

Leg. Finance-House & Senate Finance Comte Files (1991-1992) 733

HOUSE COMMITTEE REPORT

CAUSE

(11)

Date Referred: March 13, 1991

FURTHER REFERRALS:

Date of Committee Action: 4/5/91

The FINANCE Committee considered:

HB 88

HOUSE BILL NO. 88

STUDENT LOAN FORGIVENESS/MILITARY DUTY

"An Act relating to forgiveness of scholarship loans; and providing for an effective date."

RECOMMENDATIONS:

be replaced with LS HB 88 (HES) the same title a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact EDUCATION

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) MVA 2.13.91

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Mike Savane</i>	✓				
<i>William K. ...</i>	X				
<i>Tan Brown</i>	X				
<i>Dandra Barnes</i>	✓				
<i>Bob ...</i>	✓				
<i>Greg ...</i>					
<i>ROSS E. ...</i>	✓				
<i>Ronald ...</i>	X				
<i>Greg ...</i>					
<i>J. ...</i>					

Mike Savane

CHAIRMAN'S SIGNATURE

CS FOR HOUSE BILL NO. 88 (HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 3/13/91

Referred: Finance

Sponsor(s): REPRESENTATIVES EARNES, Martin, Mackie, Gonzales, M.A.Miller, Sharp, G.Phillips, Zawacki, Taylor, MacLean, C.Davis, Finkelstein

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to forgiveness of scholarship and family education loans; and providing
2 for an effective date."

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

4 * Section 1. AS 14.43.120 is amended by adding new subsections to read:

5 (s) A portion of a loan shall be forgiven by the state if, after being enrolled in the course
6 of study for which the loan was granted, the borrower is a student who is unable to complete the
7 school term as a result of serving on active duty as a member of the armed forces of the United
8 States. The portion of the loan that shall be forgiven by the state is equal to the amount
9 borrowed by the student for the school term in which the borrower's studies are terminated.

10 (t) Forgiveness under (s) of this section is subject to appropriation by the legislature.
11 Money obtained from the sale of bonds by the Student Loan Corporation under AS 14.42.220
12 may not be appropriated for the forgiveness of loans.

13 * Sec. 2. AS 14.43.740(a) is amended to read:

14 (a) The provisions of AS 14.43.100, 14.43.110, 14.43.115, 14.43.120(a) - (d), (i), (m),

- 1 and (r) - (t) [(r)], and 14.43.135 apply to a loan made under AS 14.43.710 - 14.43.790.
- 2 * Sec. 3. This Act applies to principal and interest due on a loan entered into on or after July 1, 1990.
- 3 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. CSHB 88(HES)

Revision Date: April 2, 1991 Department Affected: Education

Title: An Act relating to forgiveness of scholarship loans ~~BRXX~~ Alaska Student Loan Corporation/
Student Loan Program

Sponsor: Representative Barnes

Requestor: House Finance **COMPONENT SERIAL NO.**

0	2	1	8
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
* MISCELLANEOUS	0	15.5	15.6	15.8	15.9	16.1
TOTAL OPERATING						

*Refers to Loans Budget

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	15.5	15.6	15.8	15.9	16.1
FEDERAL FUNDS						
OTHER						
TOTAL	0	15.5	15.6	15.8	15.9	16.1

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: \$0, no requests for forgiveness have been made to ACPE.

ANALYSIS: (Attach a separate page if necessary.)

Estimate a total of 7 borrowers potentially affected, 7 X \$2,225 (average loan per term with a growth rate of 1%) = \$15.5.

Prepared By: Jane Byers Maynard, Executive Director *[Signature]* Phone: 465-2854

Division: Alaska Commission on Postsecondary Education Date: April 2, 1991

Approved by Commissioner: _____

Agency: _____ Date: _____

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

No. 2
 Bill Version: CSHB 88(MLV)
 (H) Publish Date: 2/13/91

STATE OF ALASKA
 1991 LEGISLATIVE SESSION

Revision Date: _____ Department Affected: Military & Veterans Affairs
 Title: Forgiveness of scholarship loans BRU: _____
 Component: _____

Sponsor: Barnes
 Requestor: House DMVA COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	0					
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						

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

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	0					
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact on DMVA

Prepared By: Jeff Morrison, Director Phone: 465-4600

Division: Administrative & Support Services Date: February 12, 1991

Approved by Commissioner: MG Hugh L. Cox III by *J Morrison*

Agency: Military & Veterans Affairs Date: Feb 12, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).



THE SECRETARY OF DEFENSE
WASHINGTON, THE DISTRICT OF COLUMBIA

FEB 04 1991

29 JAN 1991

The Honorable Walter J. Hickel
Governor of Alaska
Post Office Box A
Juneau, AK 99811-0101

Dear Governor:

Many thousands of members of the National Guard and other Ready Reserve components of the U.S. Armed Forces have been called to active duty for Operation DESERT STORM. The service of the Guard and Reserve soldiers, sailors, airmen and Marines will be crucial to the American victory over Iraqi aggression.

Members of the Guard and Reserve from all walks of life have answered the country's call to arms. For those leaving America's factories, offices and farms to serve in the Middle East, Federal law guarantees that their jobs will be there when they come home. America's employers have provided that economic safety net for the nation's citizen-soldiers and their families for more than a half century.

Today's Guard and Reserve units include many students enrolled in institutions of higher learning. Federal law does not afford to members of the Guard and Reserve called to duty from the nation's colleges and universities rights similar to those afforded to members called from the nation's businesses. It does not guarantee student members of the Guard and Reserve refunds of tuition and fees they have paid for the semester they cannot complete nor does it guarantee them the right to return to the college or university upon completion of their active service.

To show your support for the youth of America summoned from the classroom to the battlefield, I ask you to use your good offices and authority under State law, or to seek enactment of new State laws if necessary, to refund to student members of the Guard and Reserve tuition and fees they paid for the semester they cannot complete and to give them the right to return to their college or university upon completion of active service.

On behalf of the men and women of the U.S. armed forces, thank you for your support and that of the colleges and universities in your State. Assistant Secretary of Defense for Reserve Affairs Stephen M. Duncan can provide any further information you may need.

Sincerely,

Dick Cheney



OFFICIAL BUSINESS

Alaska State Legislature

House of Representatives

REPRESENTATIVE
RAMONA L. BARNES
DISTRICT 14

JAN 31 1991

ANCHORAGE
2230 PARSON
ANCHORAGE, ALASKA 99504
(907) 337-7737
(907) 561-2036
BOX V
JUNEAU, ALASKA 99811
(907) 465-3438

TO: All House Members

FROM: Representative Ramona Barnes *Ramona L. Barnes*

DATE: January 31, 1991

RE: HB 88 "An Act relating to the forgiveness of scholarship loans; and providing for an effective date."

I have introduced HB 88 relating to the forgiveness of scholarship loans. This bill would foregive the loan for a student who is unable to complete the term because of serving on active duty with as a member of the United States armed forces. This letter is sent to invite you to co-cponsor this legislation.

This issue has come to light as a result of the war in the Persian Gulf. I have received calls from constituents who have children in college who are members of Guard and/or reserve units. Should these units be activated in the middle of a term, these students would loose credits for that term. Similarly, if a student volunteered for active duty in the middle of a term, they would loose their credits for that term. Under current statutes, the loan utilized for that period would still be owed to the state. I believe it would be unjust to require these students to repay these loans when they were required to leave school to serve on active duty. While I do not believe that many students who are in the middle of a term would volunteer for active duty, the possibility does exist and they should be supported and included in the forgiveness provision also.

Diane Behrends of Post Secondary Education office has advised my office that, to date, they have not had anyone in this situation. The language in the bill restricts the forgiveness clause to those students who are "in good standing" to eliminate the possibility of abuse of the intent of the bill.

Higher Education & National Affairs

VOLUME 40, NUMBER 4

American Council on Education

FEBRUARY 25, 1991

Hearing Focuses on Education's Future Role

Colleges and universities and the federal government must make greater strides in educating students, especially minorities, if the United States is to regain its competitive edge in the world economy, education and business representatives told a Senate subcommittee during a hearing last week.

The hearing, before the Senate Subcommittee on Education, Arts, and Humanities, focused on the reauthorization of the Higher Education Act and the role of institutions in preparing students for the future. Witnesses stressed the need to improve education opportunities for the nation's growing minority population.

College participation rates for minorities and poor students remain far behind those of white students, American Council on Education Senior Scholar Reginald Wilson told the panel.

"Demographic studies indicate that . . . shortly after the year 2000, minorities will comprise one-third of the American population and nearly 40 percent of the students in public school," Wilson said. "Unless our institutions adapt to the new reality that those we call 'non-traditional' students will be the norm for the foreseeable future, we will not only inefficiently expend our educational resources but we will leave large segments of our rapidly changing population poorly educated."

Improving educational opportunities for minorities, Wilson said, will require a significant increase in federal student aid grants; support for minority graduate fellowships and scholarships; increased support for historically black colleges and Hispanic and American Indian colleges; funding for college programs that increase minority participation and graduation; demonstration grants for innovative teaching-learning strategies and programs; and funding for exemplary school-to-work and two-year to four-year transition programs.

In addition, the higher education community must recognize and address the needs of the growing number of part-time students, Thomas Ehrlich, president of the Indiana University System, told the Senate panel.

Many undergraduates in the Indiana University System are older students with families, who attend school part time, he said. Part-time students are unable to apply for Pell Grants and cannot get student



Reginald Wilson

CHARLES VOTAW

loan deferrals if they stop taking classes for six months and then resume them, unless they enroll full time, he said. Changes in federal policies are needed, Ehrlich maintained.

(continued on page 4)

Bills Would Require Tuition Refunds to Student Reservists

Legislation mandating that colleges and universities provide tuition refunds and credits to student military reservists called to active duty has been proposed in the House and Senate, although many colleges and universities already have adopted such policies voluntarily.

The Senate Labor and Human Resources Committee last week approved S. 335, under which soldiers serving in the Persian Gulf would not have to begin repaying student loans until the end of the conflict. The bill, introduced by Sen. Edward M. Kennedy (D-MA), also would provide refunds or tuition credits to military personnel forced to withdraw from postsecondary classes because of the war.

Rep. Bill Richardson (D-NM) has introduced a separate bill to ensure that student reservists do not lose college tuition paid before being called to serve in the Middle East. However, more than 600

(continued on page 4)

Ability to Benefit Law Suspended by Ruling

The Education Department has ruled that through June 30, only those students seeking federal financial aid who do not have a high school diploma will be required to pass a test to show that they can benefit from postsecondary education.

The temporary ruling restricts a federal law approved by Congress last year aimed at reducing loan defaults and abuse in federal student aid programs. As enacted, the law requires all students without a diploma or its equivalent to pass an "ability to benefit" test, regardless of whether they seek financial aid. Institutions that failed to comply with the testing law risked losing their student aid eligibility.

Congressional leaders have admitted that the testing requirement was intended only for those seeking and receiving federal financial aid. The provision was approved hastily as part of the 1991 budget and deficit reduction package last year.

Educators across the nation argued that the testing rule infringed on their admissions practices and would prevent some students, especially the poor, minorities, and immigrants, from enrolling in courses necessary for them to improve and develop job skills. Despite complaints, Education Department officials said they had to enforce the testing law as enacted.

However, earlier this month, the department revised the rule to settle lawsuits filed by educators in California and Tennessee. A California federal judge issued a restraining order barring the department from enforcing the rule until June 30. The department then announced that the rule was being revised temporarily

(continued on page 2)

Inside:

- Department clarifies its anti-drug program law. 2
- Sheldon Hackney, president of the University of Pennsylvania, discusses campus rape. 5
- Study claims student loans are not a burden for graduates. 5

Bills Would Require College Tuition Reimbursement

(continued from page 1)

higher education systems and individual institutions report that they already have developed such policies.

Last November, American Council on Education (ACE) President Robert H. Atwell and the heads of five other higher education associations sent a letter to colleges and universities recommending that institutions develop their own policies to prevent the need for a federal law mandating refunds and credits. A federal law likely would fail to take into account the variations among schools and not allow flexibility in policies, stated the letter.

College and university presidents were asked to send copies of their refund and credit policies to ACE so that the associations could demonstrate to Defense Department officials and members of Congress that institutions were complying with the request.

Among the policies received by ACE, most call for 100 percent refunds for all fees and tuition and pro rated refunds for room and board charges. Some policies allow student reservists to withdraw from their classes or to receive a grade of incomplete with the opportunity to finish course work in the future. Others allow a student to receive a grade for a course if a professor determines that enough of the class has been completed before the student is called to active duty.

However, institutions in Texas are unable to develop such policies voluntarily because of a state law prohibiting full refunds if students withdraw after specific time periods, said a researcher for the state's House of Representatives. The bill

states that refunds can be given only to students who drop out of a class within 12 days of its start but remain in school. A percentage of tuition payments is refunded for students who withdraw from institutions within 20 days after the beginning of classes. Earlier this month, the Texas Senate approved a bill allowing tuition refunds for military reservists serving in the Persian Gulf. House members are expected to begin debate on the bill soon.

"We have had an enormous response to our call to voluntarily institute a refund policy," said ACE Vice President and General Counsel Sheldon E. Steinbach. "It appears that a majority of institutions with military reservists have responded and have submitted their policies on tuition refunds. Most policies include provisions similar to those in the Kennedy bill," Steinbach noted.

Under Kennedy's bill, the Gulf War Higher Education and Health Care Shortage Assistance Act, credits would have to be used within one year after the students are released or discharged from the military.

Richardson's bill, H.R. 821, the Persian Gulf Conflict Education Equity Act, calls for a total refund of tuition and fees. Institutions failing to return tuition payments would lose their eligibility to participate in federal financial assistance programs.

In addition, Richardson's bill would restore certain GI Bill education benefits that otherwise would be lost and provide forgiveness for some federal loans. Reservists who qualify for educational ben-

efits under the GI Bill currently receive \$140 per month for up to 36 months to defray educational costs. Those called up to active duty before the end of a semester lose credit for that semester and that number of months of benefits. The bill would allow returning reservists to have their monthly educational benefits fully restored for the unfinished semester.

The bill also would provide a 12.5 percent pro-rata system of Perkins Loan cancellations for those who serve in the combat zone for less than one year. Current law provides 12.5 percent loan reduction only for those who serve for at least one year.

Richardson said estimates show that loan forgiveness would cost the government less than \$1.8 million, but added that it is difficult to estimate cost because there is no data on the number of troops in the Middle East who have Perkins loans.

In introducing the bill earlier this month, Richardson said, "We all know that voluntary compliance does not yield the same results as a federal mandate."

In addition to Atwell, association heads who signed the November letter to college presidents were Allan W. Ostar, the American Association of State Colleges and Universities; Robert M. Rosenzweig, Association of American Universities; Robert L. Clodius, National Association of State Universities and Land-Grant Colleges; Dale Parnell, American Association of Community and Junior Colleges; and Richard F. Rosser, National Association of Independent Colleges and Universities. ■

Senate HEA Hearing Held

(continued from page 1)

Business leaders who testified at the hearing said that more partnerships between institutions and companies are required to discuss skills students need to enter the workforce. MCI spent about \$8 million on training last year, John Zimmerman, an MCI Communications senior vice president, told subcommittee members.

"More and more young people are being barred from MCI because they lack the basic skills," he said. "We can't afford to let education slip, and I'm afraid we are doing that today."

Zimmerman and other business representatives said high school and college students are graduating without the basic skills needed to secure entry level positions.

Business representatives said students must master more technical and problem-solving skills, and knowledge of foreign languages will be increasingly important in coming years. ■

Report Traces Trends in Degrees Conferred

While the number of bachelor's degrees awarded to African Americans increased 2.6 percent between 1986-87 and 1988-89, those gains were due solely to awards made to African American women, a survey by the National Center for Education Statistics (NCES) shows. The number of degrees received by African American men declined during the period, from 22,499 to 22,365.

The report, which traces race/ethnicity trends in degrees conferred over a 10-year period, also found that between 1986-87 and 1988-89, the rate of growth in degrees awarded to all women at all levels exceeded the rate of growth for men. Women earned a greater proportion of associate, bachelor's, and master's degrees in 1989, while men earned a greater proportion of both doctoral and first professional degrees, the study indicates.

The report presents data from the Integrated Postsecondary Education Data System (IPEDS) Completions Survey of accredited postsecondary institutions for

the years 1978-79 to 1988-89. The annual survey collects data on major field of study and degrees conferred by level of award.

Other highlights of the study include:

■ The most popular fields of study for recipients of bachelor's degrees in 1988-89 were business and management, social sciences, and education, while master's recipients most often studied education and business and management.

■ The number of both master's and doctoral degrees awarded between 1986-87 and 1988-89 increased. While all ethnic/racial groups contributed to the growth in master's degree recipients, over half of the growth in doctoral degrees can be attributed to an increase in awards to nonresident aliens.

The report, *Race/Ethnicity Trends in Degrees Conferred by Institutions of Higher Education: 1978-79 through 1988-89*, is available for \$2.50 from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 783-3238. The stock number is 065-000-00434-0. ■

HB 88

SENATE FINANCE COMMITTEE REPORT

DATE: 5/6/91

FURTHER:

DATE TURNED INTO OFFICE: ~~5/15/91~~

The Finance Committee considered ~~CS FOR HOUSE BILL NO. 88 (RES) (Title on)~~

"An Act relating to forgiveness of scholarship and family education loans made to students who are unable to complete a school term as a result of serving on active duty as a member of the armed forces of the United States; and providing for an effective date."

and recommended:

- replace with _____ CS same title
- or adopt _____ CS new title
- attached amendment(s) technical title change (HB only)
- _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):
Dept./Date:

fiscal note(s) _____

zero fiscal note(s) _____

appropriation-no fiscal note

APPROVES PREVIOUS:
Dept./Date:

fiscal note(s) _____

zero fiscal note(s) _____
~~DATE 5/2/91~~
~~DATE 5/2/91~~

SIGNING DO PASS:

[Handwritten signatures]

1. *[Signature]*

OTHER RECOMMENDATIONS:

2. *[Signature]* Do pass
Co-Chairs: Signatures and Recommendations

FISCAL NOTE

No. 2

Bill Version: CSHB 88 (MLV)

(H) Publish Date: 2/13/91

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Revision Date: _____ Department Affected: Military & Veterans Affairs

Title: Forgiveness of scholarship loans BRU: _____

Component: _____

Sponsor: Barnes

Requestor: House DMVA

COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	0					
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	0					
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact on DMVA

Prepared By: Jeff Morrison, Director Phone: 465-4600

Division: Administrative & Support Services Date: February 12, 1991

Approved by Commissioner: MG Hugh L. Cox III by Morrison

Agency: Military & Veterans Affairs Date: Feb 12, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies)

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

No. 3

Bill Version: CSHB 88(HES)

(H) Publish Date: 4/8/91

Revision Date: April 2, 1991 Department Affected: Education

Title: An Act relating to forgiveness of scholarship loans ~~RRKX~~ Alaska Student Loan Corporation/
Commissioner Student Loan Program

Sponsor: Representative Barnes

Requestor: House Finance

COMPONENT SERIAL NO.

0	2	1	8
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
* MISCELLANEOUS	0	15.5	15.6	15.8	15.9	16.1
TOTAL OPERATING						

*Refers to Loans Budget

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

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	15.5	15.6	15.8	15.9	16.1
FEDERAL FUNDS						
OTHER						
TOTAL	0	15.5	15.6	15.8	15.9	16.1

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: \$0, no requests for forgiveness have been made to ACPE.

ANALYSIS: (Attach a separate page if necessary.)

Estimate a total of 7 borrowers potentially affected, 7 X \$2,225 (average loan per term with a growth rate of 1%) = \$15.5.

Prepared By: Jane Byers Maynard, Executive Director Phone: 465-2854

Division: Alaska Commission on Postsecondary Education Date: April 2, 1991

Approved by Commissioner: _____

Agency: _____ Date: _____

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

CS FOR HOUSE BILL NO. 88 (HES)(title am)
 IN THE LEGISLATURE OF THE STATE OF ALASKA
 SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Amended: 4/29/91

Offered: 3/13/91

Referred: Finance

Sponsor(s): REPRESENTATIVES BARNES, Martin, Mackie, Gonzales, M.A.Miller, Sharp, G.Phillips, Zawacki, Taylor, MacLean, C.Davis, Finkelstein, Baker, Leman, Hanley, Choquette

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to forgiveness of scholarship and family education loans made to students
 2 who are unable to complete a school term as a result of serving on active duty as a
 3 member of the armed forces of the United States; and providing for an effective date."

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

5 * Section 1. AS 14.43.120 is amended by adding new subsections to read:

6 (s) A portion of a loan shall be forgiven by the state if, after being enrolled in the course
 7 of study for which the loan was granted, the borrower is a student who is unable to complete the
 8 school term as a result of serving on active duty as a member of the armed forces of the United
 9 States. The portion of the loan that shall be forgiven by the state is equal to the amount
 10 borrowed by the student for the school term in which the borrower's studies are terminated.

11 (t) Forgiveness under (s) of this section is subject to appropriation by the legislature.
 12 Money obtained from the sale of bonds by the Student Loan Corporation under AS 14.42.220
 13 may not be appropriated for the forgiveness of loans.

14 * Sec. 2. AS 14.43.740(a) is amended to read:

- 1 (a) The provisions of AS 14.43.100, 14.43.110, 14.43.115, 14.43.120(a) - (d), (i), (m),
2 and (r) - (t) [(r)], and 14.43.135 apply to a loan made under AS 14.43.710 - 14.43.790.
3 * Sec. 3. This Act applies to principal and interest due on a loan entered into on or after July 1, 1990.
4 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).



OFFICIAL BUSINESS

Alaska State Legislature

House of Representatives

REPRESENTATIVE
RAMONA L. BARNES
DISTRICT 14

ANCHORAGE
2230 PAXSON
ANCHORAGE, ALASKA 99504
(907) 337-7737
(907) 561-2036
—
BOX V
JUNEAU, ALASKA 99811
(907) 465-3438

SPONSOR STATEMENT

MAY 10 1991

CSHB 88

CSHB 88 relating to the forgiveness of scholarship loans will foregive the loan for a student who is unable to complete a term of study because of serving on active duty as a member of the United States armed forces.

This issue came to light as a result of the war in the Persian Gulf. The fact is that there are Alaskans in college who are members of Guard and/or reserve units who are utilizing Alaska student loans. Should these units be activated in the middle of a term, these Alaskan students would loose their credits for that term. Under current statutes, the loan utilized for that period would still be owed to the state. I believe it would be unjust to require these students to repay these loans if they are unable to complete the term because of serving on active duty.

Post Secondary Education office has advised me that, to date, they have not had anyone, to their knowledge, in this situation.

HB889

CS FOR HOUSE BILL NO. 89 ()
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE TRANSPORTATION COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to food and housing for construction workers at remote construction sites
2 on certain state highway and airport construction projects; permitting waiver of the
3 requirement to provide food and housing or transportation and establishing an employment
4 preference for those who waive the requirement; and providing for an effective date."

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

6 * Section 1. FINDINGS. The legislature finds that

7 (1) the requirements that contractors provide food, housing and transportation to workers
8 on remote state highway and airport construction contracts will increase the cost of state construction
9 projects;

10 (2) it is in the state's best interest, to the extent possible, to reduce the cost of state
11 construction while meeting other public policy goals;

12 (3) employees at remote state highway and airport construction projects should have food
13 and housing provided for them unless they are able to obtain them for themselves;

14 (4) those employees who waive the requirement that food, housing, and transportation

1 be provided under a state highway or airport construction contract reduce the cost of state construction;
2 (5) those employees should be able to share in the advantage to the state that the waiver
3 brings and therefore an employment preference is appropriate.

4 * Sec. 2. AS 36.90 is amended by adding a new section to read:

5 Sec. 36.90.110. FOOD AND HOUSING AT REMOTE STATE HIGHWAY AND
6 AIRPORT CONSTRUCTION SITES. (a) Except as provided in (b) - (d) of this section, the
7 state shall require that a contractor provide food and housing to an employee of the contractor
8 working on a state highway or airport construction project at a remote construction site. The
9 contractor may not consider the cost of the food and housing in setting wages for the employee
10 or in meeting wage requirements under AS 23.10.065 or AS 36.05 or in determining gross
11 weekly earnings under AS 23.30.220.

12 (b) Before the award of a state highway or airport construction contract, the state shall
13 estimate the length of active, on-site workdays required to complete the project, and the number
14 of contractor employees required at peak employment periods. If the estimate indicates that the
15 project will require fewer than 60 continuous calendar days of active on-site work or fewer than
16 15 contractor employees at peak employment periods, the project is exempt from the requirement
17 to provide food and housing set out in (a) of this section.

18 (c) A contractor who provides adequate transportation to employees is exempt from the
19 requirement to provide food and housing set out in (a) of this section for those employees for
20 whom the transportation is provided. Transportation is adequate under this subsection if it

21 (1) transports the employee from the departure point to the work site in 60
22 minutes or less and if the employer pays wages to the employee for time spent travelling to the
23 work site in excess of 60 minutes; return transportation shall be provided on the same basis;

24 (2) is available each workday at times reasonably close to the beginning and
25 ending of each work shift;

26 (3) begins from and returns to a departure point that is central to either a location
27 where commercially available food and lodging establishments exist or which is the domicile of
28 the employee; and

29 (4) meets applicable transportation safety standards.

30 (d) An applicant for employment or an employee may waive the requirements of this
31 section to provide food, housing, and transportation on a state construction project. The waiver

1 must be in writing and signed by the applicant or employee. The waiver may not be revoked.
2 An applicant or employee who waives the requirements of this section is entitled to an
3 employment preference on the project.

4 (e) Unless a state construction contract for highway or airport construction is exempt
5 under (b) or (c) of this section, the specifications for the contract must contain a provision setting
6 out the requirement for providing food and housing at remote construction sites, the provisions
7 for waiver of the requirement, and the optional provisions for transportation services. When
8 these provisions are required in a contract, the contract must designate the site and include
9 relevant permits for the housing.

10 (f) The Department of Transportation and Public Facilities shall implement this section
11 by regulation.

12 (g) In this section,

13 (1) "airport" means an area of land or water that is used or intended for use for
14 the landing and take-off, movement, or parking of aircraft, and the appurtenant areas that are used
15 or intended for use for airport buildings or other airport facilities or rights-of-way, together with
16 airport buildings and facilities located at the location;

17 (2) "domicile" means the principal place of residence of an individual during the
18 90 days before employment on the state construction project;

19 (3) "highway" includes a primary or secondary highway, road, street, trail, walk,
20 bridge, tunnel, drainage structure and other similar or related structure or facility, and
21 right-of-way thereof, and further includes a ferry system, whether operated solely inside the state
22 or to connect with a Canadian highway, and any related facility;

23 (4) "remote" means a work site that is either more than 50 road miles from or
24 inaccessible by two-wheel drive vehicles from a location that has commercial food and lodging
25 establishments adequate to accommodate the work force of the state construction project;

26 (5) "state construction" means the on-site field surveying, erection, rehabilitation,
27 alteration, extension, or repair, including painting or redecorating, of buildings, highways, or
28 other improvements to real property, under contract for the state.

29 * Sec. 3. This Act does not apply to a contract for a state highway or airport construction project that
30 was entered into before September 1, 1991.

31 * Sec. 4. This Act takes effect September 1, 1991.

FISCAL NOTE

Revision Date: 4/5/91 Department Affected: DOT&PF
Title: Food/Housing at Remote Construction Sites BRU: Statewide Engineering & Operations Standards
Sponsor: House Transportation Component: Eng. & Oper. Standards
Requestor: Component Serial Number: 547

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY92	FY93	FY94	FY95	FY96	FY97
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	3.0	0	0	0	0	0
CONTRACTUAL	15.0	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:	18.0	0	0	0	0	0

CAPITAL	400.0	400.0	400.0	400.0	400.0	400.0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUNDS	418.0	400.0	400.0	400.0	400.0	400.0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL FUNDING:	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

Estimate of current year impact: None.

ANALYSIS: (Attach a separate page if necessary)

See Attachment.

Prepared by: Jeffery C. Ottesen, Director

Phone: 465-2951

Division: Engineering and Operations Standards

Date: April 26, 1991

Approved by Commissioner: Frank G. Turner

Phone: 465-3900

Agency: Department of Transportation and Public Facilities

Date: April 26, 1991

Distribution By Preparer: Legislative Finance, Legislative Sponsor, Requester, OMB, Impacted Agency(ies).

REV 2/7/81

COMMITTEE COPY

ANALYSIS (cont. from page 1):

Regulations

There will be approximately \$18.0 in one-time administrative costs in FY 1992 due to the costs of implement regulations; these funds will be used for legal support, advertising, public hearings and travel to public hearings. Of this amount, \$15.0 is for contractual items (legal costs \$12.0, transcriptions \$2.0, advertising \$1.0) and \$3.0 is for travel and per diem to meetings.

Operating Costs

Administrative costs of establishing new contract specifications and having them reviewed by the Attorney General's office, regional staff and federal agencies will be borne by existing operating budgets.

Opportunity Costs: Federal-Aid Capital Programs

While not a new cost requiring an appropriation the bill has the effect of raising costs on certain federal-aid highway and aviation projects and thereby reducing buying power. This cost is essentially an opportunity cost to the program. It is estimated at \$2.0 to 3.0 million annually and will result in the delay of some projects as the schedule for highway and airport improvements will stretch out accordingly. It does appear as a cost on the fiscal note.

Capital Costs: General Funded Capital Programs

For the GF capital budget, we assumed that, on average, about \$4 million dollars of general funded construction would be defined as "remote" each year, and that the cost of a camp would contribute about 10% additional expense to these projects. This amount would vary with the size of the state's capital budget and the portion of the budget that is allocated to remote projects.

HOUSE BILL 89
by
REPRESENTATIVE RICHARD FOSTER

* I introduced this bill, after discussions with some construction union representatives, in order to resolve the problems the state's remote construction projects have incurred. The problems simply put are the unhealthy living conditions for the construction workers on those projects.

* It was brought to my attention that workers on many of the projects we are building around the state have terrible living conditions. It was reported to me that many of these living situations have been the sites of unsanitary conditions that have resulted in sickness for workers and environmental damage.

* As I understand it, the state used to allow for the costs of providing camps for workers on these projects until it became an item of a bidding war between union and non-union contractors. The end result was the lowering of living standards for innocent employees on both sides. In essence, the state realized a cost savings at the expense of the workers.

* DOTPF is probably tired of hearing the complaints of the construction unions regarding the living conditions their members have had to endure over the years. I want to make it clear that DOTPF is not to blame in this situation. It's DOTPF's job to ensure quality as well as a smooth flow of productivity. I also understand that DOTPF eventually tried to correct the problem by establishing campgrounds for the construction workers, but I feel that this is not adequate to ensure people don't have to live in tents where the weather can make things almost as miserable as not having outhouses and other facilities.

* I am glad that labor, DOTPF, and the AGC have been able to settle on a compromise on this issue. I would like to commend them for working together to take care of the people who essentially are our employees. They work for a private contractor,

but we create the jobs. I don't think the state intended to have workers living in the squalor that has been reported to me.

* Another positive effect this bill will provide is a vehicle for local hire. Obviously it's in the state's best interest as well as the contractors' to hire people from the area where the project is being built. The more people a contractor hires locally, the less people the contractor will be forced to feed and house.

* I would also like to point out that a simple solution such as per diem will not address the problem properly. I'm sure some workers would rather have the extra cash a per diem allowance would bring them, but the unsanitary and unhealthy living conditions would still exist.

* The technical details of the bill will be covered by DOTPF and the labor groups who have worked so long and hard on this bill.



Department of Transportation
and Public Facilities

POSITION PAPER

BILL NO: CSHB 89

APPROVED: *[Signature]*

TITLE: Food/Housing at
Remote Construction Sites

DATE: April 26, 1991

This bill represents a compromise between the department and labor unions regarding a statutory provision for camps on remote construction projects. While we are not enthusiastic about this bill, neither do we oppose it. Our position is neutral.

As background, camps were at one time required thru negotiated labor agreements. With the rise of non-union contractors, the cost of camps made union contractors less competitive, and in order to ensure union contractors could secure projects this provision was eliminated by negotiations. At remote projects unsanitary living conditions occurred as employees camped wherever they could find a site, without regard for trash disposal and basic sanitary requirements. In 1990, in response to the problem, the department adopted a contractual requirement for a contractor furnished campground at remote projects. Under this arrangement, the employee must provide the tent or camper and cook his/her own meals; the contractor provides, free of charge, a full-service camp site complete with power, water and a central lavatory, shower and laundry facility.

While we believe that mandatory campgrounds are a cost effective solution, union representatives have continued to stress their preference for contractor furnished housing and meals. Aside from the policy question of whether camps or campgrounds are appropriate, the original version of the bill was unworkable for practical reasons.

The sponsor substitute has effectively addressed the impracticalities. The requirement for camps will not apply to small or short duration projects. There is also a clear point of decision before the project is let, making it clear to all bidders as to what is required contractually. Finally, a contractor may weigh the cost of a camp against the cost of compensated transportation time in order to make the most economical decision.

For Further Information contact Katy McHugh at 465-3900.

BILL NO: CSHB 89

TITLE: Food/Housing at Remote Construction Sites

DATE: April 26, 1991

While we are neutral toward the bill, we must point out the opportunity costs. Camps will in essence add to a contractor's overhead thus raising the cost of remote projects. As we operate with a fixed amount of federal money for airport and highway improvements, we will lose some purchasing power. On state-funded projects, remote projects will also require an incrementally larger appropriation. Estimates of these costs are found in our Fiscal Note.

Finally, we would like to offer a nominal amendment. The Association of General Contractors has requested that it be made explicit that when a camp is required, the state take steps to provide the site and secure necessary permits. It has always been our intent that we do so, because it removes the possibility of "sweetheart" deals regarding a site and prevents undue delays while the contractor seeks permits; we endorse a statutory requirement. Recommended is the following:

Section 1, paragraph (d) Unless a state construction contract is exempt under (b) or (c) of this section, the specifications for the contract must contain a provision setting out the requirement for providing food and housing at remote construction sites and the optional provisions for transportation services. When this provision is required the contract must include a designated site and relevant permits for the placement of contractor furnished housing.

HOUSE BILL 89
Testimony by
Don Rouleau, Business Agent
for
Alaska District Council of Laborers

* Camps were always included in the construction of the state's remote construction projects until it was discovered by a few non-union outside contractors that they could underbid Alaskan union contractors on jobs by deleting the costs of providing food and housing for their workers.

* Unfortunately, for construction workers non-union and union alike, the union contractors demanded that the contractual provisions be removed from the construction labor agreements. The unions reluctantly agreed. The contractors were then put on an even footing with the outside non-union contractors.

* The result has been a continual degradation of living conditions where there are no facilities within a reasonable distance to the jobsites. Union and non-union workers alike have been living in tents, visqueene lean-tos, the back seats of cars, and some have even built their own teepees. The lucky individuals who can afford a camper or motorhome have been fortunate enough to live off the ground and are staying dry.

* Unsanitary conditions have been the normal living environment for quite a few. Those who have campers have dug shallow holes and put their sewer hoses into barrels with holes punched into them to leach out both their grey and sewer water. Sometimes they let their sewer drain onto the ground or just drive down the road and put the hose into the ditch to empty it. Those less fortunate individuals who live in their cars and tents have been using any place that's convenient to relieve themselves.

* Imagine yourself working 12 hours a day to come home to a tent that has no facilities nearby. You've been working seven 12's for weeks and you haven't had a shower for almost as many. You then pull out the cookstove and warm up some soup and try to make a sandwich for something to eat before you fall asleep in the same tent you woke up in that morning. You then wake up early around 4 am to make something for breakfast and something to take to the jobsite for lunch. Now imagine this in the rain, or the snow that sometimes falls in the latter part of the construction season.

* How long would you last under those conditions?

* If you had to work to support your family and you couldn't leave the job for fear of losing your home to the bank because you couldn't make your payments, you would have to stick it out even if it meant getting sick and living in misery.

* One of the big problems we've found is that the average construction worker can't afford to buy a camper to stay dry and warm. That worker finds a big flaw in the system because he can't afford not to work. If he refuses the job that is offered to him that day, he doesn't know if he'll get another that season. The poorer workers are discriminated against because of their financial status.

* Some people have claimed that this bill will work against local hire because it will be easier for outside workers to come up and be fed and housed by the contractor. The exact opposite is true - the more people a contractor hires near the actual jobsite, the less he will have to provide food and housing for.

* Furthermore, contractors who come up from outside and successfully bid on a job tell a lot of their people to get up to Alaska early and they often drive up in their campers ready to go to work. The the leave with out spending much of their money inside Alaska.

* The draft CS you have before you is the result of a few years of negotiations with DOTPF and the AGC. I hope you will find it in your hearts to alleviate the deplorable working conditions remote construction workers have to live with at the job site.

HB 90

HOUSE COMMITTEE REPORT

(11)

Date Referred: February 19, 1991

FURTHER REFERRALS:

Date of Committee Action: 2/25/91

The FINANCE Committee considered:

HB 90

HOUSE BILL NO. 90

FINES AND RESTITUTION IN CRIMINAL CASES

"An Act relating to fines and restitution in criminal cases."

RECOMMENDATIONS:

be replaced with _____ [the same title
 [a new title

[] have attached amendments(s)

[] do pass

[] do not pass

[] no recommendations

[] individual recommendations

[] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

[] fiscal impact _____

[] fiscal note(s) _____

[] zero fiscal note Alaska Court System 2/25

[] zero fiscal note(s) DPS 2/19/91 | Law 2/19/91

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

	Check appropriate column:	Do Not Pass	No Rec	Amend
Machear	<i>Eileen P. Machear</i>			
Navarre	<i>Mike Spawan</i>			
Burnes	<i>Danora Burnes</i>			
Boyer	<i>Walter Boyer</i>			
Sharp	<i>Bob Sharp</i>			
Jacko	<i>Greg Jacko</i>			
Wapner	<i>John E. Wapner</i>			
Ulmer	<i>John Ulmer</i>			

Navarre Eileen P. Machear
Mike Spawan
 Co-Chairman's Signature

HOUSE BILL NO. 90

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE ULMER

Introduced: 2/1/91

Referred: Judiciary, Finance

A BILL**FOR AN ACT ENTITLED**

1 "An Act relating to fines and restitution in criminal cases."

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

3 * Section 1. PURPOSE. It is the purpose of this Act to ensure full payment of fines imposed in
4 criminal cases and to make full restitution available to all persons who have been injured as a result of
5 criminal behavior, to the greatest extent possible, by

6 (1) requiring courts to consider whether a defendant has the ability to pay fines and
7 restitution at a hearing held after a defendant has failed to pay, rather than asking courts to predict at
8 the time of sentencing whether a defendant will have the ability to pay fines and restitution in the future;

9 (2) requiring a defendant who has failed to pay a fine or restitution to come forward with
10 evidence justifying why the fine or restitution was not paid;

11 (3) allowing courts to order that restitution be made to all persons who have suffered a
12 loss as a result of a defendant's conduct; and

13 (4) allowing courts to order restitution for expenses that will be incurred after the date
14 of sentencing.

1 * Sec. 2. AS 12.55.035(a) is amended to read:

2 (a) Upon conviction of an offense, a defendant may be sentenced to pay a fine as
3 authorized in this section or as otherwise authorized by law. [IN DETERMINING THE
4 AMOUNT AND METHOD OF PAYMENT OF A FINE, THE COURT SHALL TAKE INTO
5 ACCOUNT THE FINANCIAL RESOURCES OF THE DEFENDANT AND THE NATURE OF
6 THE BURDEN ITS PAYMENT WILL IMPOSE. NO DEFENDANT MAY BE IMPRISONED
7 SOLELY BECAUSE OF INABILITY TO PAY A FINE.]

8 * Sec. 3. AS 12.55.045(a) is amended to read:

9 (a) The court may order a defendant convicted of an offense to make restitution as
10 provided in this section, including restitution to the victim or other person injured by the
11 offense, to a public, private, or private nonprofit organization that has provided or is or will be
12 providing counseling, medical, or shelter services to the victim or other person injured by the
13 offense, or as otherwise authorized by law. [A DEFENDANT IS PRESUMED TO HAVE THE
14 ABILITY TO PAY RESTITUTION UNLESS THE DEFENDANT ESTABLISHES THE
15 INABILITY TO PAY BY A PREPONDERANCE OF THE EVIDENCE.] In determining the
16 amount and method of payment of restitution, the court shall take into account the

17 (1) public policy that favors requiring criminals to compensate for damages and
18 injury to their victims; and

19 (2) financial burden placed on the victim and those who provide services to the
20 victim and other persons injured by the offense as a result of the criminal conduct of the
21 defendant [; AND

22 (3) FINANCIAL RESOURCES OF THE DEFENDANT AND THE NATURE OF
23 THE BURDEN ITS PAYMENT WILL IMPOSE ON DEPENDENTS OF THE DEFENDANT].

24 * Sec. 4. AS 12.55.051(a) is amended to read:

25 (a) If the defendant defaults in the payment of a fine or any installment or of restitution
26 or any installment, the court may order the defendant to show cause why the defendant should
27 not be sentenced to imprisonment for nonpayment and, if the payment was made a condition
28 of the defendant's probation, may revoke the probation of the defendant. In a contempt
29 or probation revocation proceeding brought as a result of failure to pay a fine or
30 restitution, it is an affirmative defense that the defendant was unable to pay despite having
31 made continuing good faith efforts [. IF THE STATE PRESENTS EVIDENCE OF THE

1 DEFENDANT'S FAILURE TO PAY RESTITUTION, THE COURT MAY PRESUME THAT
2 THE DEFENDANT HAS INTENTIONALLY REFUSED TO PAY THE FINE OR
3 RESTITUTION OR HAS NOT MADE A GOOD FAITH EFFORT TO PAY THE FINE OR
4 RESTITUTION UNLESS THE DEFENDANT PRESENTS SOME EVIDENCE THAT THE
5 DEFENDANT'S FAILURE TO PAY THE FINE OR RESTITUTION WAS NOT
6 INTENTIONAL OR THAT THE DEFENDANT HAS MADE A GOOD FAITH EFFORT] to
7 pay the fine or restitution. If the court finds that the defendant was unable to pay despite
8 having made continuing good faith efforts, the defendant may not be imprisoned solely
9 because of the inability to pay. If the court does not find [FINDS BY A PREPONDERANCE
10 OF THE EVIDENCE] that the default was attributable to the defendant's inability to pay
11 despite having made continuing good faith efforts [AN INTENTIONAL REFUSAL OR
12 FAILURE TO MAKE A GOOD FAITH EFFORT] to pay the fine or restitution, the court may
13 order the defendant imprisoned until the order of the court is satisfied. A term of imprisonment
14 imposed under this section may not exceed one day for each \$50 of the unpaid portion of the fine
15 or restitution or one year, whichever is shorter. Credit shall be given toward satisfaction of the
16 order of the court for every day a person is incarcerated for nonpayment of a fine or restitution.

17 * Sec. 5. AS 12.55.051(c) is repealed and reenacted to read:

18 (c) A defendant who has been sentenced to pay a fine or restitution may request a
19 hearing regarding the defendant's ability to pay the fine or restitution at any time that the
20 defendant is required to pay all or a portion of the fine or restitution. The court may deny the
21 request if it has previously considered the defendant's ability to pay and the defendant's request
22 does not allege changed circumstances. If at a hearing under this subsection, the defendant
23 proves by a preponderance of the evidence that the defendant will be unable through good faith
24 efforts to satisfy the order requiring payment of the fine or restitution, the court shall modify the
25 order so that the defendant can pay the fine or restitution through good faith efforts. The court
26 may reduce the fine or restitution ordered, change the payment schedule, or otherwise modify the
27 order.

FISCAL NOTE

No. 1

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Jill Version: HB 90
(H) Publish Date: 2/19/91

Revision Date: _____
Title: An act relating to fines and
restitution in criminal cases.
Sponsor: Rep. Ulmer
Requestor: House Judiciary

Department Affected: Public Safety
BRU: Alaska State Troopers
Component: Detachments

COMPONENT SERIAL NO.

	7	9	9
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EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not Included)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER/PROG RCPT						
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

Estimate of current year impact none

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact anticipated.

Prepared by: Gayle A. Horetski Phone: 465-4322
Division: Commissioner's Office Date: 2/13/91
Approved by Commissioner: *Gayle A. Horetski* for Richard L. Burton
Agency: Department of Public Safety Date: 2/13/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

No. 2
Bill Version: HB 90
(H) Publish Date: 2/19/91

Revision Date: _____ Department Affected: Department of Law
Title: "An Act relating to fines and restitution in criminal cases." BRU: Prosecution/Legal Services
Sponsor: Representative Ulmer Component: Prosecution/Criminal Justice Litigation
Requestor: House Judiciary Legal Services/Operations
COMPONENT SERIAL NO.

		8	9
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9 3

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Prepared By: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: February 12, 1991
 Approved by Commissioner: Charles E. Cole, Attorney General
 Agency: Department of Law Date: February 12, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HR 90

Revision Date: _____ Department Affected: Alaska State Court System
Title: An Act relating to fines and restitution in criminal cases. BRU: _____
Component: _____

Sponsor: Representative Ulmer
Requestor: HOUSE FINANCE COMMITTEE COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
----------------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Representative Mike Navarre, Co-Chair *[Signature]* 465-3706
Representative Eileen MacLean, Co-Chair *[Signature]* Phone: 465-3722
Division: _____ Date: _____

Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Alaska State Legislature

HOUSE OF REPRESENTATIVES



REPRESENTATIVE FRAN ULMER

MEMORANDUM

February 21, 1991

To: Representative *Mike* Navarre, Co-chair
Representative Eileen MacLean, Co-chair
House Finance Committee

From: Representative *Fran* Ulmer

Subject: HB90, relating to fines and restitution in criminal cases

HB 90 deals with fines and restitution ordered by the court in criminal cases. The bill will improve efficiency and will benefit the victims of crime. The Department of Law indicates that as a result of this bill, there will be an increase in the amount of fines that are actually collected by the state. The Council on Domestic Violence and Sexual Assault is supportive of the bill because it removes obstacles in awarding restitution to all persons who are injured by a crime.

The bill includes:

1. An amendment to statutes to require the court to consider whether a defendant has the ability to pay fines and restitution after the defendant has failed to pay, rather than at the time of sentencing. The court will no longer have to guess at what the defendant's financial situation might be in the future when the fine or restitution is due.
2. An amendment requiring the defendant who has failed to pay a fine or restitution to present evidence justifying why payment has not been made. The defendant's financial situation is best known to the defendant, and inability to pay is best addressed by the defendant.
3. An amendment to empower the court to award restitution to persons other than "the victim," who suffered a loss as a

District 4B — Juneau

P.O. Box V • Juneau, Alaska 99811-3100 • (907) 465-4947



Recycled Paper

page 2

result of the defendant's conduct.

4. An amendment to empower the court to award restitution for a victim's future expenses, incurred after the date of sentencing.

HB 90 is supported by the Department of Law and the Council on Domestic Violence and Sexual Assault.

BILL NO: HB 90

DATE: February 21, 1991

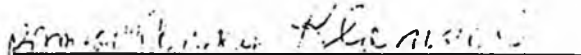
TITLE: An Act relating to fines
and restitution in criminal cases

CONTACT: Barbara Miklos
Executive Director
Council on Domestic Violence
and Sexual Assault

COUNCIL ON DOMESTIC VIOLENCE
AND SEXUAL ASSAULT

The Council on Domestic Violence and Sexual Assault supports HB 90 which ensures that all persons who have been injured as a result of criminal behavior will receive full restitution to the greatest extent possible.

This bill removes obstacles in awarding restitution for victims of crimes and enables the court to award restitution to other persons injured by an offense. Other family members are often traumatized when a crime is committed against someone in their family. For example, sexual assault of a spouse, son or daughter, or sibling has grave effects on other family members. Those persons often require counseling and support services or suffer financial losses from the crime. Payment for services required, as well as financial losses, should be made by the offender.


Andy Klamsner, Chair
Council on Domestic Violence
and Sexual Assault

RESTITUTION

Memorandum

Alaska Court System

TO: Arthur H. Snowden, II
Administrative Director

DATE: February 13, 1991

FROM: Susan Miller
Special Projects

SUBJ: House Bill 90
on Fines and
Restitution

Comments from Judge Hunt

Section 3, lines 10-13 and line 20. In this section, the court is allowed to consider restitution to an "other person injured by the offense" and to organizations who provide services to such an "other person." To the extent that such other persons come forward (or are brought forward by probation officers doing presentence reports), it is expected that it will take additional hearing time to establish the nature and extent of their injury and its connection to the defendant's offense.

Lines 11 and 12 of this section also add the words "or is or will be providing" to the sentence about who may receive restitution. Thus, the new law will allow restitution not only to organizations that have provided services to the victim, but also to organizations that are currently providing services or will in the future provide services. The need to present evidence to establish the need for and the cost of such future services will likely require additional time at the sentencing hearings.

Comments from Judge Beckwith

Section 1. To the extent that the intent of this legislation as expressed in the "Purpose" section is accomplished, it appears that there will be more post-judgment hearings. Currently, defendants who cannot pay their fines sometimes ask the court (either at sentencing or later) to convert the fine to community work service. To the extent that the judges stop considering ability to pay at the time of sentencing, there will probably be an increase in the number of such requests and other requests to modify sentences.

Arthur H. Snowden, II
February 13, 1991
Page 2

It will probably still be necessary for judges to consider the defendant's ability to pay at the time of sentencing in order to frame an appropriate sentence. Although the apparent purposes of this legislation are laudable, defendants often do not have the resources to adequately compensate even the main victim.

Swan

Judge Justin Ripley called this a.m. to comment upon Uhlmer's bill, HB90. As far as I could follow him, he related the following:

Section 3(a) - In the second line "or other person injured" is vague. There will be additional litigation to define scope, more hearing time.

Section 4(a) - In the sixth line "it is an affirmative defense" shifts the burden to the defendant. The defense will argue this is an unfair shift. If it was the State's burden they might or might not pursue, but the defense will consider not to assert defense as malpractice. This will cause more hearing time.

Section 4(a), page 3 of bill, line numbered 9, the language that is being taken out is that the court finds by preponderance of the evidence. The change lowers the standard, which will require more argument, more hearing time to decide.

He went on to talk about that in felony cases there are people like the p.o. to check up on people and make sure they are paying their fines and restitution, but in misdemeanors there is no one to do that so the courts will have to, and that will cause a lot more hearings, especially in district court and magistrateland. He also said that it is his understanding that the AG will follow-up on fines, but they do not do restitution, so the courts will have to do restitution.

HB 90

SENATE FINANCE COMMITTEE REPORT

DATE: 4/19/91

FURTHER:

DATE TURNED INTO OFFICE: 5-6-91

The Finance Committee considered HOUSE BILL NO. 90

"An Act relating to fines and restitution in criminal cases."

and recommended:

replace with _____ CS
 or adopt S CS HR 90 (Jud)
 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):
Dept/Date:

fiscal note(s) _____

zero fiscal note(s) _____

appropriation-no fiscal note

APPROVES PREVIOUS:
Dept/Date:

fiscal note(s) _____

zero fiscal note(s) At. Courts 2/22/91
DPS 2/13/91
DOH 2/12/91

SIGNING DO PASS:

[Signature]
[Signature]

OTHER RECOMMENDATIONS:

Al Adams - No Rec
Dick Stutz - No Rec.
Rich Kelly (No Rec)

1. [Signature] 2. [Signature]
Co-Chairs: Signatures and Recommendations

FISCAL NOTE

No. 1
 Bill Version: HB 90
 (H) Publish Date: 2/19/91

STATE OF ALASKA
 1991 LEGISLATIVE SESSION

Revision Date: _____
 Title: An act relating to fines and restitution in criminal cases.
 Sponsor: Rep. Ulmer
 Requestor: House Judiciary

Department Affected: Public Safety
 BRU: Alaska State Troopers
 Component: Detachments

COMPONENT SERIAL NO.

	7	9	9
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EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not Included)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
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)

GENERAL FUND						
FEDERAL FUNDS						
OTHER/PROG RCPT						
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

Estimate of current year impact none

Changes in Sen. Sullivan
 have no fiscal impact. This
 fiscal note is appropriate.
4-16-91 CS
 date Comte Aide (initial)
Changes in

ANALYSIS: (Attach a separate page if necessary)
 No fiscal impact anticipated.

Prepared by: Gayle A. Horetski Phone: 465-4322
 Division: Commissioner's Office Date: 2/13/91
 Approved by Commissioner: Gayle A. Horetski for Richard L. Burton
 Agency: Department of Public Safety Date: 2/13/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

No. 2

Bill Version: HB 90

(H) Publish Date: 2/19/91

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Revision Date: _____ Department Affected: Department of Law
 Title: "An Act relating to fines and restitution in criminal cases." BRU: Prosecution/Legal Services
 Component: Prosecution/Criminal Justice Litigation
 Sponsor: Representative Ulmer Legal Services/Operations
 Requestor: House Judiciary COMPONENT SERIAL NO.

		8	9
		9	3

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Changes in Sec. 29, HB 90, Act,
have no fiscal impact. This
fiscal note is appropriate.

April 19-91
date Comte Aide (initial)

Changes in ()

Prepared By: Richard I. Pegues, Director Phone: 465-3672

Division: Administrative Services Date: February 12, 1991

Approved by Commissioner: Charles E. Cole, Attorney General

Agency: Department of Law Date: February 12, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 90

This bill amends AS 12.55 to clarify existing laws regarding the imposition of fines and restitution in criminal cases to ensure the full payment of fines and to make full restitution available to all persons who have been injured as a result of criminal behavior.

In so doing, the bill requires courts to consider whether a defendant has the ability to pay fines and restitution at hearing held after a defendant has failed to pay, rather than asking courts to predict at the time of sentencing whether a defendant will have the ability to pay in the future. It also requires a defendant who has failed to pay to come forward with evidence justifying why the fine or restitution was not paid. It allows courts to order that restitution be made to all persons who have suffered a loss as a result of a defendant's conduct. And it allows courts to order restitution for expenses that will be incurred after the date of sentencing.

As a consequence of these changes, it is likely that more fines and restitution orders will be imposed, and at higher amounts. These are sentencing provisions and they will not have a fiscal impact of the Department of Law's prosecution activities. These changes will, however, have a positive impact on the department's Legal Services activities, which include the collection of unpaid criminal and civil fines that are owed to the state. Although we cannot predict the amount of additional funds that will be collected, there will certainly be an increase. Furthermore, the penalty provisions provided in the bill will also provide a needed incentive to defendants to pay overdue fines to the state, as well as an incentive to pay restitution to victims and others who have suffered a loss as a result of a defendant's criminal behavior.

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

No. 3
Bill Version: HB 90
(H) Publish Date: 2/27/91

Revision Date: _____ Department Affected: Alaska State Court System
Title: An Act relating to fines and restitution in criminal cases. BRU: _____
Component: _____

Sponsor: Representative Ulmer
Requestor: HOUSE FINANCE COMMITTEE COMPONENT SERIAL NO.

--	--	--	--

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
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)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

have no fiscal impact. This fiscal note is appropriate.

ANALYSIS: (Attach a separate page if necessary.)

4-19-91 date DB Comte Aide(initial)

Prepared By: Representative Mike Navarre, Co-Chair Phone: 455-3706
Representative Eileen MacLean, Co-Chair Phone: 465-3722
Division: _____ Date: _____

Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

SENATE CS FOR HOUSE BILL NO. 90 (JUDICIARY)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 4/19/91
Referred: Finance

Sponsor(s): REPRESENTATIVE ULMER

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to fines and restitution in criminal cases."

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

3 * Section 1. PURPOSE. It is the purpose of this Act to ensure full payment of fines imposed in
4 criminal cases and to make full restitution available to all persons who have been injured as a result of
5 criminal behavior, to the greatest extent possible, by

6 (1) requiring courts to consider whether a defendant has the ability to pay fines and
7 restitution at a hearing held after a defendant has failed to pay, rather than asking courts to predict at
8 the time of sentencing whether a defendant will have the ability to pay fines and restitution in the future;

9 (2) requiring a defendant who has failed to pay a fine or restitution to come forward with
10 evidence justifying why the fine or restitution was not paid;

11 (3) allowing courts to order that restitution be made to all persons who have suffered a
12 loss as a result of a defendant's conduct; and

13 (4) allowing courts to order restitution for expenses that will be incurred after the date
14 of sentencing.

1 * Sec. 2. AS 12.55.035(a) is amended to read:

2 (a) Upon conviction of an offense, a defendant may be sentenced to pay a fine as
3 authorized in this section or as otherwise authorized by law. [IN DETERMINING THE
4 AMOUNT AND METHOD OF PAYMENT OF A FINE, THE COURT SHALL TAKE INTO
5 ACCOUNT THE FINANCIAL RESOURCES OF THE DEFENDANT AND THE NATURE OF
6 THE BURDEN ITS PAYMENT WILL IMPOSE. NO DEFENDANT MAY BE IMPRISONED
7 SOLELY BECAUSE OF INABILITY TO PAY A FINE.]

8 * Sec. 3. AS 12.55.045(a) is amended to read:

9 (a) The court may order a defendant convicted of an offense to make restitution as
10 provided in this section, including restitution to the victim or other person injured by the
11 offense, to a public, private, or private nonprofit organization that has provided or is or will be
12 providing counseling, medical, or shelter services to the victim or other person injured by the
13 offense, or as otherwise authorized by law. [A DEFENDANT IS PRESUMED TO HAVE THE
14 ABILITY TO PAY RESTITUTION UNLESS THE DEFENDANT ESTABLISHES THE
15 INABILITY TO PAY BY A PREPONDERANCE OF THE EVIDENCE.] In determining the
16 amount and method of payment of restitution, the court shall take into account the

17 (1) public policy that favors requiring criminals to compensate for damages and
18 injury to their victims; and

19 (2) financial burden placed on the victim and those who provide services to the
20 victim and other persons injured by the offense as a result of the criminal conduct of the
21 defendant [; AND

22 (3) FINANCIAL RESOURCES OF THE DEFENDANT AND THE NATURE OF
23 THE BURDEN ITS PAYMENT WILL IMPOSE ON DEPENDENTS OF THE DEFENDANT].

24 * Sec. 4. AS 12.55.045 is amended by adding new subsections to read:

25 (e) If a court proposes to order a defendant to pay restitution under this section of less
26 than \$5,000, and the defendant's sentence does not include a period of unsuspended incarceration
27 exceeding 90 days, the court may take into account at the time of sentencing the defendant's
28 present and future ability to pay the restitution proposed. The court shall presume that the
29 defendant has the ability to pay the amount proposed unless the defendant at the sentencing
30 hearing establishes by a preponderance of the evidence the inability to pay the amount proposed.

31 (f) Except as provided by (e) of this section, the court may not, in ordering the amount

1 of restitution, consider the defendant's ability to pay restitution.

2 * Sec. 5. AS 12.55.051(a) is amended to read:

3 (a) If the defendant defaults in the payment of a fine or any installment or of restitution
4 or any installment, the court may order the defendant to state the cause why the defendant should
5 not be sentenced to imprisonment for nonpayment and, if the payment was made a condition
6 of the defendant's probation, may revoke the probation of the defendant. In a contempt
7 or probation revocation proceeding brought as a result of failure to pay a fine or
8 restitution, it is an affirmative defense that the defendant was unable to pay despite having
9 made continuing good faith efforts [IF THE STATE PRESENTS EVIDENCE OF THE
10 DEFENDANT'S FAILURE TO PAY RESTITUTION, THE COURT MAY PRESUME THAT
11 THE DEFENDANT HAS INTENTIONALLY REFUSED TO PAY THE FINE OR
12 RESTITUTION OR HAS NOT MADE A GOOD FAITH EFFORT TO PAY THE FINE OR
13 RESTITUTION UNLESS THE DEFENDANT PRESENTS SOME EVIDENCE THAT THE
14 DEFENDANT'S FAILURE TO PAY THE FINE OR RESTITUTION WAS NOT
15 INTENTIONAL OR THAT THE DEFENDANT HAS MADE A GOOD FAITH EFFORT] to
16 pay the fine or restitution. If the court finds that the defendant was unable to pay despite
17 having made continuing good faith efforts, the defendant may not be imprisoned solely
18 because of the inability to pay. If the court does not find [FINDS BY A PREPONDERANCE
19 OF THE EVIDENCE] that the default was attributable to the defendant's inability to pay
20 despite having made continuing good faith efforts [AN INTENTIONAL REFUSAL OR
21 FAILURE TO MAKE A GOOD FAITH EFFORT] to pay the fine or restitution, the court may
22 order the defendant imprisoned until the order of the court is satisfied. A term of imprisonment
23 imposed under this section may not exceed one day for each \$50 of the unpaid portion of the fine
24 or restitution or one year, whichever is shorter. Credit shall be given toward satisfaction of the
25 order of the court for every day a person is incarcerated for nonpayment of a fine or restitution.

26 * Sec. 6. AS 12.55.051(c) is repealed and reenacted to read:

27 (c) A defendant who has been sentenced to pay a fine or restitution may request a
28 hearing regarding the defendant's ability to pay the fine or restitution at any time that the
29 defendant is required to pay all or a portion of the fine or restitution. The court may deny the
30 request if it has previously considered the defendant's ability to pay and the defendant's request
31 does not allege changed circumstances. If at a hearing under this subsection, the defendant

1 proves by a preponderance of the evidence that the defendant will be unable through good faith
2 efforts to satisfy the order requiring payment of the fine or restitution, the court shall modify the
3 order so that the defendant can pay the fine or restitution through good faith efforts. The court
4 may reduce the fine or restitution ordered, change the payment schedule, or otherwise modify the
5 order.

BILL NO: HB 90

DATE: February 21, 1991

TITLE: An Act relating to fines
and restitution in criminal cases

CONTACT: Barbara Miklos
Executive Director
Council on Domestic Violence
and Sexual Assault

COUNCIL ON DOMESTIC VIOLENCE
AND SEXUAL ASSAULT

POSTER

The Council on Domestic Violence and Sexual Assault supports HB 90 which ensures that all persons who have been injured as a result of criminal behavior will receive full restitution to the greatest extent possible.

This bill removes obstacles in awarding restitution for victims of crimes and enables the court to award restitution to other persons injured by an offense. Other family members are often traumatized when a crime is committed against someone in their family. For example, sexual assault of a spouse, son or daughter, or sibling has grave effects on other family members. Those persons often require counseling and support services or suffer financial losses from the crime. Payment for services required, as well as financial losses, should be made by the offender.

Andy Klamsner
Andy Klamsner, Chair
Council on Domestic Violence
and Sexual Assault

HB 92

HOUSE BILL NO. 92

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE BY REQUEST

Introduced: 2/1/91

Referred: State Affairs, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing an exemption for the judicial retirement system."

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

3 * Section 1. AS 09.38.015(b) is amended to read:

4 (b) The right to benefits held by the state on behalf of an individual that [WHICH] may
5 become payable by reason of disability, unemployment, or illness, amounts held in the teachers',
6 judicial, or public employees' retirement system, and child support collections made by the child
7 support enforcement agency are exempt.

8 * Sec. 2. AS 22.25 is amended by adding a new section to read:

9 Sec. 22.25.100. EXEMPTION OF RETIREMENT FUNDS AND BENEFITS. Employee
10 contributions and other amounts held in the judicial retirement system and benefits payable under
11 this chapter are exempt from garnishment, execution, and levy as provided in AS 09.38 (Alaska
12 Exemptions Act).

HB 96

HOUSE COMMITTEE REPORT

(11)

Date Referred: March 1, 1991

FURTHER REFERRALS:

Date of Committee Action: 3/13/91

The FINANCE Committee considered:

HB 96

HOUSE BILL NO. 96

FREE TUITION: PERSIAN GULF POWS, MIA, ETC

"An Act relating to free tuition and fees for dependents of certain state residents involved in the Persian Gulf crisis or lost in action in Southeast Asia."

RECOMMENDATIONS: [] the same title
 be replaced with CS HB 96 (HES) [] a new title

[] have attached amendments(s)

do pass

[] do not pass

[] no recommendations

[] individual recommendations

[] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (C-; /Date) _____

[] fiscal impact _____

[] fiscal note(s) _____

[] zero fiscal note _____

[X] zero fiscal note(s) VA 2/12/91
VA 2/11/91

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Eileen M. ...</i>					
<i>Mike ...</i>					
<i>Mark ...</i>	X				
<i>R. ...</i>					
<i>Lanana ...</i>					
<i>Ken ...</i>					
<i>...</i>	X				
<i>...</i>	X				
<i>...</i>	X				
<i>...</i>	X				
<i>...</i>	X				

Mike ...
 CHAIRMAN'S SIGNATURE

CS FOR HOUSE BILL NO. 96 (HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 3/1/91

Referred: Finance

Sponsor(s): REPRESENTATIVES HUDSON, Ivan, Gruenberg, Barnes, Larson, M.A. Miller

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to free tuition and fees for dependents of certain state residents involved
2 in the Persian Gulf crisis or in hostilities in Southeast Asia."

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

4 * Section 1. AS 14.43.080 is amended to read:

5 Sec. 14.43.080. FREE TUITION AND FEES AT STATE-SUPPORTED
6 EDUCATIONAL INSTITUTIONS. (a) A [ANY] dependent of a bona fide Alaska resident who
7 died as a result of [, WHILE] serving during the hostilities involving the United States forces
8 in Southeast Asia or the Persian Gulf or [,] was listed by the United States Department of
9 Defense as a prisoner of war or missing in action in Southeast Asia or the Persian Gulf may
10 attend any state-supported educational institution without payment of tuition and fees.

11 (b) In this section,

12 (1) "dependent" means a dependent spouse or child;

13 (2) "resident" means a person who resided in the state for at least one year
14 before serving in Southeast Asia or the Persian Gulf and who lists the state of Alaska as the

1 home state for purposes of military records.

FISCAL NOTE

No. 1

Bill Version: HB 96

(H) Publish Date: 2/13/91

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Revision Date: _____ Department Affected: University of Alaska
 Title: An Act Relating to Free Tuition and Fees for Dependents of Certain State Residents Involved in the Persian Gulf BRU: ALL Component: _____
 Sponsor: Rep. Hudson, Ivan, Gruenberg, Barnes, Larson
 Requestor: House Military Affairs COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year impact: 0

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Marsha Hubbard Phone: 474-7593
 Division: Statewide Budget Office Date: February 11, 1991
 Approved by Commissioner: Brian Rogers, Vice President for Finance
 Agency: University of Alaska Date: February 11, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

COMMITTEE COPY

FISCAL NOTE

No. 2

Bill Version: HB 96

(H) Publish Date: 2/13/91

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Revision Date: _____ Department Affected: Military & Veterans Affairs

Title: Tuition and fees of dependents of BRU: _____

Alaskans in Persian Gulf crisis Component: _____

Sponsor: Hudson

Requestor: House DMVA COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0					

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

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	0					
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact on DMVA

Prepared By: Jeff Morrison, Director Phone: 465-4600

Division: Administrative & Support Services Division Date: February 12, 1991

Approved by Commissioner: MG Hugh L. Cox III *by J Morrison*

Agency: Military & Veterans Affairs Date: Feb. 12, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).



Alaska State Legislature

REPRESENTATIVE BILL HUDSON

P.O. Box V
Juneau, Alaska
99811
(907)465-3744 or 4991

February 28, 1991

COMMITTEES

CHAIR
House Special Committee
on Oil & Gas

MEMBER
Resources
Transportation
International Trade & Tourism

FINANCE SUBCOMMITTEE:
Department of Transportation
and Public Facilities

Representative Eileen MacLean
and
✓ Representative Mike Navarre
Co-Chairs - House Finance Committee
Alaska State Legislature
Juneau, Alaska

Dear Representatives MacLean and Navarre:

This morning HB 96, relating to free tuition and fees for dependents of certain state residents involved in the Persian Gulf crisis or in hostilities in Southeast Asia, was heard in the House HESS Committee, and a committee substitute by that committee was adopted and passed out with a unanimous "do pass."

The next committee of referral for HB 96 is to the House Finance Committee.

It would be very much appreciated if you would consider calendaring this legislation for a hearing at the earliest possible date.

HB 96 seeks to amend AS 14.43.080(a). The existing statute provides for free tuition at state supported educational institutions for dependents of Alaskans listed as missing in action or prisoners of war in the Vietnam war. Passage of HB 96 will make this educational benefit available to dependents of Alaskans who died as a result of injuries sustained in the Persian Gulf hostilities or who is listed as a prisoner of war or missing in action.

A zero fiscal note has been prepared by the University of Alaska, and the Office of Postsecondary Education has indicated there would not be an impact to their agency.

No one has contacted me or my staff to voice opposition to this legislation.



A letter in support authored by Mr. Joseph Murdy, representing the Disabled Veterans of Alaska is attached, as is a resolution in support of this bill prepared and adopted by the Southeast District of the American Legion. Also attached is a position paper prepared by the Department of Military and Veterans Affairs, together with that department's zero fiscal note.

I feel strongly that if we lose Alaskan soldiers in Operation Desert Storm, we must provide for the education of their dependents.

Your favorable consideration to this request for a Finance Committee hearing will be very much appreciated. If you have questions, or if you need further information, please call me or Landa Holtan at 3744.

Respectfully,


Bill Hudson

BH:lh

Attachments

DEPARTMENT OF MILITARY AND VETERANS AFFAIRS


POSITION PAPER
HB96

Summary of Bill: This bill provides free tuition and fees at state-supported educational institutions for dependents of Alaskan residents who participate in the ongoing Persian Gulf Conflict and who are listed as prisoners of war, missing in action, or lost in action.

Background: The bill amends an existing statute which provided the same benefits to dependents of Alaskan residents who were POWs or missing in the Vietnam war.

Impact of Resolution of Department of Military and Veterans Affairs: None

Departmental Position: The department supports the bill.

Approved:  Date: Feb 12, 1991
MG Hugh L. Cox

DAV



Motto: "If I cannot speak good of my comrade, I will not speak ill of him."

DISABLED AMERICAN VETERANS

Anchorage Chapter 1

HEADQUARTERS
4040 Mt. View Dr.
Anchorage, Alaska 99508
(907) 276-2844 or 276-2846

VETERANS CRISIS CENTER
(907) 276-2848
1-800-478-2848

February 11, 1991

Representative Bill Hudson
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Dear Rep. Hudson

Thank you for giving the Disabled American Veterans an opportunity to address your bill on free tuition and fees for dependents of certain state residents involved in the Persian Gulf crisis.

It is the position of the DAV that an Alaskan family who loses a loved one or one that becomes a POW is entitled to all the benefits we as Alaskans can give, and that includes most of all education for their children. The price we as Alaskans have to pay is small compared to the sacrifice men and women of our armed forces make to preserve peace.

HB 96 provides for taking care of these needs and we of the DAV go on record as supporting this legislation. We stand ready to assist you in any way necessary to pass the bill.

We the veterans of Alaska commend you for putting forth this type of legislation that is needed in the situation of the present conflict in the Persian Gulf.

If you have any questions or need further assistance regarding this issue, please do not hesitate to contact me.

Respectfully,

A handwritten signature in cursive script that reads "Joseph Murdy".

Joseph Murdy
Legislative Affairs Chairman

Resolution No. 91-05

Resolution of Support of H.B. No. 88 and No. 96

WHEREAS, the House of Representatives has introduced HB-88 and 96 forgiveness of scholarship loans; and,

WHEREAS, many students are/were actively attending courses of study; and,

WHEREAS, any student who is unable to complete a course of studies because of condition beyond their control; and,

WHEREAS, any dependent of State residents involved in the S.E. Asia, Grenada, Panama or Persian Gulf crisis is either a P.O.W./M.I.A. may attend any State supported educational institution without payment of tuition and fees; and,

THEFORE BE IT RESOLVED, by the American Legion, Southeast District, that Alaska Legislature adopt bills, H.B. 88 and H.B. 96, and that language include the above concerns.

HB 96

SENATE FINANCE COMMITTEE REPORT

DATE: 5/14/91

FURTHER:

DATE TURNED INTO OFFICE: 5/15/91

The Finance Committee considered CS FOR HOUSE BILL NO. 96 (HES) am

"An Act relating to free tuition and fees for a spouse or dependent of certain state residents who died while serving in the United States armed services or who were listed as prisoners of war or missing in action."

and recommended:

- replace with _____ CS _____ same title
- or adopt CS HB 96 (HES) new title
- attached amendment(s) technical title change (HB only)
- _____ letter of intent adopted
- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to _____

ATTACHES NEW FISCAL NOTE(S):

APPROVES PREVIOUS:

Dept/Date:
 fiscal note(s) _____

Dept/Date:
 fiscal note(s) _____

zero fiscal note(s) _____

zero fiscal note(s) 5/15/91
DMBA 5/15/91

appropriation-no fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

[Handwritten signatures]

1. _____

2. *[Handwritten signature]*

FISCAL NOTE

No. 1
 Bill Version: HB 96
 (H) Publish Date: 2/13/91

STATE OF ALASKA
 1991 LEGISLATIVE SESSION

Revision Date: _____ Department Affected: University of Alaska
 Title: An Act Relating to Free Tuition and Fees for Dependents of Certain State Residents Involved in the Persian Gulf BRU: ALL
 Component: _____
 Sponsor: Rep. Hudson, Ivan, Gruenberg, Barnes, Larson
 Requestor: House Military Affairs COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year impact: 0

ANALYSIS: (Attach a separate page if necessary.)

Changes in SCS(SHBA) (HB) have no fiscal impact. This fiscal note is appropriate.

14/2/91 date MAF Comite Aide (initial)

Prepared By: Marsha Hubbard Phone: 474-7593

Division: Statewide Budget Office Date: February 11, 1991

Approved by Commissioner: Brian Rogers, Vice President for Finance

Agency: University of Alaska Date: February 11, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

COMMITTEE COPY

FISCAL NOTE

No. 2

Bill Version: HB 96

(H) Publish Date: 2/13/91

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Revision Date: _____ Department Affected: Military & Veterans Affairs

Title: Tuition and fees of dependents of BRU: _____

Alaskans in Persian Gulf crisis Component: _____

Sponsor: Hudson

Requestor: House DMVA COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0					

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

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	0					
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact:

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact on DMVA

Changes in SCSOS HB 96 (HES) have no fiscal impact. This fiscal note is appropriate.

5/14/91 date MA by [Signature] Comte Aided (Initial)

Prepared By: Jeff Morrison, Director Phone: 465-4600

Division: Administrative & Support Services Division Date: February 12, 1991

Approved by Commissioner: MG Hugh L. Cox III by [Signature]

Agency: Military & Veterans Affairs Date: Feb. 12, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

No. 3

Bill Version: SCSCS HR 96 (HE)

(S) Publish Date: 5/14/91

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Revision Date: _____ Department Affected: Education
 Title: Free tuition and fees for BRU: Alaska Vocational Technical Center
dependents of certain state residents Component: Alaska Vocational Technical Center
 Sponsor: House HES
 Requestor: Hudson COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Mary Hakala Phone: 465-2800
 Division: Commissioner's Office Date: 5/9/91
 Approved by Commissioner: Steve Hole, Acting Commissioner
 Agency: Education Date: 5/9/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).