS 38.04.065."

4/20/90

A M E N D M E N T #2

OFFERED IN THE HOUSE

BY REP. MENARD

TO: CSHB 290 (Resources)

Page 4, line 28, following "shall", through line 29:

Delete all material.

Insert "review the methodology and scope of the plan or study? If the Department of Fish and Game determines that the methodology and scope are appropriate for the plan or study, the methodology and scope may be used for the plan or study."

with respect to the Fish or Game.

If the with...

with...

with respect to the Fish & Game / Adpt. U.S.

Mr. Chairman and members of the committee my name is John Duffy and I am the Planning Director for the Matanuska-Susitna Borough. Thank you for providing me with an opportunity to speak on the House Bill 290. I believe that in order for the State of Alaska to successfully compete in the national and international market place it is vital that our land managers have the necessary tools to market and develop recreational and tourism related projects. I believe House Bill 290 goes a long way in providing the Division of Land and Water with these necessary tools. I have only a few brief comments on the Committee substitute which I think is a substantial improvement on the original legislation. My comments are as follows:

p 3 line 8 A definition of large is needed as well as the identification of who is making the determination. Since what may be considered large is likely to change from area to area it might be possible to allow the land use plan for the area to make the determination on what is considered large. This would allow local input into the decision making process since the plan is developed with local involvement.

p 3 line 9 Prior to submitting a proposal potential developers will complete their own economic feasibility studies since they will want to determine whether or not an expenditure of their

resources is warranted. If a developer is willing to invest funds based upon their own economic analysis why should the State ask for another study and then, I assume, make its own determination on whether or not the developer should be allowed to proceed with spending their money. I do not believe that this requirement is needed and would respectfully recommend that the committee consider dropping it from the legislation.

p 3 lines 27/29      This requirement could cause a proposed project to be eliminated by merely making the study requirements extremely hard to comply with or by making the financial investment in studies quite large. As the legislation is currently written there is no latitude for other agencies to question the appropriateness of the Fish and Games' studies or their scope. Indeed, the present language provides no way of distinguishing between justified or frivolous requests. Since Fish and Game participates in the development of the land use plan which develops the recommendations and constraints on the proposed development I do not believe it is necessary for Fish and Game to have veto power on a development after the plan is adopted and a qualified proposal obtained. I do not believe that this requirement is

needed and would respectfully recommend that the committee consider dropping it be from the legislation.

That concludes my comments on the legislation. Once again thank you for providing me with an opportunity to speak on the legislation.

# STATE OF ALASKA

## DEPARTMENT OF FISH AND GAME

### OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

P.O. BOX 3-2000  
JUNEAU, ALASKA 99802-2000  
PHONE: (907) 465-4100

March 23, 1990

The Honorable Curt Menard  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Dear Representative Menard:

Thank you for the opportunity to address our concerns on the legislation you have proposed pertaining to the leasing of state land for recreational facilities. I was pleased that you incorporated the amendments jointly proposed by the Departments of Fish and Game (ADF&G) and Natural Resources into the new version of the bill. Accordingly, I want to restate the position that the Department of Fish and Game supports Committee Substitute for House Bill 290 (Resources).

I anticipate that as the bill continues to move through the Legislature, many questions will be raised about the amendments incorporated in your bill and the concerns the Department of Fish and Game has had with the bill. We will be restating our position before the House Finance committee on Wednesday, March 28, and for your convenience I wanted to take the time to reiterate in writing the nature of our concerns that serve as the basis for our support.

The bill addresses two distinct purposes. First, the bill proposes changes to the current statute to allow the state to receive a better financial return for leasing state land for recreational development. In the wake of the recent experience with the proposed Mitsui ski area in Hatcher Pass, these changes are fully warranted and fiscally responsible.

Secondly, the bill proposes revisions to the procedure for identifying and leasing state land for recreational facilities.

In order to ensure the success of recreation development and to generate the maximum economic benefits from recreation facilities, it is crucial to ensure protection of fish, wildlife, and other resources that serve as the primary attraction of visitors, tourists, and the Alaskan public seeking recreation opportunities.

We believe that recreation facilities development can occur compatibly with fish and wildlife resources, and in turn support long-term economic benefits, provided the conditions now in the bill and discussed below are adequately addressed.

March 23, 1990

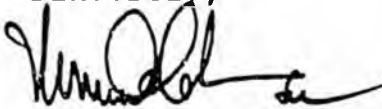
1. ADF&G has an appropriate role in the identification and leasing process.
2. The public is involved as much, or more so, than is currently provided.
3. User conflicts are taken into account.
4. Proper planning and management tools are in place.
5. Sites are selected, taking into account the ability of the resource to sustain increased pressure and use.
6. Mitigating measures are allowed.

I believe these concerns have been addressed in CSHB 290 (Resources) and will allow for long-term economic benefits by protecting fish and wildlife resources of concern to the public.

Because the long-term benefits depend on adequate protection for fish and wildlife resources, the list of concerns discussed above will continue to serve as a basis for evaluating any amendments that may be proposed to the bill.

Your continued support for these provisions is most appreciated. If any additional information would helpful, please do not hesitate to contact me or my staff.

Sincerely,



Don W. Collinsworth  
Commissioner

cc: Senator Fahrenkamp, Chairman, Senate Resources Committee  
Senator Binkley, Co-chair, Senate Finance Committee  
Senator Uehling, Co-chair, Senate Finance Committee  
Senator Kerttula, Vice-chair, Senate Resources Committee  
Senator Eliason, Senate Resources Committee  
Senator Frank, Senate Resources Committee  
Senator Halford, Senate Resources Committee  
Senator Sturgulewski, Senate Resources Committee  
Senator Zharoff, Senate Resources Committee  
Representative Davidson, Co-chair, House Resources Committee  
Representative Hoffman, Co-chair, House Finance Committee  
Representative Larson, Co-chair, House Finance Committee  
Senate Sponsor of Companion Bill  
Commissioner Lennie Gorsuch

The Honorable Curt Menard

- 3 -

March 23, 1990

Norman A. Cohen  
Warren W. Wiley  
Denby Lloyd  
Bob Evans  
Larry Ostrovsky  
Gary Gustafson  
Deborah Greenberg  
Molly McCammon  
Frank Rue  
Lance Trasky  
Steve Behnke  
Lew Pamplin

# STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.  
JUNEAU, ALASKA 99801-1796  
PHONE: (907) 465-2400

February 28, 1990

The Honorable Ron Larson  
Alaska State Representative  
P.O. Box V  
Juneau, AK 99811

Dear Representative Larson:

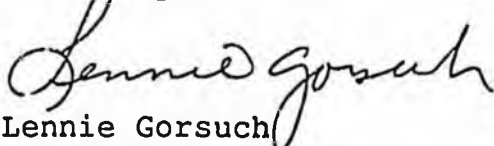
Thank you for your gracious comments following the unfortunate news of Mitsui & Co.'s lease termination. Mitsui's exit may be considered a temporary setback, but it will by no means set the tone for the future of the magnificent Hatcher Pass area.

You are correct, the recreational development potential of the Hatcher Pass area is now well documented. Mitsui representatives have repeatedly indicated to us that their decision to terminate was linked directly to timing and immature market conditions. Actual site development potential does not appear to have been a significant factor.

As you know, I have placed a great deal of importance on the ability to incorporate flexibility and achieve realistic objectives in our leasing process. Passage of the commercial recreation leasing bill, HB 290, currently under legislative consideration could help us meet those goals. The practical effect of amended statutes guiding our leasing procedures will be felt statewide. It will greatly increase our chances of success with the next Hatcher Pass leasing package. Your support of this bill is appreciated.

With the experience gained administering the Mitsui lease, the department looks forward to renewed opportunities for the Hatcher Pass area.

Sincerely,



Lennie Gorsuch  
Commissioner

Representative Larson

-2-

February 28, 1990

cc: Senator Kerttula  
Representative Menard  
Gary Gustafson, Director  
Division of Land and Water Management  
Veronica Gilbert, Division of Land and Water Management

February 22, 1990

Rep. Curt Menard, Co-Chair  
House Resources Committee  
Alaska State Legislature  
P.O. Box V (MS 3100)  
Juneau, AK 99811

Re: Recreational Facilities Development Leasing (HB 290)

Dear Representative Menard:

We appreciate the opportunities your committee is providing for public testimony on proposed legislation regulating recreational facilities development leasing. We thought it might be useful to clarify and expand somewhat the oral testimony ACE offered at the February 1 hearing.

We very much support the goal of the committee and DNR to ensure that the state receives a reasonable financial return from the leasing for private benefit of its most valuable long-term public resource, its land. Historically, on both state and federal lands, within and outside of Alaska, compensation to the public landholder has generally at best been adequate to manage impacts generated by the project, that is, impacts that would not have occurred but for the project, providing no net benefits to the landholder's coffers.

Furthermore, we strongly support focusing our commercial facility development efforts on the state's unreserved multiple use lands, the lands managed by the Division of Land and Water Management. With a large unreserved state land base, we have no excuse for making the serious mistake made Outside, where commercial development on park lands has in far too many instances destroyed or substantially degraded the very natural resources which were the basis for the establishment of the park. Unfortunately, and totally unnecessarily, we seem to be headed in that direction at Denali State Park.

And we have seen how extremely controversial commercial facility development leasing proposals can be, especially those for major facilities, like the ones proposed for Eagle River, Hatcher Pass, and Denali State Park, and those that could pose substantial conflicts to subsistence uses, like lodge proposals in rural Alaska. Attractive sites for commercial recreational facilities will generally have long ago been recognized and widely used for a variety of other purposes. An orderly, comprehensive procedure can benefit everyone--the agencies, the possible developers, and the public--by weeding out speculative or inappropriate projects, preventing wasteful expenditures of time and money, and avoiding litigation.

If this bill is to address concerns other than ensuring a reasonable financial return to the state, we would like to address a few of those issues.

1. Initial Land Allocation Decision. The initial land allocation decision is critical and deserves very careful consideration. The decision should be an interagency one and should require full public involvement. We feel uncomfortable relying totally on regional land use plans and believe that in every case the public should have some opportunity to comment before the process has proceeded all the way to the approval of lease terms and conditions phase. Regional plans deal with millions of acres of land. The decisions are necessarily somewhat abstract. In those situations where a site-specific plan or an amendment would be required (see subsection (b)), we feel fairly comfortable with the initial public participation opportunity. However, we have two concerns regarding the third situation (where a regional plan "specifically allows" the type of development under consideration).

Recommendations:

a. It should be made very clear that the mere fact that a land use designation or classification (such as "Resource Management") in the regional plan allows commercial development doesn't qualify as a specific allowance. The Management Intent or Management Guidelines narrative should have to specifically mention, and authorize, the type of development under consideration.

b. Even if a plan specifically mentions and authorizes the development, some minimal opportunity to comment should be provided at this initial stage, when the reality of a specific, focused proposal on a specific piece of land is first concretely proposed to the public without the distraction of hundreds of other competing issues affecting millions of acres of land. We suggest the following at the end of subsection (b): "If an adopted regional land use plan specifically allows the type of development under consideration, the commissioner shall nevertheless, before issuing a request for proposals, provide the public and other interested agencies with an opportunity to offer scoping comments regarding the proposed development and the issues which should be addressed in the Preliminary Decision required under (g) of this section."

2. Lands Available for Lease. This bill appears to allow DNR to lease lands regardless of any legislative or other designation they might have received. This is clearly inappropriate.

Recommendation: For legislatively designated lands entrusted to the management of an agency other than the Division of Land and Water Management (such as ADF&G), DNR should be allowed to proceed only with the concurrence of that agency.

3. Agency Involvement. Other interested agencies should be closely involved throughout the process. Their involvement should not be limited to commenting on a preliminary decision at the same time the public is commenting; when that happens the public does not have the benefit of the other agencies' perspectives and