

ALASKA LEGISLATURE

HOUSE and SENATE FINANCE COMMITTEE FILES, 1993-1994

976

50

THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
HARBOR SPECIAL REPORT

DATE
2/10/93

<u>NAME OF HARBOR</u>	<u>HARBOR CAPACITY</u>	<u>OWNER</u>	<u>SQ. FT. FLOAT</u>	<u>PILES</u>	<u>GRID</u>	<u>LAUNCH RAMP</u>	<u>BREAKWATERS</u>
PETERSBURG MITKOF L. R.		DOT			No	16'x138'	
PETERSBURG NORTH HARBOR	128	DOT	24,844	101	20'x210', 3 tons per bent, 8'-0" on center	16'x400'	
PETERSBURG PAPKE'S LANDING	9	DOT	1,625	6	No	No	
PETERSBURG SOUTH HARBOR	126	DOT	44,946		20'x200', 30 tons per bent, 8'-0" on center	16'x200' w/ 6'x260' float	no
POINT BAKER FLOAT	27	DOT	4,660	14	16'x49', 3 tons per bent	No	
PORT ALEXANDER INNER HARBOR	15	DOT	2,500	7	18'x48', 5 tons per bent, 8'-0" on center	No	
PORT ALEXANDER OUTER HARBOR	24	DOT	2,625	11	yes, community owned	No	
PORT LIONS SMALL BOAT HARBOR	119	DOT	19,606	87	16'x80' w/ 12'x40' appr.	No	725' main & 150' stub BW
PORT PROTECTION REFUGE & SKIFF FLOATS	15	DOT	2,500	17	32'x48', 7.5 tons per bent, 8'-0" on center	No	

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QUARTZ LAKE LAUNCH RAMP		DOT				Yes	
SALCHA RIVER LAUNCH RAMP		DOT				Yes	
SAND POINT BOAT HARBOR	230	DOT	45,250		Yes	No	2 breakwaters
SELDOVIA BOAT HARBOR	142	DOT	20,542		1-20'x102' & 1-20'x106'	1-lane	1-600' & 1-400' rock BW
SEWARD BOAT HARBOR	540	DOT	58,464		1-grid	4-lane w/ float	1-1,750' & 1-1,060
SITKA CITY (ANB) FLOAT	107	CITY	19,699	78	Yes	No	13'x352' floating BW
SITKA CITY GRID		DOT			1-18'x64', 1-18'x72' & 2-22'x100, 35 ton limit	No	
SITKA CRESCENT HARBOR	413	DOT	55,296		No	12'x136'	1-1,430 rock BW & 1-335' rock jetty
SITKA - PROPOSED CHANNEL ROCK BOAT							

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SITKA SEALING COVE HARBOR	398	DOT	35,996		No	16'x150' LH w/ 6'x220 float	
SITKA THOMSEN HARBOR	266	DOT	26,356		No	No	20'x1,500' & 20'x550' floating BW's & 500' rock BW
SKAGWAY HARBOR	165	DOT	28,695		1-18'x80' & 1-16'x42'	2-lane w/ 6'x220' float	400' rock BW
ST. GEORGE HARBOR		CITY					
ST. PAUL HARBOR		CITY			NO	No	
SWANSON HARBOR REFUGE FLOAT	9	DOT	2,000	6	No	No	
TATITLEK DOCK		DOT			No	No	
TENAKEE SPRINGS HARBOR	56	DOT	12,613	38	16'x51', 5 ton per bent, 8'-6" on center	No	1-40'x320' & 1-20'x380 floating BW
THORNE LAY CITY HBR.		CITY			No	No	

THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
HARBOR SPECIAL REPORT

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UNALASKA SMALL BOAT HARBOR	30	DOT	12,649		No	No	
VALDEZ HARBOR	500	DOT/CITY	58,750		Yes	Yes	1-625' & 1-685'
WHITTIER BOAT HARBOR	338	DOT	40,008		2 grids, 1-18x64	2- 2 lane LR w/ sectional floats	1-1,650' rubblemound and 1-130' floating BW
WRANGELL FISH AND GAME FLOAT	36	DOT/CITY	7,832				
WRANGELL INNER HARBOR	142	DOT	15,320				
WRANGELL RELIANCE HARBOR	86	DOT	13,520				
WRANGELL SHOEMAKER BAY HARBOR	259	DOT	29,048		No	16'x208' LR w/ 6'x226' float	1-1,500' & 1-550' rubblemound BW
WRANGELL STANDARD OIL FLOAT	36	DOT	4,640				
YAKUTAT HARBOR	106	DOT	15,536		18'x48' , 6 ton per bent, 8'-6" on center	16'x100' LR w/ 6'x140' float	

Alaska State Legislature

Legislative Research Agency



130 Seward Street, Suite 218
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Phone: (907) 465-3991
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April 8, 1992

MEMORANDUM

TO: Representative Mike Navarre

FROM: Dale O. Brandt^{DB}
Legislative Analyst

RE: History of Motor Fuel Tax Rate
Research Request 92.225

You asked us to provide a history of the Alaska motor fuel tax rate from its inception to the most recent changes. Attached is a table showing the year changes took place, applicable session laws, tax rates, fuel types and fuel uses. Note that the current 8 cents/gallon gasoline tax for highway use was set in 1970, not in 1961 as is stated in House Research Agency Memorandum 89.254. Also attached is an outline of fuel tax rates and administrative changes provided by the Alaska Department of Revenue.

We hope this information is useful. Please contact this agency if you have questions or need additional information.

Attachments

Laws of Alaska 1982

Sec. 1, 2 & 3 do not relate.

Sec. 4 AS 43.40.010 was amended to make provision for the Certificate of Use to be used by a dealer when the fuel purchased is not intended for use as motor fuel. It exempts the dealer from liability for the tax if he obtains a properly executed Certificate of Use.

Sec. 5 AS 43.40.030 (b) provides the entire tax be refunded to the purchaser on that part of motor fuel used in a foreign country on which the tax has been paid when the fuel is sold and delivered in the state for non-highway use in a foreign country.

Sec. 6 AS 43.40.035 establishes the means by which a reseller may claim a refund on tax for fuel on which the tax was paid, but which is sold for tax exempt purposes.

Sec. 7 AS 43.40.050 (a) makes changes to above statute to do with way to claim a refund.

Sec. 8 same as above.

Sec. 9 same as above.

Sec. 10 AS 43.40.100 (2) add 5 additional exemptions from motor fuel.

Sec. 11 AS 43.40.100 (3) changes definition of User to:

- (3) "user" means a person consuming or using motor fuel, who either
 - (A) purchases the fuel out of the state and ships it into the state for personal use in the state;
 - (B) manufactures the fuel in the state; or
 - (C) purchases or receives fuel in the state that is not taxed at the time of purchase or receipt or is taxed at a rate that is less than the rate prescribed by AS 43.40.010.

Sec. 12 AS 43.40.100 adds a paragraph to define "qualified dealer".

Sec. 13 deals with delinquency in payment of tax and interest charged.

Sec. 14 deals with commercial fisheries - not motor fuel.

Sec. 15 says the Department may not collect motor fuel tax from dealer on sale or transfer of motor fuel that occurs before effective date of this Act if dealer did not collect tax from purchaser because of a reasonable belief that fuel was not to be used as motor fuel.

Laws of Alaska 1972

An Act relating to an exemption from the tax on transfers or consumption of motor fuel.

Sec. 1 AS 43.40.010 (a) (2) is amended to read:

(2) the tax on motor fuel used in engines for the propulsion of boats and watercraft of all descriptions is four cents a gallon; if a person claims an exemption for nonpropulsion use under this paragraph, he shall sign a statement at the time of the sale or transfer attesting to the fact that the amount of fuel for which he claims the exemption will be used only for nonpropulsion use aboard a boat or watercraft, and

Sec. 2 makes the same exemption for users. These two sections have the effect of exempting from tax all fuel used for cooking and heating (non-propulsion) use aboard watercraft.

Sec. 3 adds a new subsection (g) to AS 43.40.010 relating to the non-taxation of liquified petroleum gas.

Sec. 4 amends penalty for violation section to include a person who claims nonpropulsion use of fuel as exempt, and uses it for propulsion.

Laws of Alaska 1970

An Act.

Sec. 1 AS 43.40.010 (a) amended to reflect change in tax rates.

(a) (1) Tax on motor fuel is 8¢ per gallon on all motor fuel sold or otherwise transferred within the State - except that

(2) tax on aviation gas is 4¢ per gallon.

(3) tax on all aviation fuel other than gasoline is 2 1/2¢ per gallon.

Sec. 2, same tax is imposed on consumers or users.

Sec. 3 is to do with filing returns.

Sec. 4 changes amount of refund for non-highway use.

Sec. 5 states books and records shall be kept for 3 years.

Sec. 6, 43.40.100 (1.) defines "dealer" to read:

(1) "dealer" means a person who sells or otherwise transfers in this state motor fuel upon which the taxes imposed by this chapter have not been paid;

Sec. 7, 43.40.100 (3) defines "user" to read:

(3) "user" means a person consuming or using motor fuel, who either purchases the fuel out of the state and ships it into the state for his own use within the state or manufactures the fuel in the state.

Sec. 8 repeals 43.40.110 & 120 repeals additional tax levies on transfers or consumption of motor fuel (1¢ additional tax on watercraft fuel).

Laws of Alaska 1962

Chapter 131

Sec. 1, Sec. 48-5-2 (c) ACLA 1949 as amended by CH 47, SLA 1955 is amended to:

Change filing time from quarterly to monthly.

Sec. 2, Sec. 48-5-2 (f), ACLA 1949, as added by Ch 47, SLA 1955, and amended by Ch 152, SLA 2957 is amended to read:

"(f) The monies herein collected from the taxes on motor fuel used in boats and watercraft of all descriptions shall be covered into a special "watercraft fuel tax" account in the general fund. The legislature may appropriate from this account for water and harbor facilities."

This changed the name of "Water and Harbor Facilities Fund" and changed expenditures to be made from that account from the jurisdiction of the Department of Public Works to the Legislature. It was still to be used for water and harbor facilities.

Sec. 3, Sec. 48-5-2 (h) as last amended by Ch. 27, SLA 1957 is repealed and reenacted. This section stated that motor fuel refund claims shall be paid from the "highway fuel tax" account.

Sec. 4, Sec. 3, Ch. 47, SLA 1955 is amended to change way to obtain motor fuel refund permit.

Sec. 5, Sec. 7, Ch. 47, SLA 1955 states that a warrant shall be drawn on the "highway fuel tax" account for payment of refund claims.

Sec. 6, Sec. 3, Ch. 63, SLA 1960 is changed to read:

"Sec. 3. The tax levied by this Act shall be administered and collected in the same manner as the tax levied in Sec. 48-5-2, ACLA 1949, as amended, and the receipts from said tax shall be paid into the "watercraft fuel tax" account in the general fund of the state."

Change is underlined. This changes the fund for which the special 1¢ tax on all fuel used in boats, etc. is to be deposited, from the General Fund to the "watercraft fuel tax account."

Laws of Alaska 1960

Chapter 20

Sec. 1, Sec. 48-5-2 ACLA 1949 (e)

Changes wording on "Aviation fuel tax account."

Sec. 2, Sec. 48-5-2 (g)

Changes authority for disbursement of funds from special "Highway fuel tax fund" from Dept. of Public Works to the Legislature.

Chapter 150

Sec. 1, Sec. 48-5-2 (g) is further amended to change the way highway construction projects are bid and managed.

Laws of Alaska 1960

Chapter 63

Sec. 1. Levies an additional 1¢ per gallon on all motor fuel sold and delivered, or otherwise transferred, within the State, and which is used to propel boats and watercraft of all descriptions.

In other words, the commercial fisherman will be paying 3¢ per gallon tax on marine fuel, as will everyone else.

Sec. 2. States that the tax levied in Sec. 1 is in addition to the tax already in effect.

Sec. 3. Provides that this additional 1¢ tax will be put into the general fund.

Laws of Alaska 1957

Chapter ~~135~~ 134

Sec. 1 adds a tax of 1 1/2¢ per gallon on all aviation fuel other than gasoline (jet fuel) for both "Dealer" and "Users".

Chapter 152

Article V Sec. 2 Water and Harbor Facilities: Amends § (f) of Sec. 48-5-2 ACLA 1949 to read:

"Sec.2. Water and Harbor Facilities Fund. Subsection (f) of Sec. 48-5-2, ACLA 1949, as amended by CH. 47, SLA 1955, is hereby amended to read as follows:

(f) The monies herein collected from the taxes on motor fuel used in boats and watercraft of all descriptions shall be covered into a special fund in the Territorial Treasury to be known as the "Water and Harbor Facilities Fund", and shall be expended by the Alaska Highways and Public Works Board as nearly as practicable in the Division where collected, and be expended for water and harbor facilities.

The only change was as underlined, from "Highway Engineer" to "Alaska Highways and Public Works Board."

Laws of Alaska 1957 Chapter 27

Relating to tax on motor fuel used in commercial fishing craft by commercial fisherman;

Sec. 1 amends tax levy on motor fuel. This section leaves the tax at 5¢ per gallon on all motor fuel except aviation, which remains at 3¢ per gallon, and states that the tax on motor fuel used in commercial fishing crafts for purposes of commercial fishing is 2¢ per gallon.

This tax is levied on both "dealer" and "user".

Sec. 2 deals with method which Tax Commissioner allocates monies between different accounts - aviation, boats or motor fuel.

Sec. 3 provides for refund of 3¢ per gallon on motor fuel used in vehicles not licensed to be operated on highways, except aviation fuel or motor fuel used in commercial fishing crafts for purposes of commercial fishing.

Sec. 9 amends Sec. 48-5-1 ACLA 1949 Definition of Motor Fuel
Changed to read:

Sec. 58-5-1. (a) "Motor Fuel" means any and all fuel used in engines for the propulsion of motor vehicles, aircraft, boats and watercraft of all descriptions, and in all stationary engines, machines or mechanical contrivances which are propelled by internal combustion motors; except on consignments of motor fuel oil to foreign countries and except fuel used in stationery power plants operating as public utility plants and generating electrical energy for sale to the general public or by non-profit power associations or corporations for generating electric energy for resale or by charitable institutions.

Underlined part has been changed slightly.

Sec. 10; repeals subsection 4 of Sec. 14 A of Chap. 123 SLA 1949.
This is the section setting up the Aeronautical Revolving Fund.

Sec. 1 (a) was amended to read:

(a) "Motor Fuel" means any and all fuel used in engines for the propulsion of motor vehicles, aircraft, boats and watercraft of all descriptions, and in all stationary engines, machines, or mechanical contrivances which are propelled by internal combustion motors; except on consignments of motor fuel oil to foreign countries and except fuel used in stationary power plants operated by municipally owned public utilities or by non-profit power associations or corporations for generating electric energy for resale or by charitable institutions. The underlined part is new.

Definition of "Dealer" and "User" remained the same. Tax rate remained the same (2¢).

Laws of Alaska 1946

Chapter 47

Sec. 1 Definition

(a) was amended to add
except on consignments of motor fuel oil to foreign countries.

(b) was changed from 2 parts into 1 part, "Dealer" was defined the same as 1945. Definition of user was dropped.

(c) was added to define "User" as "any person, firm or corporation consuming or using any motor fuel, who shall have purchased such fuel out of the Territory and shipped it into the Territory for his or its own use within the Territory"

Sec. 2

Tax remained at 1¢ per gallon "on all motor fuel consumed by any user as above set forth."

The rest of the Act dealt with returns and penalties.

Alaska State Legislature

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REPRESENTATIVE
JERRY MACKIE

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House of Representatives

March 18, 1993

MEMORANDUM

To: Representative Larson, Co-Chair
Representative MacLean, Co-Chair
House Finance Committee

From: Representative Mackie 

Re: Scheduling of HB 143, municipal revenue sharing of watercraft fuel tax.

I respectfully request that HB 143 be scheduled for a hearing at your earliest convenience. The following is attached for the information of committee members:

1. Sponsor statement.
2. Sectional analysis.
3. Dept. of Revenue Fiscal note & DOTPF position paper.
4. A partial listing of public dock and harbor facilities located throughout the state.
5. Memorandum on the history of motor fuel tax enactments by the state and territorial legislatures.
6. Letters of support.

In both the CRA and Trans committee, committee members as well as myself had serious concerns about the size and appropriateness of the fiscal note. Some reduction ideas were discussed which I wish to share with you. In each committee, however, the fiscal note issue was reserved for resolution by the finance committee.

Thank you for your consideration of this request.

HB

144

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred: February 10, 1993

FURTHER REFERRALS:

Date of Committee Action: 3/12/93

The FINANCE Committee considered:

HB 144

HOUSE BILL NO. 144

FEE FOR PFD ASSIGNMENTS/CLAIMS

"An Act relating to fees for certain costs of administering the permanent fund dividend program."

RECOMMENDATIONS: the same title
 be replaced with _____ 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 Revenue

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Donald J. Larson</i>		<i>Eileen P. Muehlen</i>		X	
<i>Terry Martin</i>		<i>Mark Hanley</i>		X	
		<i>Ken Parnell</i>		X	
		<i>Jan Gussendorf</i>		X	
		<i>Tom Hoffman</i>			✓
		<i>Tom Brown</i>			✓
		<i>Gene Theriault</i>			✓
		<i>Mike Navarre</i>			✓
		<i>Richard Foster</i>			☹

Donald J. Larson
 CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 144

Revision Date:		Dept. Affected:	Revenue
Title:	An Act relating to fees for certain costs of administering the permanent fund dividend program.	BRU:	Permanent Fund Dividend
Sponsor:	House Finance Committee	Component:	Permanent Fund Dividend
Requester:	House Finance Committee	COMPONENT SERIAL NO.	981

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE FUND SOURCE:	60.0	60.0	60.0	60.0	60.0	60.0

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ -0-

ANALYSIS: (Attach a separate page if necessary)

See Attached.

Prepared by:	<u>Thomas C. Williams</u>	Phone: <u>465-2323</u>
Division:	<u>Permanent Fund Dividend</u>	Date: <u>02-17-93</u>
Approved by Commissioner:		Date: <u>2/17/93</u>
Agency:	<u>Department of Revenue</u>	

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ALASKA DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND DIVISION

ANALYSIS OF HB 144

As of February 17, 1993

Expenditures

The only costs to implement this legislation would relate to the required regulation notice and adoption procedures plus a limited amount of data processing programming.

If the required regulations were advertised in conjunction with other pending regulation amendments, additional costs of this legislation would not be significant.

Revenues

The revenues generated by the adoption of a processing fee would be deposited *into the dividend fund*, offsetting the costs of processing attachments.

ALASKA DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND DIVISION
1989 - 1992 PFD ATTACHMENT & ASSIGNMENT ACTIVITY

As of January 25, 1993

<u>PFD Year Services Held (A)</u>	<u>4 Year Total</u>	<u>1992</u>	<u>1991</u>	<u>1990</u>	<u>1989</u>
<u>Attachments (B)</u>					
IRS (Federal Taxes) (C)	48,877	18,166	12,413	11,548	6,750
Non-municipal Writs served by					
Process Servers (Judgements) (C)	30,114	9,374	8,218	6,462	6,060
ACPE (Student Loan Delinquencies)	26,678	8,575	7,282	5,997	4,824
CSED (Child Support Delinquencies)	29,118	7,892	7,571	7,112	6,543
Municipal Writs (Fines & Taxes)	5,644	1,200	1,224	1,323	1,897
PFD (Repayment of Dividends)	2,513	721	760	549	483
Certified Services (Judgements) (C)	565	565	(D)	(D)	(D)
DOL (Employment Taxes)	577	139	121	127	190
IEAD (State Taxes)	191	20	34	52	85
Court Orders (Judgements)	<u>27</u>	<u>5</u>	<u>1</u>	<u>20</u>	<u>1</u>
<u>Total Attachments</u>	144,304	46,657	37,624	33,190	26,833
<u>Assignments (E)</u>	<u>15,960</u>	<u>4,628</u>	<u>3,753</u>	<u>4,502</u>	<u>3,077</u>
<u>Total PFD Year Services Held</u>	<u>160,264</u>	<u>51,285</u>	<u>41,377</u>	<u>37,692</u>	<u>29,910</u>

Notes

(A) The figures reported for 1989-1991 are for the period April 1 through March 31 of the year indicated. The 1992 figures are for the period April 1, 1992 through December 31, 1992.

(B) The attachment figures represent the number of attachments that actually were held. Some of the attachments received are returned because they are for an individual who is not on file. Others correspond to individuals who are on file but are released by the individual or agency filing the attachment before the department makes payment. The figures reported correspond to unreleased attachments held during the periods indicated.

Not all these attachments received funds. For example, an individual may have been attached by both CSED and the IRS. If the CSED attachment equaled or exceeded the amount of the dividend, CSED would receive the entire dividend, and IRS would receive nothing. However, the statistics would still reflect 2 attachments.

(C) Until December 30, 1990 the exemption from attachment for these items was 50%. Effective January 1, 1991 the exemption from attachment for these items was reduced to 45% by § 3, Ch 198, SLA 1990.

(D) Certified services were only available starting in 1992 as a result of amendments to AS 43.23.065 enacted by Ch 52, SLA 92.

(E) Since 1989 assignments can only be made to governmental agencies or a court.

ELECTIVE DISTRICT 14
ELMENDORF A.F.B.
EAST ANCHORAGE
GOVERNMENT HILL

REP. TERRY MARTIN



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355 DONNA DR., #11
ANCHORAGE, AK 99504
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DURING SESSION
P.O. BOX V
STATE CAPITOL BUILDING
JUNEAU, AK 99811
PHONE: 465-3783

Alaska House of Representatives

MEMORANDUM

TO: House Finance Committee

FROM: Representative Terry Martin *T.M.*

DATE: February 16, 1993

SUBJECT: House Bill 144,

An Act relating to fees for certain costs of administering
the permanent fund dividend program.

This bill is designed to transfer the costs of administering permanent fund dividend assignments and attachments back to the person whose financial obligations are the cause of the assignment or attachment.

As you know, the amount of every Alaskan's permanent fund dividend is affected by the cost of operating the Permanent Fund Dividend Division. The attached table shows that the Division processed over 51,000 attachments and assignments in 1992.

If we pass HB 144, the cost of processing the attachment or assignment will be paid by the obligor instead of being absorbed by the Division as a cost of doing business. The net effect of this bill will be that every Alaskan's dividend will be increased, albeit by a small amount; and those Alaskans whose financial practices cause their dividends to be attached or assigned will pay a fee for the cost of the extra handling and processing of their PFDs.

ALASKA DEPARTMENT OF REVENUE
 PERMANENT FUND DIVIDEND DIVISION
1989 - 1992 PFD ATTACHMENT & ASSIGNMENT ACTIVITY

As of January 25, 1993

<u>PFD Year Services Held (A)</u>	<u>4 Year Total</u>	<u>1992</u>	<u>1991</u>	<u>1990</u>	<u>1989</u>
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CSED (Child Support Delinquencies)	29,118	7,892	7,571	7,112	6,543
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<u>Total PFD Year Services Held</u>	<u>160,264</u>	<u>51,285</u>	<u>41,377</u>	<u>37,692</u>	<u>29,910</u>

Notes

(A) The figures reported for 1989-1991 are for the period April 1 through March 31 of the year indicated. The 1992 figures are for the period April 1, 1992 through December 31, 1992.

(B) The attachment figures represent the number of attachments that actually were held. Some of the attachments received are returned because they are for an individual who is not on file. Others correspond to individuals who are on file but are released by the individual or agency filing the attachment before the department makes payment. The figures reported correspond to unreleased attachments held during the periods indicated.

Not all these attachments received funds. For example, an individual may have been attached by both CSED and the IRS. If the CSED attachment equaled or exceeded the amount of the dividend, CSED would receive the entire dividend, and IRS would receive nothing. However, the statistics would still reflect 2 attachments.

(C) Until December 30, 1990 the exemption from attachment for these items was 50%. Effective January 1, 1991 the exemption from attachment for these items was reduced to 45% by § 3, Ch 198, SLA 1990.

(D) Certified services were only available starting in 1992 as a result of amendments to AS 43.23.065 enacted by Ch 52, SLA 92.

(E) Since 1989 assignments can only be made to governmental agencies or a court.

(8) adopt regulations that establish procedures for an individual to apply to have a dividend warrant reissued if it is returned to the department as undeliverable or it is not paid within two years of the date of its issuance; however, the department may not establish a time limit within which an application to have a warrant reissued must be filed. (§ 1 ch 102 SLA 1982; am § 2 ch 55 SLA 1983; am § 3 ch 43 SLA 1984; am § 3 ch 54 SLA 1988; am § 5 ch 68 SLA 1990; am § 14 ch 4 SLA 1992)

Effect of amendments. — The 1992 amendment, effective January 1, 1993, re-wrote paragraph (2) and added paragraph (8).

Effective date of amendment. — The

amendment to (2) of this section, and the addition of (8) of this section, made by § 14, ch. 4, SLA 1992, are effective January 1, 1993. For the statute as it read before that date, see the main pamphlet.

Sec. 43.23.065. Exemption of and levy on permanent fund dividends. (a) Except as provided in (b) of this section, 45 percent of the annual permanent fund dividend payable to an individual is exempt from levy, execution, garnishment, attachment, or any other remedy for the collection of debt. This exemption applies to an eligible individual's permanent fund dividend both before and after payment is made to the individual. No other exemption applies to a dividend. Notwithstanding other laws, a writ of execution upon a dividend that has not been delivered to the debtor may be served on the commissioner by certified mail, return receipt requested. Upon receipt of a writ by certified mail, return receipt requested, the commissioner shall deliver that portion of the dividend executed upon to the court along with the case name and number.

(b) An exemption is not available under this section for permanent fund dividends taken to satisfy

(1) child support obligations required by court order or decision of the child support enforcement agency under AS 25.27.140 — 25.27.220;

(2) court ordered restitution under AS 12.55.045 — 12.55.051 or 12.55.100;

(3) claims on defaulted scholarship loans under AS 43.23.067;

(4) court ordered fines;

(5) a debt owed by an eligible individual to an agency of the state, unless the debt is contested and an appeal is pending, or the time limit for filing an appeal has not expired.

(c) Claims listed in (b) of this section have priority in the order listed over other claims on a permanent fund dividend whether payments are sought through legal actions for the collection of debts or through assignments from the debtor.

(d) An assignment of or levy, execution, garnishment, attachment, or other remedy for the collection of debt applied to a dividend for a year may not be accepted by the department before April 1 of that

same year. AS 09.38.080(c) and 09.38.085 do not apply to a levy on a permanent fund dividend. The department shall include the case number with a dividend or portion of a dividend transmitted to the court in response to a writ of execution or other court order. At the time payment is made to the court, the department shall send to the individual at the address provided in the individual's dividend application and to the court that issued the writ or order a notice that contains

(1) notification that all or part of the individual's dividend has been seized under a writ of execution or court order;

(2) the name and address of the court that issued the writ or order;

(3) the case number for which the writ or order was issued;

(4) the amount seized under the writ or order; and

(5) notification that the individual has 30 days from the date the notice is mailed in which to file with the court an objection to the seizure if a mistake has been made. (§ 1 ch 102 SLA 1982; am § 1 ch 157 SLA 1984; am § 1 ch 57 SLA 1985; am § 67 ch 138 SLA 1986; am § 3 ch 26 SLA 1989; am § 3 ch 198 SLA 1990; am §§ 3, 4 ch 52 SLA 1992)

Effect of amendments. — The 1992 amendment, effective June 11, 1992 added the last three sentences in subsection (a); in subsection (b), added paragraphs (3) and (4), redesignated former paragraph (3) as paragraph (5), and made

stylistic changes; added "whether payments are sought through legal actions for the collection of debts or through assignments from the debtor" to subsection (c); and added subsection (d).

Sec. 43.23.067. Claims of defaulted scholarship loans. (a) AS 09.38 does not apply to permanent fund dividends taken under AS 14.43.120(i). Notwithstanding AS 09.35, execution on a claim under AS 14.43.120(i) is accomplished by delivering a certified claim to the department containing the following information:

(1) the name and social security number of the individual whose dividend is being claimed;

(2) the amount the individual owes on the scholarship loan; and

(3) a statement that

(A) the debt has not been contested, or, if contested, that the issue has been resolved in favor of the Alaska Commission on Postsecondary Education; and

(B) if the debt has been contested and resolved in favor of the Alaska Commission on Postsecondary Education, no appeal is pending, the time limit for filing an appeal has expired, or the appeal has been resolved in favor of the commission.

(b) The Alaska Commission on Postsecondary Education shall notify the individual of a claim under (a) of this section. The notice shall be sent to the address provided in the individual's permanent fund dividend application and must provide the following information:

(1) the amount of the claim; and

(2) notice that the amount of the permanent fund dividend that does not exceed the amount of the claim shall be paid to the Alaska Commission on Postsecondary Education unless the commission releases the claim or the individual requests a hearing within 30 days after the date the notice is sent by the commission.

(c) AS 44.62.330 — 44.62.630 apply to a hearing requested by an individual under (b)(2) of this section. (§ 18 ch 92 SLA 1987; am §§ 5, 6 ch 52 SLA 1992)

Effect of amendments. — The 1992 amendment, effective June 11, 1992, in subsection (b), rewrote the first sentence and substituted "commission" for "department" in paragraph (2); and rewrote subsection (c).

Sec. 43.23.069. Assignments. (a) Except as provided in (b) of this section, a person eligible to receive a permanent fund dividend may not assign the right to the dividend. An attempted assignment of the right to receive a permanent fund dividend is against public policy and is void.

(b) A person may assign the right to receive a permanent fund dividend to a federal, state, or municipal government agency or to a court.

(c) For purposes of this section, "state agency" includes a regional housing authority created under AS 18.55.996. (§ 15 ch 4 SLA 1992; am § 17 ch 4 SLA 1992)

Revisor's notes. — Subsection (c) enacted as AS 43.23.095(b). Renumbered in 1992.

SLA 1992 makes this section effective April 1, 1992, in accordance with AS 01.10.070(c).

Effective dates. — Section 21, ch. 4,

Sec. 43.23.095. Definitions. In this chapter,

(1) "Alaska permanent fund" means the fund established by art. IX, § 15 of the state constitution;

(2) *[Repealed, § 38 ch 168 SLA 1990.]*

(3) *[Repealed, § 38 ch 168 SLA 1990.]*

(4) "disabled" means physically or mentally unable to complete and sign an application due to a serious emotional disturbance, visual, orthopedic, or other health impairment, or developmental disability that is attributable to mental retardation, cerebral palsy, epilepsy, autism or other cause; "disabled" does not mean "incompetent";

(5) "dividend fund" means the fund established by AS 43.23.045;

(6) "individual" means a natural person;

(7) "permanent fund dividend" means a right to receive a payment from the dividend fund;

(8) "state resident" means an individual who is physically present in the state with the intent to remain permanently in the state under the requirements of AS 01.10.055 or, if the individual is not physically

HB

144

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

RETURN TO FINANCE FROM RULES

DATE: 2/2/94

FURTHER:

DATE TURNED INTO OFFICE: 2-8-94

The Finance Committee considered HOUSE BILL NO. 144

"An Act relating to fees for certain costs of administering the permanent fund dividend program."

and recommends:

- replace with _____ CS _____ (FINANCE)
- or adopt previous _____ CS _____ (_____)
- attaches amendment(s)

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

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal
Revenue #981	1-18-94	✓	

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

DO PASS:

Tom Kelly
Steve King
Bob Sharp

OTHER RECOMMENDATIONS:

J. K. ... No Pass

1. Irue Pearce
 Co-Chair: Signature/Recommendation

2. Adrian Do Pass
 Co-Chair: Signature/Recommendation

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB 144

Revision Date: 01/18/94 Dept. Affected: Revenue
 Title: Fee for PFD Assignments/Claims BRU: Permanent Fund Dividend
 Component: Permanent Fund Dividend
 Sponsor: House Finance Committee
 Requestor: Senate Finance Committee COMPONENT SERIAL NO. 981

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
SUPPLIES	-0-	-0-	-0-	-0-	-0-	-0-
EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE FUND SOURCE: 1050	110.0	114.0	118.0	122.0	126.0	130.0
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: \$ -0-

ANALYSIS: (Continued on attached page)

Expenditures The only costs to implement this legislation would relate to the required regulation notice and adoption procedures plus approximately two weeks time of an analyst/programmer's time to reprogram the garnishment system. If the required regulations were advertised in conjunction with other pending regulation amendments, additional costs of this legislation would not be significant. The estimated cost of advertising (\$.8) should be able to be absorbed by the Division's FY 94 budget.

Prepared by: Thomas C. Williams *Thomas C. Williams* Phone: 465-2323
 Division: Permanent Fund Dividend Date: 01/18/94
 Approved by Commissioner: *[Signature]* Date: 1/18/94
 Agency: Department of Revenue

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ALASKA DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND DIVISION
ANALYSIS OF HB 144
As of January 18, 1994

Revenues The revenues generated by the adoption of a processing fee would be deposited *into the dividend fund*, offsetting the costs of processing services and assignments received. Revenue projections are based on an estimated annual increase of 2,000 attachments, levies, garnishments, and assignments per year from the 53,075 received in 1993 [see the attached 1985 - 1993 PFD ATTACHMENT AND ASSIGNMENT ACTIVITY, dated January 18, 1994].

Should this legislation be enacted the division would expect to levy a charge for each unreleased attachment or assignment that matched a PFD payment due, even if a garnisher did not receive a payment as a result of their attachment.

To illustrate this approach assume a \$950.00 dividend, a \$2.00/attachment or assignment processing fee, and four attachments levied against John Q. Applicant's dividend. Assume the first attachment is a writ resulting from a private creditor's court judgement of \$400, the second is a \$950 levy by the Internal Revenue Service (IRS), the third is a \$450 claim served by the Alaska Commission on Postsecondary Education (ACPE), and the fourth is a \$1,000 claim by the Child Support Enforcement Division (CSED). The department would withhold \$8 (4 attachments x \$2) and pay CSED the \$942 balance due since CSED has a priority under AS 43.23.065(b)(1) and (c).

In this case, although neither the IRS, ACPE, nor the private creditor received any funds, the department still processed their valid claims.

However, if the IRS released their levy before the dividend was paid, the department would only withhold \$6 (3 unreleased attachments x \$2) and CSED would receive \$944. Although the department still had to process the attachment and the subsequent release, we would not want to charge the applicant for an error by a garnisher.

Recommendation: Add an immediate effective date.

Attachment

ALASKA DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND DIVISION
1989 - 1993 PFD ATTACHMENT AND ASSIGNMENT ACTIVITY

As of January 18, 1994

<u>Services Held</u>	<u>5 Year Total</u>	<u>Permanent Fund Dividend Year (A)</u>				
		<u>1993</u>	<u>1992</u>	<u>1991</u>	<u>1990</u>	<u>1989</u>
<u>Attachments (B)</u>						
IRS (Federal Taxes)	68,594	19,758	18,125	12,413	11,548	6,750
Non-municipal Writs (Judgements) (C)	34,740	7,251	6,749	8,218	6,462	6,060
CSED (Child Support Delinquencies)	36,977	7,868	7,883	7,571	7,112	6,543
ACPE (Student Loan Delinquencies)	34,355	7,684	8,568	7,282	5,997	4,824
Municipal Writs (Fines & Taxes)	5,938	294	1,200	1,224	1,323	1,897
PFDD (Repayment of Dividends)	2,423	525	106	760	549	483
Certified Services (Judgements) (C)	2,510	2,156	354	(D)	(D)	(D)
Department of Law (Judgements)	1,365	1,365	0	0	0	0
DOL (Employment Taxes)	818	267	113	121	127	190
IEAD (State Taxes)	191	0	20	34	52	85
Court Orders (Judgements)	27	0	5	1	20	1
<u>Total Attachments</u>	187,938	47,168	43,123	37,624	33,190	26,833
<u>Assignments (E)</u>	21,867	5,907	4,628	3,753	4,502	3,077
<u>Total Services Held</u>	<u>209,805</u>	<u>53,075</u>	<u>47,751</u>	<u>41,377</u>	<u>37,692</u>	<u>29,910</u>

Notes

- (A) The figures reported for 1989-1992 are for the period April 1 through March 31 of the year indicated. The 1993 figures are for the period April 1, 1993 through December 31, 1993.
- (B) The attachment figures represent the number of attachments that actually were held. Some of the attachments received are returned because they are for an individual who is not on file. Others correspond to individuals who are on file but are released by the individual or agency filing the attachment before the department makes payment. The figures reported correspond to unreleased attachments held during the periods indicated.
- Not all these attachments received funds. For example, an individual may have been attached by both CSED and the IRS. If the CSED attachment equaled or exceeded the amount of the dividend, CSED would receive the entire dividend, and IRS would receive nothing. However, the statistics would still reflect 2 attachments.
- (C) Until December 30, 1990 the exemption from attachment for these items was 50%. Effective January 1, 1991 the exemption from attachment for these items was reduced to 45% by § 3, Ch 198, SLA 1990. Non-municipal Writs are served by Process Servers.
- (D) Certified services were only available starting in 1992 as a result of amendments to AS 43.23.065 enacted by CI, 52, SLA 1992.
- (E) Since 1989 assignments can only be made to governmental agencies or a court.

ALASKA DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND DIVISION

ANALYSIS OF HB 144

As of February 17, 1993

HB 144

NO. 1

pg 2 of 3

Expenditures

The only costs to implement this legislation would relate to the required regulation notice and adoption procedures plus a limited amount of data processing programming.

If the required regulations were advertised in conjunction with other pending regulation amendments, additional costs of this legislation would not be significant.

Revenues

The revenues generated by the adoption of a processing fee would be deposited *into the dividend fund*, offsetting the costs of processing attachments.

Back-up

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 144

Revision Date: _____ Dept. Affected: Revenue
 Title: An Act relating to fees for certain costs of administering the BRU: Permanent Fund Dividend
Permanent fund dividend program. Component: Permanent Fund Dividend
 Sponsor: House Finance Committee.
 Requestor: House Finance Committee COMPONENT SERIAL NO. 981

Expenditures/Revenues: (Thousands of Dollars)

	FY94	FY95	FY96	FY97	FY98	FY99
OPERATING						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
REVENUE FUND SOURCE:	60.0	60.0	60.0	60.0	60.0	60.0

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ -0-

ANALYSIS: (Attach a separate page if necessary)

See Attached.

Prepared by: Thomas C. Williams Phone: 465-2323
 Division: Permanent Fund Dividend Date: 02-17-93
 Approved by Commissioner: [Signature] Date: 2/17/93
 Agency: Department of Revenue

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Revenue fiscal note

ELECTIVE DISTRICT 14
ELMENDORF A.F.B.
EAST ANCHORAGE
GOVERNMENT HILL

REP. TERRY MARTIN

HOME
355 DONNA DR., #11
ANCHORAGE, AK 99504
PHONE: 333-6990

DURING SESSION
P.O. BOX 4
STATE CAPITOL BUILDING
JUNEAU, AK 99811
PHONE: 465-3783

Alaska House of Representatives

MEMORANDUM

TO: House Finance Committee

FROM: Representative Terry Martin *T.M.*

DATE: February 16, 1993

SUBJECT: House Bill 144,

An Act relating to fees for certain costs of administering
the permanent fund dividend program.

This bill is designed to transfer the costs of administering permanent fund dividend assignments and attachments back to the person whose financial obligations are the cause of the assignment or attachment.

As you know, the amount of every Alaskan's permanent fund dividend is affected by the cost of operating the Permanent Fund Dividend Division. The attached table shows that the Division processed over 51,000 attachments and assignments in 1992.

If we pass HB 144, the cost of processing the attachment or assignment will be paid by the obligor instead of being absorbed by the Division as a cost of doing business. The net effect of this bill will be that every Alaskan's dividend will be increased, albeit by a small amount; and those Alaskans whose financial practices cause their dividends to be attached or assigned will pay a fee for the cost of the extra handling and processing of their PFDs.

SPONSOR STATEMENT

ALASKA DEPARTMENT OF REVENUE
 PERMANENT FUND DIVIDEND DIVISION
1989 - 1992 PFD ATTACHMENT & ASSIGNMENT ACTIVITY
 As of January 25, 1993

<u>PFD Year Services Held (A)</u>	<u>4 Year Total</u>	<u>1992</u>	<u>1991</u>	<u>1990</u>	<u>1989</u>
<u>Attachments (B)</u>					
IRS (Federal Taxes) (C)	48,877	18,166	12,413	11,548	6,750
Non-municipal Writs served by Process Servers (Judgements) (C)	30,114	9,374	8,218	6,462	6,060
ACPE (Student Loan Delinquencies)	26,678	8,575	7,282	5,997	4,824
CSED (Child Support Delinquencies)	29,118	7,892	7,571	7,112	6,543
Municipal Writs (Fines & Taxes)	5,644	1,200	1,224	1,323	1,897
PFDD (Repayment of Dividends)	2,513	721	760	549	483
Certified Services (Judgements) (C)	565	565	(D)	(D)	(D)
DOL (Employment Taxes)	577	139	121	127	190
IEAD (State Taxes)	191	20	34	52	85
Court Orders (Judgements)	<u>27</u>	<u>5</u>	<u>1</u>	<u>20</u>	<u>1</u>
<u>Total Attachments</u>	144,304	46,657	37,624	33,190	26,833
<u>Assignments (E)</u>	<u>15,960</u>	<u>4,628</u>	<u>3,753</u>	<u>4,502</u>	<u>3,077</u>
<u>Total PFD Year Services Held</u>	<u>160,264</u>	<u>51,285</u>	<u>41,377</u>	<u>37,692</u>	<u>29,910</u>

Notes

(A) The figures reported for 1989-1991 are for the period April 1 through March 31 of the year indicated. The 1992 figures are for the period April 1, 1992 through December 31, 1992.

(B) The attachment figures represent the number of attachments that actually were held. Some of the attachments received are returned because they are for an individual who is not on file. Others correspond to individuals who are on file but are released by the individual or agency filing the attachment before the department makes payment. The figures reported correspond to unreleased attachments held during the periods indicated.

Not all these attachments received funds. For example, an individual may have been attached by both CSED and the IRS. If the CSED attachment equaled or exceeded the amount of the dividend, CSED would receive the entire dividend, and IRS would receive nothing. However, the statistics would still reflect 2 attachments.

(C) Until December 30, 1990 the exemption from attachment for these items was 50%. Effective January 1, 1991 the exemption from attachment for these items was reduced to 45% by § 3, Ch 198, SLA 1990.

(D) Certified services were only available starting in 1992 as a result of amendments to AS 43.23.065 enacted by Ch 52, SLA 92.

(E) Since 1989 assignments can only be made to governmental agencies or a court.

ALASKA DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND DIVISION

ANALYSIS OF HB 144

As of February 17, 1993

Expenditures

The only costs to implement this legislation would relate to the required regulation notice and adoption procedures plus a limited amount of data processing programming.

If the required regulations were advertised in conjunction with other pending regulation amendments, additional costs of this legislation would not be significant.

Revenues

The revenues generated by the adoption of a processing fee would be deposited *into the dividend fund*, offsetting the costs of processing attachments.

ALASKA DEPARTMENT OF REVENUE
 PERMANENT FUND DIVIDEND DIVISION
1989 - 1992 PFD ATTACHMENT & ASSIGNMENT ACTIVITY

As of January 25, 1993

<u>PFD Year Services Held (A)</u>	<u>4 Year Total</u>	<u>1992</u>	<u>1991</u>	<u>1990</u>	<u>1989</u>
<u>Attachments (B)</u>					
IRS (Federal Taxes) (C)	48,877	18,166	12,413	11,548	6,750
Non-municipal Writs served by					
Process Servers (Judgements) (C)	30,114	9,374	8,218	6,462	6,060
ACPE (Student Loan Delinquencies)	26,678	8,575	7,282	5,997	4,824
CSED (Child Support Delinquencies)	29,118	7,892	7,571	7,112	6,543
Municipal Writs (Fines & Taxes)	5,644	1,200	1,224	1,233	1,897
PFDD (Repayment of Dividends)	2,513	721	760	549	483
Certified Services (Judgements) (C)	565	565	(D)	(D)	(D)
DOL (Employment Taxes)	577	139	121	127	190
IEAD (State Taxes)	191	20	34	52	85
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<u>Assignments (E)</u>	15,960	4,628	3,753	4,502	3,077
<u>Total PFD Year Services Held</u>	160,264	51,285	41,377	37,692	29,910

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(D) Certified services were only available starting in 1992 as a result of amendments to AS 43.23.065 enacted by Ch 52, SLA 92.

(E) Since 1989 assignments can only be made to governmental agencies or a court.

ALASKA DEPARTMENT OF REVENUE
 PERMANENT FUND DIVIDEND DIVISION
1989 - 1993 PFD ATTACHMENT AND ASSIGNMENT ACTIVITY

As of January 18, 1994

<u>Services Held</u>	<u>5 Year Total</u>	<u>Permanent Fund Dividend Year (A)</u>				
		<u>1993</u>	<u>1992</u>	<u>1991</u>	<u>1990</u>	<u>1989</u>
<u>Attachments (B)</u>						
IRS (Federal Taxes)	68,594	19,758	18,125	12,413	11,548	6,750
Non-municipal Writs (Judgements) (C)	34,740	7,251	6,749	8,218	6,462	6,060
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ACPE (Student Loan Delinquencies)	34,355	7,684	8,568	7,282	5,997	4,824
Municipal Writs (Fines & Taxes)	5,938	294	1,200	1,224	1,323	1,897
PFDD (Repayment of Dividends)	2,423	525	106	760	549	483
Certified Services (Judgements) (C)	2,510	2,156	354	(D)	(D)	(D)
Department of Law (Judgements)	1,365	1,365	0	0	0	0
DOL (Employment Taxes)	818	267	113	121	127	190
IEAD (State Taxes)	191	0	20	34	52	85
Court Orders (Judgements)	27	0	5	1	20	1
<u>Total Attachments</u>	<u>187,938</u>	<u>47,168</u>	<u>43,123</u>	<u>37,624</u>	<u>33,190</u>	<u>26,833</u>
<u>Assignments (E)</u>	<u>21,867</u>	<u>5,907</u>	<u>4,628</u>	<u>3,753</u>	<u>4,502</u>	<u>3,077</u>
<u>Total Services Held</u>	<u>209,805</u>	<u>53,075</u>	<u>47,751</u>	<u>41,377</u>	<u>37,692</u>	<u>29,910</u>

Notes

- (A) The figures reported for 1989-1992 are for the period April 1 through March 31 of the year indicated. The 1993 figures are for the period April 1, 1993 through December 31, 1993.
- (B) The attachment figures represent the number of attachments that actually were held. Some of the attachments received are returned because they are for an individual who is not on file. Others correspond to individuals who are on file but are released by the individual or agency filing the attachment before the department makes payment. The figures reported correspond to unreleased attachments held during the periods indicated.
- Not all these attachments received funds. For example, an individual may have been attached by both CSED and the IRS. If the CSED attachment equaled or exceeded the amount of the dividend, CSED would receive the entire dividend, and IRS would receive nothing. However, the statistics would still reflect 2 attachments.
- (C) Until December 30, 1990 the exemption from attachment for these items was 50%. Effective January 1, 1991 the exemption from attachment for these items was reduced to 45% by § 3, Ch 198, SLA 1990. Non-municipal Writs are served by Process Servers.
- (D) Certified services were only available starting in 1992 as a result of amendments to AS 43.23.065 enacted by Ch 52, SLA 1992.
- (E) Since 1989 assignments can only be made to governmental agencies or a court.

(8) adopt regulations that establish procedures for an individual to apply to have a dividend warrant reissued if it is returned to the department as undeliverable or it is not paid within two years of the date of its issuance; however, the department may not establish a time limit within which an application to have a warrant reissued must be filed. (§ 1 ch 102 SLA 1982; am § 2 ch 55 SLA 1983; am § 3 ch 43 SLA 1984; am § 3 ch 54 SLA 1988; am § 5 ch 68 SLA 1990; am § 14 ch 4 SLA 1992)

Effect of amendments. — The 1992 amendment, effective January 1, 1993, rewrote paragraph (2) and added paragraph (8).

Effective date of amendment. — The

amendment to (2) of this section, and the addition of (8) of this section, made by § 14, ch. 4, SLA 1992, are effective January 1, 1993. For the statute as it read before that date, see the main pamphlet.

Sec. 43.23.065. Exemption of and levy on permanent fund dividends. (a) Except as provided in (b) of this section, 45 percent of the annual permanent fund dividend payable to an individual is exempt from levy, execution, garnishment, attachment, or any other remedy for the collection of debt. This exemption applies to an eligible individual's permanent fund dividend both before and after payment is made to the individual. No other exemption applies to a dividend. Notwithstanding other laws, a writ of execution upon a dividend that has not been delivered to the debtor may be served on the commissioner by certified mail, return receipt requested. Upon receipt of a writ by certified mail, return receipt requested, the commissioner shall deliver that portion of the dividend executed upon to the court along with the case name and number.

(b) An exemption is not available under this section for permanent fund dividends taken to satisfy

(1) child support obligations required by court order or decision of the child support enforcement agency under AS 25.27.140 — 25.27.220;

(2) court ordered restitution under AS 12.55.045 — 12.55.051 or 12.55.100;

(3) claims on defaulted scholarship loans under AS 43.23.067;

(4) court ordered fines;

(5) a debt owed by an eligible individual to an agency of the state, unless the debt is contested and an appeal is pending, or the time limit for filing an appeal has not expired.

(c) Claims listed in (b) of this section have priority in the order listed over other claims on a permanent fund dividend whether payments are sought through legal actions for the collection of debts or through assignments from the debtor.

(d) An assignment of or levy, execution, garnishment, attachment, or other remedy for the collection of debt applied to a dividend for a year may not be accepted by the department before April 1 of that

same year. AS 09.38.080(c) and 09.38.085 do not apply to a levy on a permanent fund dividend. The department shall include the case number with a dividend or portion of a dividend transmitted to the court in response to a writ of execution or other court order. At the time payment is made to the court, the department shall send to the individual at the address provided in the individual's dividend application and to the court that issued the writ or order a notice that contains

- (1) notification that all or part of the individual's dividend has been seized under a writ of execution or court order;
- (2) the name and address of the court that issued the writ or order;
- (3) the case number for which the writ or order was issued;
- (4) the amount seized under the writ or order; and
- (5) notification that the individual has 30 days from the date the notice is mailed in which to file with the court an objection to the seizure if a mistake has been made. (§ 1 ch 102 SLA 1982; am § 1 ch 157 SLA 1984; am § 1 ch 57 SLA 1985; am § 67 ch 138 SLA 1986; am § 3 ch 26 SLA 1989; am § 3 ch 198 SLA 1990; am §§ 3, 4 ch 52 SLA 1992)

Effect of amendments. — The 1992 amendment, effective June 11, 1992 added the last three sentences in subsection (a); in subsection (b), added paragraphs (3) and (4), redesignated former paragraph (3) as paragraph (5), and made

stylistic changes; added "whether payments are sought through legal actions for the collection of debts or through assignments from the debtor" to subsection (c); and added subsection (d).

Sec. 43.23.067. Claims of defaulted scholarship loans. (a) AS 09.38 does not apply to permanent fund dividends taken under AS 14.43.120(i). Notwithstanding AS 09.35, execution on a claim under AS 14.43.120(i) is accomplished by delivering a certified claim to the department containing the following information:

- (1) the name and social security number of the individual whose dividend is being claimed;
- (2) the amount the individual owes on the scholarship loan; and
- (3) a statement that
 - (A) the debt has not been contested, or, if contested, that the issue has been resolved in favor of the Alaska Commission on Postsecondary Education; and
 - (B) if the debt has been contested and resolved in favor of the Alaska Commission on Postsecondary Education, no appeal is pending, the time limit for filing an appeal has expired, or the appeal has been resolved in favor of the commission.

(b) The Alaska Commission on Postsecondary Education shall notify the individual of a claim under (a) of this section. The notice shall be sent to the address provided in the individual's permanent fund dividend application and must provide the following information:

(1) the amount of the claim; and

(2) notice that the amount of the permanent fund dividend that does not exceed the amount of the claim shall be paid to the Alaska Commission on Postsecondary Education unless the commission releases the claim or the individual requests a hearing within 30 days after the date the notice is sent by the commission.

(c) AS 44.62.330 — 44.62.630 apply to a hearing requested by an individual under (b)(2) of this section. (§ 18 ch 92 SLA 1987; am §§ 5, 6 ch 52 SLA 1992)

Effect of amendments. — The 1992 amendment, effective June 11, 1992, in subsection (b), rewrote the first sentence and substituted "commission" for "department" in paragraph (2); and rewrote subsection (c).

Sec. 43.23.069. Assignments. (a) Except as provided in (b) of this section, a person eligible to receive a permanent fund dividend may not assign the right to the dividend. An attempted assignment of the right to receive a permanent fund dividend is against public policy and is void.

(b) A person may assign the right to receive a permanent fund dividend to a federal, state, or municipal government agency or to a court.

(c) For purposes of this section, "state agency" includes a regional housing authority created under AS 18.55.996. (§ 15 ch 4 SLA 1992; am § 17 ch 4 SLA 1992)

Revisor's notes. — Subsection (c) enacted as AS 43.23.095(b). Renumbered in 1992. SLA 1992 makes this section effective April 1, 1992, in accordance with AS 01.10.070(c).

Effective dates. — Section 21, ch. 4,

Sec. 43.23.095. Definitions. In this chapter,

(1) "Alaska permanent fund" means the fund established by art. IX, § 15 of the state constitution;

(2) *[Repealed, § 38 ch 168 SLA 1990.]*

(3) *[Repealed, § 38 ch 168 SLA 1990.]*

(4) "disabled" means physically or mentally unable to complete and sign an application due to a serious emotional disturbance, visual, orthopedic, or other health impairment, or developmental disability that is attributable to mental retardation, cerebral palsy, epilepsy, autism or other cause; "disabled" does not mean "incompetent";

(5) "dividend fund" means the fund established by AS 43.23.045;

(6) "individual" means a natural person;

(7) "permanent fund dividend" means a right to receive a payment from the dividend fund;

(8) "state resident" means an individual who is physically present in the state with the intent to remain permanently in the state under the requirements of AS 01.10.055 or, if the individual is not physically

Billy

ELECTIVE DISTRICT 14
ELMENDORF A.F.B.
EAST ANCHORAGE
GOVERNMENT HILL

REP. TERRY MARTIN

HOME
355 DONNA DR., #11
ANCHORAGE, AK 99504
PHONE: 333-6990

DURING SESSION
P.O. BOX V
STATE CAPITOL BUILDING
JUNEAU, AK 99811
PHONE: 465-3783

Alaska House of Representatives

MEMORANDUM

DATE: April 16, 1993
TO: Senator George Jacko
Rules Chairman
FROM: Representative Terry Martin *TMM*
RE: HB 144 - PFD Processing Fees

This is formal request for your expeditious scheduling of HB 144, which establishes fees for processing claims on Permanent Fund dividends.

HB 144 passed the House 25-10, passed the Senate Judiciary last week, and was waived out of Senate Finance into the Rules Committee yesterday. If I can provide any further information, please contact my aide Tom Anderson at 6618.

Thank you for your consideration.



OFFICIAL BUSINESS

Alaska State Legislature
Senate
Office of the Secretary

STATE CAPITOL
JUNEAU, ALASKA 99801-1182
(907) 465-3701
FAX: 465-2832

FOR YOUR IMMEDIATE ATTENTION

DATE: 4-15-93

TO SENATE COMMITTEE: FINANCE (Kathy Holmquist)

FROM: Office of the Senate Secretary

The Chairman of the above-referenced Committee has waived the Committee referral on the following bill(s):

HB 144 FEE FOR PFD ASSIGNMENTS/CLAIMS

Please give the bill file(s) to the page delivering this message for forwarding to the next Committee of referral.

Thank you for your prompt attention to this request.

JR/s

HB

146

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred: February 10, 1993

FURTHER REFERRALS:

Date of Committee Action: 2/15/93

The FINANCE Committee considered:

HB 146

HOUSE BILL NO. 146

APPROP: REAPPORTIONMENT LITIGATION COSTS

"An Act making a special appropriation to the Department of Law to pay a judgment entered into in the case of Southeast Conference v. Hickel; and providing for an effective date."

RECOMMENDATIONS: the same title
 be replaced with _____ 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 _____ zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
Eileen P. McKeon ^{MACLEAN}	✓	Terry Martin ^{MARTIN}		✓	
Ronald J. Larson ^{LARSON}	X	Mark Hanley ^{HANLEY}		X	
Mike Navarre ^{NAVARRÉ}	X	Sean Parnell ^{PARNELL}		X	
Richard Foster ^{FOSTER}	*	Tom Therrault ^{Therrault}		X	

CHAIRMAN'S SIGNATURE
Larson
MACLEAN

FEB 08 1993

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FIRST JUDICIAL DISTRICT AT JUNEAU

Clerk of Court

By MA _____ D

1 SOUTHEAST CONFERENCE, a)
2 a non-profit Alaska)
3 corporation, et al.,)
4 Plaintiffs,)
5 vs.)
6 WALTER J. HICKEL, Governor of)
7 the State of Alaska, et al.,)
8 Defendants.)
9 _____)

Case No. 1JU-91-1608 Civil

MEMORANDUM AND ORDER

11 The court in its decision of May 11, 1992 granted plaintiffs
12 the right to recover costs and attorney fees pursuant to Supreme
13 Court decisions and Civil Rule 82.

14 On November 25th the court issued a decision defining the
15 costs and fees that would be allowed and asked for further
16 submittal in accordance with that order. All plaintiffs have made
17 additional submittals, the state has objected to various costs and
18 some plaintiffs have replied.

19 The court does not allow as costs those expenses paid to
20 persons for development of an interim plan. The court views this
21 expense as in the nature of expert compensation. The court does
22 allow the expense of preparing attorney fees motions. The court
23 excluded all time spent with the press or doing press releases.
24 The court excluded time that was apparently appellate related with
25

respect to plaintiff Demientieff. The Alaska Democratic Party cost bill was reduced by car rental, office space and shared costs.

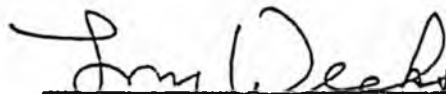
The court has reviewed all those pleadings and awards costs and attorney fees as follows:

<u>Plaintiff</u>	<u>Attorney Fees Awarded</u>	<u>Costs Awarded</u>	<u>Total</u>
Leavitt	\$184,439.44	\$40,306.77	\$224,746.21
ADP	91,046.00	21,086.30	112,132.30
Mat-Su	212,831.00	59,597.26	272,428.26
SEC	229,703.33	68,125.78	297,829. 08
Demientieff	54,793.75	13,014.73	67,808.48

The court recognizes that the plaintiffs have had actual costs and attorney fees considerably exceeding these amounts. Despite the rubric that public interest litigants receive "actual costs and attorney fees" these parties will not be reimbursed for all expenditures they have made under the rules as interpreted by this court.

Interest shall accrue at the rate of 10 1/2% from the 25th of June 1992 until paid in full on the above amounts.

Dated February 6, 1993



Larry Weeks
Superior Court Judge

The undersigned certifies that on February 8, 1993, copies of the foregoing were sent by U.S. mail to:

Myra M. Munson, Esq.
SONOSKY, CHAMBERS, SACHSE,
MILLER & MUNSON
229 Fourth Street
Juneau, AK 99801
(by hand & US mail)

Donald J. Simon, Esq.
SONOSKY, CHAMBERS, SACHSE,
& ENDERSON
1250 Eye Street, N.W. Suite 1000
Washington, D.C. 20005

David C. Crosby, Esq.
WICKWIRE, GREENE, CROSBY
& STEWART
318 4th Street
Juneau, AK 99801
(by hand & US mail)

Michael J. Walleri, Esq.
TANANA CHIEFS CONFERENCE, INC.
122 1st Avenue
Fairbanks, AK 99701
(via FAX & US mail)

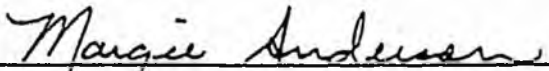
Thomas M. Daniel, Esq.
PERKINS COIE
1029 West Third Ave., Suite 300
Anchorage, AK 99501
(via FAX & US mail)

Mary A. Lundquist, Esq.
Attorney General Office
1031 W. 4th, Suite 200
Anchorage, AK 99501

Don Clocksin, Esq.
WAGSTAFF, POPE & CLOCKSIN
912 West 6th Avenue
Anchorage, AK 99501
(via FAX & US mail)

and placed in the court box of:

Virginia Ragle, Esq.
Attorney General Office
P.O. Box K
Juneau, AK 99811
(& via hand)


Margie Anderson
Secretary to Judge Weeks

HB

151

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred: February 24, 1993

FURTHER REFERRALS:

Date of Committee Action: 3/25/93

The FINANCE Committee considered:

HB 151

HOUSE BILL NO. 151

PAYMENT BY INDIGENTS FOR LEGAL SERVICES

"An Act relating to payment by indigent persons for legal services and related costs; and providing for an effective date."

RECOMMENDATIONS:

be replaced with CS HB 151 Fin 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) _____

1 fiscal impact Law

fiscal note(s) _____

2 zero fiscal note Admin

zero fiscal note(s) Court 2/24/93

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<u>Eileen P. Mechem</u> ^{Mechem}		<u>Mike Savare</u> ^{Savare}			<input checked="" type="checkbox"/>
<u>Ronald J. Laro</u> ^{Laro}	X	<u>Tay Brown</u> ^{Brown}			<input checked="" type="checkbox"/>
<u>Mark Hanley</u> ^{Hanley}	X				
<u>Terry Martin</u> ^{Martin}	<input checked="" type="checkbox"/>				
<u>Sean P. Parnell</u> ^{Parnell}					
<u>Ben Grussendorf</u> ^{Grussendorf}	X				
<u>Lynn Therriault</u> ^{Therriault}	X				

Ronald J. Laro EP Mechem
CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Bill No. HB 151

Revision Date: _____ Department Affected: Alaska Court System
 Title: An Act relating to payment by indigent person for legal services and related costs BRU: Trial Courts
 Components: _____
 Sponsor: House Judiciary
 Requestor: _____ COMPONENT SERIAL NO. 768

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

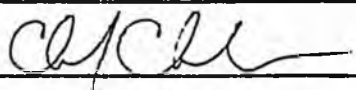
1002 FEDERAL RECEIPTS						
1003 GF MATCH						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/PROGRAM RECEIPTS						
1006 GF/MHTIA						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0


POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY 93) impact: None

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

Prepared by: C. S. Christensen III, Staff Counsel  Phone: 264-8228
 Division: Alaska Court System Date: 02/18/93

Approved by: Arthur H. Snowden, II, Administrative Director  Date: 02/18/93
 Agency: Alaska Court System

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

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 151

Revision Date: March 8, 1993
Title: "An Act relating to payment by indigent persons
for legal services and related costs..."
Sponsor: House Judiciary Committee
Requestor: Governor's Office OMB

Department Affected: Department of Law
BRU: Legal Services
Component: Operations
COMPONENT SERIAL NO. 0093

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						

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

REVENUE						
FUND SOURCE: 1004 GF	500.0	500.0	1,000.0	1,000.0	1,500.0	1,500.0

FUNDING:

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL						

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Richard I. Peques

Prepared by: Richard I. Peques, Director
Division: Administrative Services Division

Phone: 465-3672
Date: March 8, 1993

Approved by Commissioner: Charles E. Cole, Attorney General
Agency: Department of Law

Date: March 8, 1993

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 151

ANALYSIS CONTINUATION:

This bill amends AS 18.85.120(c), which allows entry of a judgment against a criminal defendant for costs of appointed counsel. The amendment deletes existing problematic language to allow easier collection of the judgments. The deleted language prohibits execution on the judgment for three years after release from incarceration (even, theoretically, for a different crime), unless good cause is shown to collect sooner. The courts in July began to issue judgments for court-appointed counsel under Criminal Rule 39. The Department of Law's collections unit is handling collection of the thousands of judgments which will be entered annually. However, our hands are tied in many cases due to the existing language in AS 18.85.120(c), forcing us to check with the Department of Corrections annually to determine when each of the defendants is released from incarceration in order to avoid running afoul of this prohibition. We believe this bill is very important to our ability to effectively and efficiently collect substantial sums for the state's general fund. Up to \$4.4 million in potential fees are currently uncollected annually. Although full collection is probably unrealistic at the outset, a significant continuing improvement in collections will result if this bill is approved, allowing the state to recover at least part of what it pays in criminal defense costs.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 151

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act relating to payment by indigent persons for legal services and related costs" BRU: Office of Public Advocacy
 Component: Office of Public Advocacy
 Sponsor: House Judiciary
 Requestor: House Finance COMPONENT SERIAL NO. 43

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE FUND SOURCE:	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS

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

Estimate of current year (FY 93) impact: \$ _____

ANALYSIS: (attach a separate page if necessary.)

Prepared By: Brant McGee Phone: 274-1684
 Division: Office of Public Advocacy Date: _____

Approved by Commissioner: Nancy Bear Usara Date: 3/22/93
 Agency: Department of Administration

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO HB 151

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act relating to payment by indigent persons for legal services and related costs. . . ." BRU: Public Defender Agency
 Component: Public Defender Agency
 Sponsor: House Judiciary
 Requestor: House Finance COMPONENT SERIAL NO. 1631

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE FUND SOURCE:	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

FUNDING:

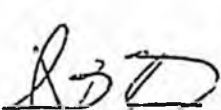
1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS

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

Estimate of current year (FY93) impact: \$ None

ANALYSIS: (attach a separate page if necessary.)



Prepared By: John Salemi, Public Defender Phone: 279-7541
 Division: Public Defender Agency Date: _____

Approved by Commissioner: Nancy Bear Usura *NBCU* Date: 3/4/93
 Agency: Department of Administration

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Back-up



Alaska Court System
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

CHARLES S. CHRISTENSEN III
Staff Counsel

303 K Street
Anchorage, AK 99501
(907) 264-8228

February 28, 1993

The Honorable Ron Larson, Co-Chair
The Honorable Eileen MacLean, Co-Chair
The Honorable Mark Hanley, Vice-Chair
House Finance Committee
P. O. Box V
Juneau, Alaska 99811

Dear Representative Larson, Representative MacLean and
Representative Hanley:

I am writing to request that the Finance Committee schedule House Bill 151, relating to payments by indigent persons for legal services and related costs. This bill was introduced by the Judiciary Committee at the request of the supreme court.

Under both the United States and Alaska Constitutions, a criminal defendant has the right to an attorney. If he cannot afford an attorney, the state must appoint one to represent him. In Alaska, defense services for indigents are generally provided by the Public Defender or the Office of Public Advocacy.

Until 1990, AS 18.85.120(c) provided that a court could order a defendant to pay for defense services, to the extent that the defendant could afford them. For a variety of reasons, this statute was ineffective in obtaining repayment of defense costs from indigent defendants. These reasons included the difficulty and expense of enforcing a court repayment order, and the fact that the statute related to a defendant's current ability to pay, ignoring future ability.

In 1990, at the request of the judicial branch, the legislature amended AS 18.85.120(c) to allow judgments to be entered against defendants who are represented by the public defender or OPA

The Honorable Ron Larson, et al
February 28, 1993
Page 2

without considering the defendants' ability to pay. If a defendant became solvent at a later date, the judgment could be enforced; if not, the judgment could not be enforced. In addition to making this change, the legislature also amended the statute to prohibit judgments from being entered against defendants who are not convicted and to prohibit execution on a judgment for three years after a defendant is released from incarceration.

HB 151 proposes two changes to AS 18.85.120(c). First, it would allow judgments to be entered against defendants who are represented by the public defender or OPA whether or nor the defendant is convicted. This change would treat indigent defendants the same way non-indigent defendants are treated by the justice system; the non-indigent must pay for their defense costs regardless of the outcome of their case.

Second, HB 151 would eliminate the three-year moratorium on repayment that currently follows incarceration. This moratorium makes it substantially more difficult for the state to recover defense costs in a timely manner, and the policy behind it is questionable. There is no reason, for example, to grant a grace period to a person who is sentenced to only three days in jail; that person does not need three years to get back on his feet. Even in the case of defendants incarcerated for longer periods, the three-year period is an arbitrary length of time. Many persons will have substantial income soon after leaving prison, and virtually all will receive permanent fund dividend checks during the three-year period.

Thank you for your courtesy. Please let me know if I can provide any additional information.

Very truly yours,

C. S. Christensen III
Staff Counsel

proceedings if the trial judge finds that the defendant's rights would be prejudiced by use of the system.

(c) Facsimile telecopy orders issued in proceedings conducted under this rule are acceptable as originals for the purposes of release or detention by correctional officers.

(d) Nothing in this rule diminishes any other existing right of a criminal defendant.

(Added by SCO 719 effective August 1, 1986; amended by SCO 863 effective July 15, 1988).

Rule 39. Appointment of Counsel.

(a) **Informing Defendant of Right to Counsel.** The court shall advise a defendant who appears without counsel for arraignment, change of plea, or trial of the right to be represented by counsel, and ask if defendant desires the aid of counsel. The court shall not allow a defendant to proceed without an attorney unless the defendant understands the benefits of counsel and knowingly waives the right to counsel.

(b) **Appointment of Counsel for Persons Financially Unable to Employ Counsel.**

(1) If defendant desires the aid of counsel but claims a financial inability to employ counsel, the court or its designee shall determine whether defendant is an "indigent person," as defined by statute, by placing defendant under oath and asking about defendant's financial status, or by requiring defendant to complete a signed sworn financial statement. The court shall order defendant to execute a general waiver authorizing release of income information to the court. The court may require defendant to attempt to arrange private representation before the court makes a final determination on indigency.

(2) Before the court appoints counsel for an indigent defendant at public expense, the court shall advise defendant that defendant will be ordered to repay the prosecuting authority for the cost of appointed counsel, in accordance with paragraph (d) of this rule, if the defendant is convicted of an offense. The court shall order defendant to execute assignments of defendant's permanent fund dividends to the prosecuting authority for a sufficient number of years to ensure that the maximum judgment that may be entered against the defendant under the schedules in paragraph (d) is paid in full. If defendant refuses to execute the assignments, the court shall direct the clerk to execute the assignments pursuant to Civil Rule 70. The court may enter such orders as appear reasonably necessary to prevent defendant from dissipating assets to avoid payment of the judgment.

(3) If the court or its designee determines that the defendant is an "indigent person," the court shall appoint counsel pursuant to Administrative Rule 12 and notify counsel of the appointment.

(4) In the absence of a request by a defendant otherwise entitled to appointment of counsel, the court shall appoint counsel unless the court finds that the defendant understands the benefits of counsel and knowingly waives the right to counsel.

(5) If the trial court denies defendant's request for appointed counsel, defendant may request review of this decision by the presiding judge of the judicial district by filing a motion with the trial court within three days after the date of notice, as defined in the Criminal Rule 32.3(c), of the denial. The trial court shall forward the motion, relevant materials from the court file, and a cassette tape of any relevant proceedings to the presiding judge. The presiding judge or his or her designee shall issue a decision within three days of receipt of these materials.

(c) **Costs of Appointed Counsel.**

(1) *Entry of Judgment.*

(A) Upon conviction of an offense, revocation of probation, denial of a motion to withdraw plea, and denial of a motion brought under Criminal Rule 35.1, the court shall prepare a notice of intent to enter judgment for the cost of appointed counsel in accordance with paragraph (d) of this rule, provide a copy of the notice to defendant, and order defendant to

(i) execute assignments of defendant's permanent fund dividends to the prosecuting attorney for a sufficient number of years to ensure that the judgment is paid in full; and

(ii) apply for permanent fund dividends every year in which the defendant qualifies for a divided until the judgment is paid in full.

If defendant refuses to execute assignments of defendant's permanent fund dividends, the court shall direct the clerk to execute assignments pursuant to Civil Rule 70.

(B) Defendant may oppose entry of judgment by filing a written opposition within 10 days after the date of notice, as defined in Criminal Rule 32.3(c), of the court's intent to enter judgment. The opposition shall specifically set out the grounds for opposing entry of judgment. The prosecuting authority may oppose the amount of the judgment by filing a written opposition within the same deadline.

(C) If no opposition is filed within the time specified in section 39(c)(1)(B), the clerk shall enter judgment against defendant for the amount shown in the notice. If a timely opposition is filed, the court may set the matter for a hearing and shall have authority to enter the judgment.

(D) The judgment must be in writing. A copy of the judgment shall be mailed to defendant's address of record. The judgment shall bear interest at the rate specified in AS 09.30.070(a) from the date judgment is entered.

(2) *Collection.*

(A) The judgment has the same force and effect as a judgment in a civil action in favor of the prosecuting authority and is subject to execution, except that no action may be taken to enforce the judgment for three years after the defendant is released from incarceration unless, for good cause shown, the court considers it appropriate to enforce the judgment earlier.

(B) All proceedings to enforce the judgment shall be in accordance with the statutes and court rules applicable to civil judgments. The judgment is not enforceable by contempt. Payment of the judgment may not be made a condition of a defendant's probation. Default or failure to pay the judgment may not affect or reduce the rendering of services on appeal or any other phase of a defendant's case in any way. A defendant does not have a right to be represented by appointed counsel in connection with proceedings under subparagraph 39(c) or any proceedings to collect the judgment.

(C) Upon showing of financial hardship, the court shall allow a defendant subject to a judgment under this rule to make payments under a repayment schedule. A defendant may petition the court at any time for remission, reduction or deferral of the unpaid portion of the judgment. The court may remit or reduce the balance owing on the judgment or change the method of payment if the payment would impose manifest hardship on the defendant or defendant's immediate family.

(D) Notwithstanding section 39(c)(2)(B), a defendant may be held in contempt for failing to comply with an order under this rule to apply for a permanent fund dividend.

(3) *Appeal.*

(A) If defendant appeals the conviction, enforcement of the judgment may be stayed by the trial court or the appellate court upon such terms as the court deems proper.

(B) If defendant's conviction is reversed, the clerk shall vacate the judgment and order the prosecuting authority to repay all sums paid in satisfaction of the judgment, plus interest at the rate specified in AS 09.30.070(a).

(d) *Schedule of Costs.* The following schedules govern the assessment of costs of appointed counsel under paragraph 39(c). If a defendant is convicted of more than one offense in a single dispositive court proceeding, costs shall be based on the most serious

offense of which the defendant is convicted. If a defendant is otherwise convicted of more than one offense, costs shall be separately assessed for each conviction. For good cause shown, the court may waive the schedule of costs and assess fees up to the actual cost of appointed counsel, including actual expenses.

Misdemeanors

Trial	\$500.00
Change of plea	200.00
Post-conviction relief or contested probation revocation proceedings in the trial court	250.00

Felonies

	Class B & C	Class A and Unclassified (Except Murder)	Murder in the 1st and 2nd Degrees
Trial	\$1,500.00	\$2,500.00	\$5,000.00
Change of plea after substantive motion work and hearing and before trial commences	1,000.00	1,500.00	2,500.00
Change of plea post-indictment but prior to substantive motion work and hearing	500.00	1,000.00	2,000.00
Change of plea prior to indictment	250.00	500.00	750.00
Post-conviction relief or probation revocation proceeding in trial court	250.00	500.00	750.00

(e) *Review of Defendant's Financial Condition.*

(1) The court may review defendant's financial status at any time after appointment of counsel to determine (A) whether defendant continues to be an "indigent person," as defined by statute; or (B) whether defendant was an indigent person at the time counsel was appointed.

convicted. If a
more than one
is sentenced for each
the court may
expenses up to the
including actual

\$500.00
200.00

250.00

Murder in
the 1st and
2nd Degrees

\$5,000.00

2,500.00

2,000.00

750.00

750.00

Special Condi-

tion's financial
counsel to
be appointed
or (B)
at the time

(2) If the court determines that defendant is no longer an indigent person, the court may

(A) terminate the appointment; or

(B) continue the appointment and, at the conclusion of the criminal proceedings against defendant in the trial court, enter judgment against the defendant for the actual cost of appointed counsel, including actual expenses, from the date of the change in the defendant's financial status through the conclusion of the trial court proceedings.

(3) If the court determines that defendant was not an indigent person at the time counsel was appointed, the court may

(A) terminate the appointment and enter judgment against defendant for the actual costs of appointed counsel, including actual expenses, from the date of appointment through the date of termination; or

(B) continue the appointment and, at the conclusion of the criminal proceedings against defendant in the trial court, enter judgment against defendant for the actual cost of appointed counsel from the date of the appointment through the conclusion of the trial court proceedings.

(4) A defendant may request review of the court's decision to terminate the appointment according to the procedure set out in subparagraph 39(b)(5).

(5) Judgment may be entered against a defendant under this paragraph regardless of whether the defendant is convicted of an offense.

(6) Action may be taken at any time to enforce a judgment entered under this paragraph.

(Adopted by SCO 4 October 4, 1959; amended by SCO 90 Effective July 24, 1967; by SCO 157 effective February 15, 1973; by Amendment No. 4 to SCO 157 dated March 12, 1973; by SCO 187 effective July 2, 1974; by SCO 328 effective January 1, 1979; by SCO 448 effective November 24 1980; by SCO 677 effective June 15, 1986; and by SCO 888 effective July 15, 1988; rescinded and re-promulgated by SCO 1088 effective July 1, 1992)

Annotations

Cases

- I. Right to Counsel
 - A. In General
 - B. Indigents
- II. Waiver of Right to Counsel
- III. Effective Assistance of Counsel

I. Right to Counsel

A. In General

A defendant in a criminal proceeding has a constitutional right to court appointed counsel at a preliminary hearing only when the preliminary hearing is in the nature of a critical stage of the proceedings. *Merrill v. State*, Op. No. 392, 423 P2d 686 (Alaska 1967).

Where the court over defendant's explicit protest, dismisses counsel from a public defender agency on the belief that the agency has exhibited a lack of preparation and then appoints unwanted counsel to represent the defendant, the court deprives the defendant of his right to counsel of his choice. *McKinnon v. State*, Op. No. 1075, 526 P2d 18 (Alaska 1974).

Where a defendant has been denied the right to be represented by his chosen counsel, the subsequent entry of a plea of guilty or nolo contendere does not shield a conviction from challenge on appeal, since the voluntariness and reliability of such a plea is inherently suspect. *McKinnon v. State*, Op. No. 1075, 526 P2d 18 (Alaska 1974).

The advice given to a nonindigent defendant concerning the right to counsel must include at least a brief explanation of the benefits of counsel. *Swensen v. Municipality of Anchorage*, Op. No. 2179, 616 P2d 874 (Alaska 1980).

It is within the court's discretion to allow both defendant and counsel to participate actively in the trial, so that a defendant may represent himself and also have the assistance of counsel. *Cano v. Municipality of Anchorage*, Op. No. 20, 627 P2d 660 (Alaska 1980).

B. Indigents

Even when read in relation to recent United States Supreme Court decisions, AS 12.25.150(b) does not require the appointment of counsel for an indigent immediately after his arrest. *Martinez v. State*, Op. No. 389, 423 P2d 700 (Alaska 1967).

Mere speculation as to what might have been done by a defense counsel during an interval between arrest and appearance for arraignment when counsel was assigned cannot be a basis for inferring that indigent defendant in a criminal case was deprived of counsel during a critical stage of the proceedings. *Martinez v. State*, Op. No. 389, 423 P2d 700 (Alaska 1967).

Where the direct penalty for conviction of an offense may be incarceration, loss of a valuable license, or a fine heavy enough to indicate criminality, such offense is a "serious crime" within the public defender statute. A defendant who is charged with any such misdemeanor and who cannot afford to hire his own lawyer is eligible for representation by a public defender. *Alexander v. City of Anchorage*, Op. No. 738, 490 P2d 910 (Alaska 1971).

A indigent defendant is not entitled to representation by any particular attorney. *McKinnon v. State*, Op. No. 1075, 526 P2d 18 (Alaska 1974).

Once counsel is appointed to represent an indigent defendant, the parties enter into an attorney-client relationship which is no less inviolable than if counsel had been retained. *McKinnon v. State*, Op. No. 1075, 526 P2d 18 (Alaska 1974).

II. Waiver of Right to Counsel

To be valid, a waiver of the right to counsel must be made with an apprehension of the nature of the charges, the offenses included within them, the range of punishments, possible

defenses, mitigating circumstances and all other facts essential to a broad understanding of the whole matter. *Gregory v. State*, Op. No. 1269, 550 P2d 374 (Alaska 1976)

Magistrate must ascertain whether defendant understands benefits of counsel by recorded colloquy with defendant before right to counsel may be waived. *Gregory v. State*, Op. No. 1269, 550 P2d 374 (Alaska 1976).

When defendant is unable to make an intelligent choice as to waiver of right to counsel it is the duty of the court to assign counsel. *Gregory v. State*, Op. No. 1269, 550 P2d 374 (Alaska 1976).

When defendant pleads guilty without the assistance of counsel, the plea is invalid unless defendant waived his right to counsel. *Gregory v. State*, Op. No. 1269, 550 P2d 374 (Alaska 1976).

Failure of arraignment or trial record to demonstrate that defendant understood what he was giving up by declining the assistance of counsel was cause for reversal even though record showed that defendant had been advised of his right to counsel. *O'Dell v. Municipality of Anchorage*, Op. No. 1588, 576 P2d 104 (Alaska 1978).

Failure of court to ask questions of defendant to assure that he understood precisely what rights he was giving up by declining legal representation at sentencing hearing required vacation of sentence. *Smith v. State*, Op. No. 134, 651 P2d 1191 (Alaska App. 1982).

Trial judge committed reversible error in not allowing defendant, charged with drunk driving in 1984, to have a 1975 drunk driving conviction set aside on the ground that, although informed by the magistrate taking his guilty plea in 1975 of his right to an attorney, he was not informed of what an attorney could do for him. *Petranovlch v. State*, Op. No. 547, 709 P2d 867 (Alaska App. 1985).

Failure of the trial court to assure by an on-the-record inquiry that the accused understood the benefits of counsel and the dangers of self-representation prior to waiving his right to counsel was reversible error notwithstanding the accused's previous contacts with the criminal justice system. *James v. State*, Op. No. 669, 730 P2d 811 (Alaska App. 1987).

Defendant's waiver of his right to counsel prior to pleading guilty to a DWI charge was valid where the magistrate advised him of the maximum and minimum penalties for the offense and after he responded affirmatively to the question: "Do you know what a lawyer is?". *Tobuk v. State*, Op. No. 683, 732 P2d 1099 (Alaska App. 1987).

III. Effective Assistance of Counsel

A defense counsel must perform at least as well as a lawyer with ordinary training and skill in the criminal law and must conscientiously protect his client's interest, undeflected by conflicting considerations. *Risher v. State*, Op. No. 1053, 523 P2d 421 (Alaska 1974).

All that is required of counsel in rendering effective assistance of counsel is that his decisions, when viewed in the framework of trial pressures, be within the range of reasonable actions which might have been taken by an attorney skilled in the criminal law, regardless of the outcome of such decisions. *Risher v. State*, Op. No. 1053, 523 P2d 421 (Alaska 1974).

A defendant does not suffer an unconstitutional deprivation of effective assistance of counsel because of an error commit-

ted by his attorney which in no manner contributes to the conviction. *Risher v. State*, Op. No. 1053, 523 P2d 421 (Alaska 1974).

A defendant who has not demonstrated that he understands the benefits of counsel cannot be said to have waived counsel. *Gregory v. State*, Op. No. 1269, 550 P2d 374 (Alaska 1976).

Rule 40. Time.

(a) **Computation.** Except as otherwise specifically provided in these rules, in computing any period of time, the day of the act or event from which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. When a period of the prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation. A half holiday shall be considered as other days and not as a holiday.

(b) **Enlargement.** When an act is required or allowed to be done at or within a specified time, the court for cause shown may at any time in its discretion:

(1) With or without motion or notice, order the period enlarged if application therefor is made before the expiration of the period originally prescribed or as extended by a previous order; or

(2) Upon motion permit the act to be done after the expiration of the specified period if the failure to act was the result of excusable neglect; but the court may not enlarge the period for taking any action under Rules 33, 34 and 35 except as otherwise provided in those rules, or the period for taking an appeal.

(c) **Unaffected by Expiration of Term.** The period of time provided for the doing of any act or the taking of any proceeding is not affected or limited by the expiration of a term of court. The expiration of a term of court in no way affects the power of a court to do any act in a criminal proceeding.

(d) **For Motions — Affidavits.** A written motion, other than one which may be heard ex parte, and notice of the hearing thereof shall be served not later than 5 days before the time specified for the hearing unless a different period is fixed by rule or order of the court. For cause shown, such an order may be made on ex parte application. Copies of all photographs, affidavits, other documentary evidence and a brief, complete written statement in support of the motion, shall be served with the motion. The opposing party shall serve either

IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA
AT _____

() STATE OF ALASKA)
())
Plaintiff,)
vs.)
Defendant.)

CASE NO. _____ CR
REQUEST FOR APPOINTED COUNSEL

I wish to have a lawyer and cannot afford to pay for one. I request that the court appoint a lawyer to represent me.

STATEMENT OF FINANCIAL RESPONSIBILITY

I understand that if the court decides I am able to pay for part of the costs of my defense (lawyer's services and other costs), the court may order me to pay for these items.

FINANCIAL STATEMENT

Name _____ Phone _____
Address _____ Date of Birth _____
Soc. Sec. No. _____
Present employer _____
(If not now employed, state last employer and date terminated.)
Employer _____
Address _____ Phone _____

Member of Union yes no Which One? _____

I. DEPENDENTS	Name	Age	Relationship
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

II. INCOME INFORMATION (after taxes, but before other deductions)	Yourself	Your Spouse
a. Current Monthly Income	_____	_____
b. Income during last 12 months:	_____	_____
Wages	_____	_____
Public Assistance	_____	_____
Unemployment	_____	_____
Other _____	_____	_____
(specify)		
TOTAL YEARLY INCOME	_____	_____

III. FAMILY ASSETS - Present Value

Cash on hand or in bank _____
 Land, buildings, or trailers _____
 Motor vehicles _____
 Securities: stocks, bonds, notes _____
 Businesses _____
 Snow machines, boats, airplanes _____

TOTAL ASSETS _____

IV. FAMILY DEBTS

Mortgages _____
 Loans _____
 IRS _____
 Child support arrearages _____
 Others (charge cards, bills, etc.) _____

TOTAL DEBT _____

V. MONTHLY EXPENSES

Food _____
 Rent _____
 Utilities _____
 Car payments _____
 Furniture & TV payments _____
 Child support or alimony _____
 Mortgages _____
 Loans _____
 IRS back taxes _____
 Others (charge card, bills, etc.) _____

TOTAL EXPENSES: _____

GENERAL WAIVER

I authorize anyone, including my past employers, to release to the Alaska Court System all information concerning any income source I have had for a period of three years immediately preceding my first court appearance in which an appointed lawyer is representing me.

OATH

I declare, under oath, that I have read or have had read to me the state of Financial Responsibility on page one and the above General Waiver, and I understand them. I further declare, under oath, that the above Financial Statement is true.

I understand that this Financial Statement may be made available to the Attorney General after the conclusion of this case, and that if I give false information in this statement, the false information may be used to prosecute me for perjury under Alaska Statute 11.56.200.

_____ Date _____ Defendant's Signature

Subscribed and sworn to or affirmed before me on _____, 19 _____,
 at _____, Alaska.

(SEAL) _____
 Clerk of Court, Notary Public or other person
 authorized to administer Oaths.
 My commission expires: _____

HB

151

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 4/26/93

FURTHER:

DATE TURNED INTO OFFICE: 4-26-93

The Finance Committee considered CS FOR HOUSE BILL NO. 151(FIN)

"An Act relating to payment by indigent persons for services of representation and court costs; providing for stays of enforcement of a judgment during the pendency of an appeal of a conviction; allowing petitions for remission, reduction, or deferral of judgment; permitting a court to remit or reduce a judgment or to change the method of payment; and providing for an effective date."

and recommends:

- replace with _____ CS _____ (FINANCE)
- or adopt previous _____ C.
- attaches amendment(s)

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

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
#1631 D. of Admin	3-4-93	<input checked="" type="checkbox"/>	
#43 D. of Admin	3-22-93	<input checked="" type="checkbox"/>	
Dep. Law	3-8-93		\$500.0 Revenue
AK Court Sys	2-18-93	<input checked="" type="checkbox"/>	

Appropriation No Fiscal Note

DO PASS:

Tim Keels
George H. et al
Ben Hays

OTHER RECOMMENDATIONS:

Steve Rein no rec
J. Kuster no rec

1.
 Co-Chair: Signature/Recommendation

2.
 Co-Chair: Signature/Recommendation

FISCAL NOTE

No. 4

Bill Version: CSHB 151 (FIN)

(H) Publish Date: 3/26/93

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act relating to payment by indigent persons for legal services and related costs. . . ." BRU: Public Defender Agency
 Component: Public Defender Agency
 Sponsor: House Judiciary
 Requestor: House Finance COMPONENT SERIAL NO. 1631

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE FUND SOURCE:	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS

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

Estimate of current year (FY93) impact: \$ None

ANALYSIS: (attach a separate page if necessary.)

Prepared By: John Salemi, Public Defender Phone: 279-7541
 Division: Public Defender Agency Date: _____

Approved by Commissioner: Nancy Bear Usery Date: 3/4/93
 Agency: Department of Administration

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FISCAL NOTE

NO. 3

Bill Version: CSHB 151 (FIN)

(H) Publish Date: 3/26/93

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act relating to payment by indigent persons for legal services and related costs" BRU: Office of Public Advocacy
 Component: Office of Public Advocacy
 Sponsor: House Judiciary
 Requestor: House Finance COMPONENT SERIAL NO. 43
 Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE FUND SOURCE:	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS

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

Estimate of current year (FY93) impact: \$ _____

ANALYSIS: (attach a separate page if necessary.)

Prepared By: Brant McGee Phone: 274-1684
 Division: Office of Public Advocacy Date: _____

Approved by Commissioner: Nancy Bear Usara Date: 3/22/93
 Agency: Department of Administration

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

No. 2
Bill Version: CSHB 151 (FTN)
(H) Publish Date: 3/26/93

Revision Date: March 8, 1993
Title: "An Act relating to payment by indigent persons for legal services and related costs..."
Sponsor: House Judiciary Committee
Requestor: Governor's Office OMB

Department Affected: Department of Law
BRU: Legal Services
Component: Operations
COMPONENT SERIAL NO. 0093

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						

CAPITAL						
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REVENUE						
FUND SOURCE: 1004 GF	500.0	500.0	1,000.0	1,000.0	1,500.0	1,500.0

FUNDING:						
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL						

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)
Please see the attached analysis.

Prepared by: Richard I. Peques, Director
Division: Administrative Services Division
Approved by Commissioner: Richard I. Peques/PORT
Agency: Department of Law
Approved by Commissioner: Charles E. Cole, Attorney General

Phone: 465-3672
Date: March 8, 1993
Date: March 8, 1993

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 151 (FIN)
NO. 2

ANALYSIS CONTINUATION:

This bill amends AS 18.85.120(c), which allows entry of a judgment against a criminal defendant for costs of appointed counsel. The amendment deletes existing problematic language to allow easier collection of the judgments. The deleted language prohibits execution on the judgment for three years after release from incarceration (even, theoretically, for a different crime), unless good cause is shown to collect sooner. The courts in July began to issue judgments for court-appointed counsel under Criminal Rule 39. The Department of Law's collections unit is handling collection of the thousands of judgments which will be entered annually. However, our hands are tied in many cases due to the existing language in AS 18.85.120(c), forcing us to check with the Department of Corrections annually to determine when each of the defendants is released from incarceration in order to avoid running afoul of this prohibition. We believe this bill is very important to our ability to effectively and efficiently collect substantial sums for the state's general fund. Up to \$4.4 million in potential fees are currently uncollected annually. Although full collection is probably unrealistic at the outset, a significant continuing improvement in collections will result if this bill is approved, allowing the state to recover at least part of what it pays in criminal defense costs.