

ALASKA LEGISLATURE 10333

HOUSE AND SENATE COMMITTEES, 1993-1994

FINAL REPORT

1 before the end of the century;

2 (4) natural gas has been successfully used as a motor vehicle fuel in several
3 regions of the state and in various types of motor vehicles.

4 (b) It is the purpose of this Act to require the use of natural gas in the state motor
5 vehicle fleet and to implement the use of natural gas in nonattainment areas of the state when
6 natural gas is available as a motor fuel.

7 * Sec. 2. AS 44.42.020(a) is amended to read:

8 (a) The department shall

9 (1) plan, design, construct, and maintain all state modes of
10 transportation and transportation facilities and all docks, floats, breakwaters, buildings,
11 and similar facilities;

12 (2) study existing transportation modes and facilities in the state to
13 determine how they might be improved or whether they should continue to be
14 maintained;

15 (3) study alternative means of improving transportation in the state with
16 regard to the economic costs of each alternative and its environmental and social
17 effects;

18 (4) develop a comprehensive, long-range intermodal transportation plan
19 for the state;

20 (5) study alternatives to existing modes of transportation in urban areas
21 and develop plans to improve urban transportation;

22 (6) cooperate and coordinate with and enter into agreements with
23 federal, state, and local government agencies and private organizations and persons in
24 exercising its powers and duties;

25 (7) manage, operate, and maintain state transportation facilities and all
26 docks, floats, breakwaters, and buildings, including all state highways, vessels,
27 railroads, pipelines, airports, and aviation facilities;

28 (8) study alternative means of transportation in the state, considering
29 the economic, social, and environmental effects of each alternative;

30 (9) coordinate and develop state and regional transportation systems,
31 considering deletions, additions, and the absence of alterations;

1 (10) develop facility program plans for transportation and state
2 buildings, docks, and breakwaters required to implement the duties set out in this
3 section, including but not limited to functional performance criteria and schedules for
4 completion;

5 (11) supervise and maintain all state automotive and mechanical
6 equipment, aircraft, and vessels, except vessels and aircraft used by the Department of
7 Fish and Game or the Department of Public Safety; for state vehicles maintained by
8 the department, the department shall annually evaluate the cost, efficiency, and
9 commercial availability of natural gas for automotive purposes, and the purpose
10 for which the vehicles are intended to be used, and convert or purchase vehicles
11 to utilize natural gas whenever practicable; the department may participate in
12 joint ventures with public or private partners that will foster the availability of
13 natural gas for all automotive fuel consumers;

14 (12) supervise aeronautics inside the state, under AS 02.10;

15 (13) complete and maintain a current inventory of public facilities,
16 including a projection of the serviceability of the facilities and projections of
17 replacements and additions to facilities needed to provide the level of services
18 programmed by the various user agencies, for municipalities with populations of less
19 than 12,000 and for unincorporated communities, and perform those duties on a
20 cooperative basis with larger municipalities;

21 (14) adopt energy performance standards for public facilities of the
22 state, the construction of which begins after July 1, 1980; the standards shall be based
23 on thermal and lighting energy standards established by the American Society of
24 Heating, Refrigeration and Air Conditioning Engineers as adapted for application in
25 high latitude, cold climate environs;

26 (15) provide planning assistance, including but not limited to energy
27 audits and related technical services, to school districts and regional educational
28 attendance areas to develop and implement

29 (A) standards for the design, construction, and operation of rural
30 educational facilities; and

31 (B) energy conservation measures for rural educational facilities.

Alaska State Legislature

WHILE IN SESSION:
CAPITOL BUILDING
JUNEAU, ALASKA 99801-1182
(907) 465-4931
(907) 465-4316 FAX

INTERIM ADDRESS:
716 WEST 4TH AVENUE
ANCHORAGE, ALASKA 99501
(907) 258-8198
(907) 258-8171 FAX

DISTRICT 10



CHAIR, OIL & GAS COMMITTEE
VICE CHAIR, LABOR & COMMERCE
COMMITTEE
JUDICIARY COMMITTEE
RESOURCES COMMITTEE
INTERNATIONAL TRADE & TOURISM
COMMITTEE
ECONOMIC TASK FORCE

Representative Joe Green

Sponsor Statement

HB 330

Use of Natural Gas as a motor fuel in state vehicles

Natural gas is being used as a vehicle fuel in several states and provinces across the continent. Yet, while supplies of natural gas are abundant, we in Alaska appear to be waiting for an answer to the question "who goes first, the public sector or the private sector"?

Private sector fleet managers have expressed interest in utilizing natural gas, which offers a number of advantages. The state already uses natural gas in a few of its "around-town" cars. The barrier to more widespread use is refueling. Presently, the range of natural gas vehicles (NGV's) is limited, and there are few refueling stations.

HB 330 answers the question "who goes first" by allowing the public and private sectors to go forward together. HB 330 dedicates a minimum number of state vehicles to compressed natural gas (CNG) use. By establishing this critical mass in the NGV fleet, investors will have the confidence to build refueling stations. With the development of a refueling infrastructure, private sector fleet managers could utilize CNG.

HB 330 is a first step in the effort to utilize natural gas as a motor vehicle fuel in Alaska.

Back-up

NEWS CLIPPINGS IN
Anchorage Daily News

Date: 2/7 1994

State tries to set example by driving with natural gas

By HUGH CURRAN
Daily News reporter

Ken Langel knew he had to floor it and make the big van zoom.

"See? Notice any difference?" Langel asked as the cavernous white Dodge and its natural gas-sipping engine roared to life and raced down Aircraft Drive on the banks of Lake Hood.

Langel knows that before Alaskans will accept compressed natural gas-powered cars and trucks as another option to consider on the showroom floor, they'll have to first be convinced how familiar and routine the cleaner-burning fuel can be.

"You don't need to know one thing different to drive one of these," he said.

As manager of the 2,800-vehicle fleet for the state Department of Transportation and Public Facilities, Langel and department commissioner Bruce Campbell see compressed natural gas-fueled vehicles as a way to cut down on the fleet's contribution to Anchorage's carbon monoxide problems, introduce the idea to the public and blaze the trail for widespread, everyday use by residents.

The department took delivery of five vehicles last month to test the practicality and driver reactions to the alternative fuel. A Ford Taurus sedan, Chevy Blazer and Chevy van were converted locally to use either natural gas or regular gas at the flip of a switch. The Dodge Van and Dodge mini-van that the agency plans to buy next month use only compressed natural gas and come that way from the factory.

Langel said it's the recent availability of such factory-made natural-gas vehicles — along with growing air-quality concerns in Anchorage after years of federal clean-air standard violations — that made the time right to try natural gas.

"Compressed natural gas vehicles have been around for 80 or 90 years; it's not like a new rocket science," Langel said.

An Anchorage hotel has been using a natural gas van for the 10 years.

"But previously, there were performance problems with carbureted engines that fuel injection has solved. The tanks and the available pressure weren't as

Please see Page C-2, CARS

CARS: State goes natural gas

Continued from Page C-1

good before, either. We also finally have a wide selection of factory-made vehicles and a new environmental awareness that just wasn't there 10 years ago."

A 1990 test by the American Gas Association showed vehicles using compressed natural gas release less than a quarter of the carbon monoxide emitted by gasoline engines.

Based on talks with Lower 48 fleet managers who have used compressed gas for several years, Langel hopes to see miles per gallon equal to or greater than gasoline vehicles and the rough equivalent of 80 to 90 cents per gallon for the fuel.

Langel said another hoped-for advantage is reduced maintenance costs and longer engine life because the fuel is less likely to leave damaging deposits in the engine and on spark plugs.

The agency spent \$2,500 to \$4,500 to convert its three vehicles from gasoline to natural gas, Langel said. The factory models cost \$3,500 to \$5,000 more than gasoline vehicles. He said greater productivity should translate into lower costs.

The vehicles look, sound and feel no different from their gasoline cousins. The

only talking sign in the Taurus was something that looked like an oxygen tank under the hood and a small metal plug for refueling that sticks out of the grill.

Refueling is currently handled at the Lake Hood office through a compact pump that compresses the natural gas used in the department's building. Langel said the pump refuels an empty vehicle in six to 10 hours. The only commercial compressed natural gas station in Anchorage refills at almost the same speed as regular gasoline.

Langel said the availability of refueling stations will determine whether natural gas vehicles will ever see wide use.

"To really make a dent in air pollution you're going to have to get the public involved, and that can only happen if the refueling infrastructure is there," Langel said. "You'd need at least four stations in Anchorage, one in the Valley and one in Kasilik."

Langel said to promote the building of such an infrastructure, local, state and federal agencies — as well as private companies such as Alaska Cab, Enstar, the Alaska Railroad and some tour companies — are putting the final touches on a group tentatively called the Alaska Compressed Natural Gas User's Coalition.

Office of th

Anchorage, Alaska



**Washington
Gas**

Energy Policy Act of 1992: Alternative Fuel Vehicles (AFVs)

NGV Hotline: 202-624-NGVS

Introduction

On October 24, 1992, Former President Bush signed the Energy Policy Act of 1992. This new law is designed, in part, to reduce the nation's dependence on foreign oil imports by encouraging the use of domestically produced fuels. As such, the Energy Policy Act contains both mandates and incentives for the use of alternate fuels in vehicles.

Alternative Fuels

Under the Energy Policy Act of 1992, "alternative" fuels include the following:

Methanol
Ethanol
Natural Gas
Propane
Hydrogen
Coal-derived Liquids
Biological Materials
Electricity

The Act also includes any other fuel that the Secretary of Energy finds to be substantially not petroleum and which would yield substantial energy security benefits and substantial environmental benefits.

Fleet Requirements

The Energy Policy Act requires federal fleets to begin purchasing alternative fuel vehicles (AFVs) in fiscal year 1993. The Act requires state fleets and alternate fuel providers to begin purchasing AFVs in model year 1996. And the new law may require private and municipal fleets to acquire AFVs, starting as early as model year 1999. The following table summarizes the annual purchase requirements for federal and state fleets, alternate fuel providers, and private and municipal fleets.

Table 1.

ALTERNATIVE FUEL VEHICLES NEW FLEET LIGHT DUTY VEHICLE PURCHASES

<u>Year</u>	<u>Federal</u>	<u>State</u>	<u>Fuel Providers</u>	<u>Private*</u>
1993	5,000	-	-	-
1994	7,500	-	-	-
1995	10,000	-	-	-
1996	25%	10%	30%	-
1997	33%	15%	50%	-
1998	50%	25%	70%	-
1999	75%	50%	90%	20%
2000	75%	75%	90%	20%
2001	75%	75%	90%	20%
2002	75%	75%	90%	30%
2003	75%	75%	90%	40%
2004	75%	75%	90%	50%
2005	75%	75%	90%	60%
2006 on	75%	75%	90%	70%

* Under the early rulemaking scenario

These percentages generally apply to small vehicles in large fleets operating in large cities. Covered vehicles are those up to 8,500 pounds gross vehicle weight, which include passenger cars, pickup trucks and vans. Fleets have to have at least 20 vehicles which are centrally fueled, and the fleet owner must have at least 50 vehicles nation-wide. And the affected areas are those with a 1980 population of at least 250,000.

For non-governmental fleets, the penalties for violation start at \$5,000 and increase to \$50,000 for repeat violations.

Alternative Fuel Providers

Table 1 shows the requirements for alternate fuel providers, which include natural gas and electric utilities. Starting with model year 1996, 30% of new light duty vehicles must be AFVs, increasing to 90% in 1999. These vehicles must be operated exclusively on alternative fuels unless the appropriate fuel is not available. If these fuel providers have more than one affiliate, division or business unit, only those which are engaged in the alternative fuels business are included.

The Secretary of Energy has discretion to extend the schedule and to reduce the purchase requirements to as low as 20%. Electric utilities have the option of waiting until 1998 if they plan to use electric vehicles. And a fleet may be exempted from this requirement if it can demonstrate that the alternate fuels and/or vehicles are not available.

Private and Municipal Fleets

Under the Act, the Secretary has two opportunities to justify a mandate for private fleets, as shown in Table 2. If a rulemaking is issued by December 15, 1996, then the percentages in the right hand column apply. And if no rulemaking is issued until January 1, 2000, then the percentages in the right hand column apply. And if no rulemaking is issued by the latter date, there will be no private fleet mandate.

Table 2.

PRIVATE AND MUNICIPAL FLEETS NEW LIGHT DUTY VEHICLES

Model Year	By 12/15/96	By 1/1/00
1999	20%	-
2000	20%	-
2001	20%	-
2002	30%	20%
2003	40%	40%
2004	50%	60%
2005	60%	70%
2006 on	70%	70%

In order to issue one of these rulemakings, the Secretary must find that the program is necessary, practicable and achievable; and that adequate alternative fuels, infrastructure and vehicles will be available. The Secretary also has discretion to delay the deadlines and/or reduce the percentage requirements.

Tax Incentives

The following table shows the amount of tax deductions for AFVs. They include \$2,000 to \$50,000 for the vehicle (depending on size) and up to \$100,000 for the fueling station. These tax deductions apply to property placed in service after June 30, 1993. The vehicle deductions apply to the incremental cost of an AFV over its gasoline counterpart, including either factory-made vehicles or after-market conversions. The facility deduction applies to each fueling station installed by a taxpayer at a single location.

Table 3.

ALTERNATIVE FUEL VEHICLES MAXIMUM TAX DEDUCTIONS

Vehicle (up to 10,000 lbs. gvw)	\$ 2,000
Vehicle (10,001 to 26,000 lbs. gvw)	\$ 5,000
Truck or Van (over 26,000 lbs. gvw)	\$ 50,000
Bus (Seating capacity of 20 or more adults)	\$ 50,000
Alternative Fuel Refueling Facility	\$ 100,000

In addition, electric vehicles qualify for a 10% tax credit, up to \$4,000 per vehicle.

Other Provisions

Other provisions of the Act which will encourage the use of alternative fuels include:



Up to \$30 million/year to assist in the purchase of alternate fuel transit buses and school buses.



\$25 million/year for low-interest loans for the purchase of AFVs.



State and local incentive programs, including \$10 million/year to assist states in acquiring AFVs.



Exemption for Vehicular Natural Gas, or "VNG," from certain federal and state regulations, allowing non-utilities to participate without becoming regulated.



Pipeline recovery of Gas Research Institute costs associated with natural gas vehicle research and development.



Certification of training programs for alternate fuel vehicle technicians.



Public information program.



Electric vehicle research and development.

Third, both laws provide "credits" for those who buy more AFVs than required or who purchase them earlier than required.

Under both laws, the following vehicles are exempt: rental cars, vehicles held by dealers for sale or demonstration, manufacturer test vehicles, law enforcement and emergency vehicles, military vehicles which are exempted for national security reasons, non-road vehicles, and those which are garaged at personal residences.

Under both laws, a study will be made of non-road vehicles, such as airport ground support equipment and marine vessels. In the case of the Clean Air Act, the study is to determine whether the use of alternative fuels in these non-road engines would reduce pollution, while the Energy Policy Act study will determine whether the use of alternative fuels in non-road vehicles would reduce our dependence on foreign energy sources.

Conclusion

Natural gas vehicles (NGVs) fulfill the objectives of both laws. NGVs have lower emissions, as required by the Clean Air Act, and natural gas is domestically produced, as required by the Energy Policy Act.

Clean Air Act Amendments of 1990

How do the fleet requirements of the Energy Policy Act compare with those of the Clean Air Act Amendments of 1990? First, the Clean Air Act affected fleets in 22 urban areas, while the Energy Policy Act will affect fleets in 125 metropolitan areas.

Second, the Clean Air Act included reformulated gasoline and "clean" diesel as alternative fuels. But the Energy Policy Act requires alternative fuels to be "substantially not petroleum," so in the additional cities, reformulated gasoline and clean diesel won't qualify. (Under the new law, DOE is authorized to allow private fleets in the 22 Clean Air Act cities to use reformulated gasoline.)

Metropolitan Areas with 1980 Population of 250,000 or More

Washington, DC-MD-VA

Albany-Schenectady-Troy, NY	Greensboro-Winston Salem-High Point, NC	Pensacola, FL
Albuquerque, NM	Greenville-Spartanburg, SC	Peoria, IL
Allentown-Bethlehem-Eastern, PA-NJ	Harrisburg-Lebanon-Carlisle, PA	Philadelphia-Wilmington-Trenton, PA-NJ-DE-MD
Appleton-Oshkosh-Neenah, WI	Hartford-New Britain-Middletown, CT	Phoenix, AZ
Atlanta, GA	Honolulu, HI	Pittsburgh-Beaver Valley, PA
Atlantic City, NJ	Houston-Galveston-Brazoria, TX	Portland-Vancouver, OR-WA
Augusta, GA-SC	Huntington-Ashland, WV-KY-OH	Providence-Pawtucket-Fall River, RI-MA
Austin, TX	Indianapolis, IN	Raleigh-Durham, NC
Bakersfield, CA	Jackson, MS	Reading, PA
Baltimore, MD	Jacksonville, FL	Richmond-Petersburg, VA
Baton Rouge, LA	Johnson City-Kingsport-Bristol, TN-VA	Rochester, NY
Beaumont-Port Arthur, TX	Johnstown, PA	Rockford, IL
Binghamton, NY	Kansas City, MO-KS	Sacramento, CA
Birmingham, AL	Lakeland-Winter Haven, FL	Saginaw-Bay City-Midland, MI
Boston-Lawrence-Salem, MA-NH	Lancaster, PA	Saint Louis, MO-IL
Buffalo-Niagara Falls, NY	Lansing-East Lansing, MI	Salinas-Seaside-Monterey, CA
Canton, OH	Las Vegas, NV	Salt Lake City-Ogden, UT
Charleston, SC	Lexington-Fayette, KY	San Antonio, TX
Charleston, WV	Little Rock-North Little Rock, AR	San Diego, CA
Charlotte-Gastonia-Rock Hill, NC-SC	Los Angeles-Anaheim-Riverside, CA	San Francisco-Oakland-San Jose, CA
Chattanooga, TN-GA	Louisville, KY-IN	Santa Barbara-Santa Maria-Lompoc, CA
Chicago-Gary-Lake Country, IL-IN-WI	Macon-Warner Robins, GA	Scranton-Wilkes-Barre, PA
Cincinnati-Hamilton, OH-KY-IN	Madison, WI	Seattle-Tacoma, WA
Cleveland-Akron-Lorain, OH	McAllen-Edinburg-Mission, TX	Shreveport, LA
Colorado Spring, CO	Melbourne-Titusville-Palm Bay, FL	Spokane, WA
Columbia, SC	Memphis, TN-AR-MS	Springfield, MA
Columbus, OH	Miami-Fort Lauderdale, FL	Stockton, CA
Corpus Christi, TX	Milwaukee-Racine, WI	Syracuse, NY
Dallas-Fort Worth, TX	Minneapolis-St. Paul, MN-WI	Tampa-St. Petersburg-Clearwater, FL
Davenport-Rock Island-Moline, IA-IL	Mobile, AL	Toledo, OH
Dayton-Springfield, OH	Modesto, CA	Tucson, AZ
Daytona Beach, FL	Montgomery, AL	Tulsa, OK
Denver-Boulder, CO	Nashville, TN	Utica-Rome, NY
Des Moines, IA	New Haven-Meriden, CT	West Palm Beach-Boca Raton-DeLray Beach, FL
Detroit-Ann Arbor, MI	New London-Norwich, CT-RI	Wichita, KS
Duluth, MN-WI	New Orleans, LA	Worcester, MA
El Paso, TX	New York-N. New Jersey-Long Island, NY-NJ-CT	York, PA
Erie, PA	Norfolk-Virginia Beach-Newport News, VA	Youngstown-Warren, OH
Eugene-Springfield, OR	Oklahoma City, OK	
Evansville, IN-KY	Omaha, NE-IA	
Ft. Worth, TX	Orlando, FL	
Fresno, CA		
Grand Rapids, MI		

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CNG CONSOLIDATED
NATURAL GAS
COMPANY

Federal AFV Fleet Program Expands

The number and type of alternative fuel vehicles (AFVs) purchased under the Alternative Motor Fuels Act of 1988 (AMFA) have substantially increased since the AFV purchasing program began, and the number will double in the coming year.

The U.S. General Services Administration (GSA), which purchases and leases vehicles to the federal fleet, is working with the U.S. Department of Energy (DOE) to place AFVs in fleets around the nation to meet environmental and energy regulations. Currently, the fleet consists of 6,237 AFVs. With money provided by DOE for the incremental costs of AFVs, GSA plans to purchase 6,000 to 7,000 more for 1994.

GSA's first fleet consisted of only 67 AFVs, most of which were M85 flexible-fuel vehicles (85% methanol, 15% gasoline). Today's fleet, however, includes a significant number of compressed natural gas (CNG) and E85 (85% ethanol, 15% gasoline) vehicles. And while most of the fleet is flexible-fuel (uses a combination of the alternative fuel with gasoline), the number of vehicles dedicated to a single alternative fuel is rising.

The National Energy Policy Act of 1992 and the Clean Air Act Amendments of 1990 have played a significant role in strengthening AMFA by further requiring the use of alternative fuels to displace foreign oil imports. Additionally, President Bill Clinton's recent Executive Order 12844 increased by 50% the number of AFVs that must be purchased by the federal fleet.

Historical AFV Purchases by the U.S. General Services Administration

Model Year	M85	E85	CNG	Annual Totals
1991*	25 Variable-Fuel Chevrolet Luminas; 40 Flexible-Fuel Ford Tauruses		2 Flexible-Fuel Chrysler vans	67
1992	20 Flexible-Fuel Ford Econoline vans; 2,500 Flexible-Fuel Dodge Spirits	25 Variable-Fuel Chevrolet Luminas	600 3/4-Ton dedicated Chevrolet pickup trucks; 75 dedicated eight-passenger Chrysler vans	3,220 2,950
1993	300 Flexible-Fuel Ford Tauruses; 50 Variable-Fuel Chevrolet Luminas; 2,500 Flexible-Fuel Dodge Spirits	50 Variable-Fuel Chevrolet Luminas	50 Chrysler vans	
Total	5,435	75	727	6,237

*Because federal fleet vehicles are replaced every three years on average, GSA expects to sell 1991 model year Luminas next year to the general public.

Table 1

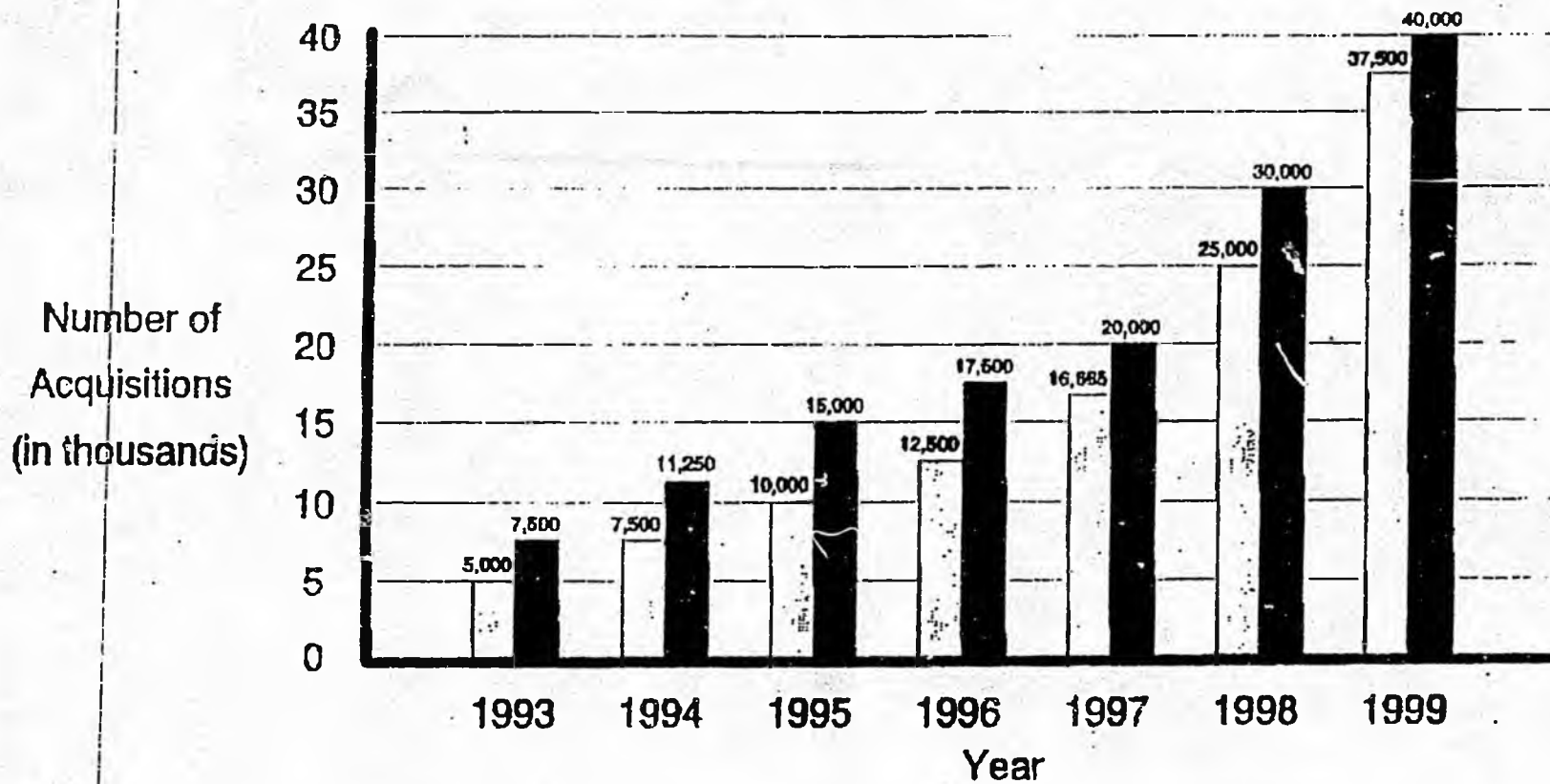
Under these mandates, the federal fleet is required to add 11,250 AFVs in 1994. GSA's Inter-agency Fleet Management System will acquire more than two-thirds of this total for leasing to other agencies. The rest of the AFV requirements will be met by conversion of existing vehicles or direct acquisition by other federal agencies such as the U.S. Postal Service.

GSA officials commented that they would like to see a greater variety and number of vehicles produced by original equipment manufacturers (OEM), especially compact sedans because of their

fuel efficiency. In addition to the limited availability of OEM vehicles, an obstacle to placing AFVs is the availability and location of fueling sites. "It's really difficult to place vehicles where the fueling infrastructure hasn't been established or the drivers have to go out of their way—up to 30 miles in some cases—to refuel," according to a GSA spokesperson.

To better understand the benefits of alternative fuels, the Alternative Fuels Data Center is collecting emissions and performance information on more than 600 of these AFVs, also an AMFA requirement. □

Requirements for Federal Fleet Alternative Fuel Vehicle Acquisition



□ Energy Policy Act of 1992
■ Executive Order 12844

Based on 50,000 vehicle acquisitions per year

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HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred: February 22, 1994

FURTHER REFERRAL

Date of Committee Action: 2/23/94

The FINANCE Committee considered:

HB 331

HOUSE BILL NO. 331

USE PFD'S TO RECOVER WELFARE OVERPAYMENTS

"An Act relating to claims on permanent fund dividends for defaulted public assistance overpayments."

- 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) DHS 2/22/94

[] zero fiscal note _____

[] zero fiscal note(s) Revenue 2/22/94

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Donald J. Larson</i> Larson	(oo)	<i>Eileen P. Maclean</i> Maclean		✓	
<i>Mark Hanley</i> Hanley	X	<i>Terrence Martin</i> Martin		X	
<i>Sean P. Farrell</i> Farrell	X	<i>[Signature]</i>			
<i>Mike Navarre</i> Navarre	✓	<i>Ben Grussendorf</i> Grussendorf		X	
<i>Tom Thernandez</i> Thernandez	X	<i>Tom Hoffman</i> Hoffman		✓	
<i>Richard [Signature]</i> [Signature]	*	<i>Kay Brown</i> Brown		✓	
<i>[Signature]</i>		<i>[Signature]</i>		(oo)	

Co-CHAIRMAN'S SIGNATURE
 Larson Maclean

K/D 11FC 2/22/94

FISCAL NOTE

No. 3
Bill Version: HB 331
(H) Publish Date: 2/22/94

STATE OF ALASKA 1994 LEGISLATIVE SESSION

BILL NO.

Revision Date: _____ Dept. Affected: Revenue
 Title: Use PFD's to recover welfare overpayments BRU: Permanent Fund Dividend
 Component: Permanent Fund Dividend
 Sponsor: TOOHEY
 Requestor: House Judiciary COMPONENT SERIAL NO. 981

Expenditures/Revenue: (Thousands of Dollars)

	FY95	FY96	FY97	FY98	FY99	FY00
OPERATING						
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	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE FUND SOURCE:						
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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:

This Legislation would establish a procedure for serving attachments against delinquents that is virtually identical to the process currently in place under AS 43.23.067 for the Alaska Commission on Postsecondary Education. Accordingly, the Division does not anticipate any significant additional costs to implement this legislation if enacted.

Prepared by: Thomas C. Williams
 Division: Permanent Fund Dividend
 Approved by Commissioner: [Signature]
 Agency: Department of Revenue

Phone: 465-2323
 Date: 01/19/94
 Date: 1/21/94

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R/D HFC 2/28/94

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

No. 2
BILL Bill Version: HB 331
(H) Publish Date: 2/22/94

Revision Date: _____ Dept. Affected: Health and Social Services
Title: An Act relating to claims on PFD's for BRU: Public Assistance Administration
defaulted public assistance overpayments Component: PA Administration
Sponsor: Toohy
Requestor: _____ COMPONENT SERIAL NO. 233

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE FUND SOURCE	3.4	4.1	11.3	9.0	9.0	8.1

FUNDING: (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	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 (FY94) impact: NONE

ANALYSIS: (Attach a separate page if necessary)

SEE ATTACHED

Prepared by: Jan L. Hansen, Director
Division: Division of Public Assistance
Approved by Commissioner: Margaret R. Lowe, M.Ed., Ed.S
Agency: Department of Health & Social Services

Phone: 465-2680
Date: 1/25/94
Date: 1-25-94

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ANALYSIS (cont.):

HB 331 amends existing statutes to provide authority for the Department of Health and Social Services to collect delinquent public assistance overpayment debts by administrative garnishment of Permanent Fund dividends.[†] This legislation results in increased debt collection by the Division of Public Assistance

Food Stamp Program overpayment collections generate revenue to the State. Although food stamps are 100 percent federally funded, states are allowed to retain collection incentives of 10 percent of recoveries of overpayments caused by inadvertent household error and 25 percent of recoveries of payments caused by recipient fraud. These recovery incentives will increase to 25 and 50 percent respectively in October, 1995.

Assumptions:

- All revenues are collected against prior years' costs
- Average state retention rate = 15 percent in FY95 and FY96
- Average state retention rate = 30 percent in FY97 through FY00
- State retentions are applied as GF receipts
- Balance after state retention is returned directly to the federal government
- State portion of recoveries is applied against prior years' costs for Public Assistance Administration
- Collections will rise in the first 3 years, then decline as backlog of existing claims is cleared

Collections:

	FY95	FY96	FY97	FY98	FY99	FY00
Claims collections	90	90	125	100	100	90
Total Collected	22.5	27.0	37.5	30.0	30.0	27.0
Increased GF Receipts	3.4	4.1	11.3	9.0	9.0	8.1

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL

Bill Version: HB 331
(H) Publish Date: 2/22/94

Revision Date: _____ Dept. Affected: Health and Social Services
Title: An Act relating to claims on PFDs for BRU: Public Assistance Administration
defaulted public assistance overpayments Component: AFDC
Sponsor: Toohy
Requestor: _____ COMPONENT SERIAL NO. 0220

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
---------	-----	-----	-----	-----	-----	-----

REVENUE FUND SOURCE	16.5	24.7	27.5	22.0	22.0	20.6
---------------------	------	------	------	------	------	------

FUNDING: (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	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 (FY94) impact: NONE

ANALYSIS: (Attach a separate page if necessary)

SEE ATTACHED

Prepared by: Jan L. Hansen, Director
Division: Division of Public Assistance
Approved by Commissioner: Margaret R. Lowe, M.Ed., Ed.S
Agency: Department of Health & Social Services

Phone: 465-2680
Date: 1/25/94
Date: 1-25-94

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Page 1 of 2

ANALYSIS (cont.):

HB 331 amends existing statutes to provide authority for the Department of Health and Social Services to collect delinquent public assistance overpayment debts by administrative garnishment of Permanent Fund dividends. This legislation results in increased debt collection by the Division of Public Assistance.

AFDC benefits are 50 percent state/50 percent federally funded. When the State recovers AFDC overpayments, it returns the federal share to the federal government and retains the state share.

Assumptions:

- All revenues are collections against prior years' costs
- The state retains 50 percent of AFDC collections as General Fund receipts
- 50 percent of AFDC collections are returned directly to the federal government
- Average claim collection via PFD garnishment = \$550
- Collections will rise in the first 3 years, then decline as backlog of delinquent claims is cleared.

Calculations:

	FY95	FY96	FY97	FY98	FY99	FY00
Claims collections	60	90	100	80	80	75
Total collected	33.0	49.5	55.0	44.0	44.0	41.3
Increased GF Receipts	16.5	24.7	27.5	22.0	22.0	20.6



Official Business

Alaska State Legislature

HOUSE OF REPRESENTATIVES

State Capitol
Juneau, AK 99801-1182

SPONSOR STATEMENT

House Bill 331

"An Act relating to claims on permanent fund dividends for defaulted public assistance overpayments"

House Bill 331 would give the Department of Health and Social Services the administrative authority to garnish permanent fund dividends of individuals who have received public assistance overpayments and are delinquent in repaying the debt.

Frequently persons receiving overpayments agree to repay the debt, but fail to do so. If a person is still on public assistance, the person's benefit can be reduced as a means of collection, but if a person is off assistance, collection becomes difficult. The Department currently has over \$1 million in delinquent debt.

Collection through the court system can be time-consuming and costly. House Bill 331 would allow the Department to pursue collection in the same manner that delinquent student loans are pursued.

The bill has the support of the Department and two positive fiscal notes from DHSS. It has an additional zero fiscal note from the Department of Revenue.

Your co-sponsorship and support would be appreciated.

SPONSOR STATEMENT

Back-up

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

January 31, 1994

SUBJECT: Claims on permanent fund dividends for defaulted public assistance overpayments (HB 331)

TO: Representative Cynthia Toohey

FROM: Tamara Brandt Cook
Director *TBC*

JAN 31 1994

Here is the sectional summary you requested.

Sec. 1. The Alaska Exemptions Act (AS 09.38) does not apply to permanent fund dividends taken to satisfy the balance due on a defaulted public assistance overpayment claim. The provisions dealing with execution on claims do not apply and a method of executing on a dividend is set out.

Sec. 2. The permanent fund dividend of a current or former recipient of a public assistance program may be taken to satisfy the balance due on a defaulted overpayment claim.

TBC:mi
94-022.mai

POSITION PAPER

House Bill 331

"An Act relating to claims on permanent fund dividends for defaulted public assistance overpayments."

House Bill 331 provides authority for the Department of Health and Social Services to collect delinquent public assistance overpayment debts by administrative garnishment of Permanent Fund dividends.

Section 1 of the bill adds a new section 43.23.068 to the Permanent Fund dividend statutes to establish procedures for the execution of claims. Section 2 adds a new subsection to the public assistance statutes to provide the authority to make claims against dividend payments in order to recover public assistance overpayments that have fallen into default.

When an individual receives more food stamps or Aid to Families with Dependent Children than they are entitled to, the Division of Public Assistance establishes a claim to recover the debt. The majority of overpayment claims are due to non-fraudulent client errors. Some are due to fraud or agency mistakes. Most overpayments are recovered by reducing the household's monthly benefits by a fixed percentage until the debt is repaid. When a person goes off public assistance while still owing on a claim, debt collection often becomes difficult.

Claiming all or part of the Permanent Fund dividend is a cost-effective way to recover overpayments from persons who refuse to agree to a repayment plan, or fail to make scheduled payments. This is a proven collection method used successfully by other agencies to collect debts such as delinquent child support and student loan payments.

The ability to claim dividends on delinquent accounts will increase collections and generate revenue for the state, and gives DHSS a stronger hand in dealing with delinquent debt collection. Some individuals may choose to resume regular debt payment rather than lose their dividends. The bill assures ample protection of the rights of individuals whose dividends may be taken.

No additional DHSS staff will be needed to initiate claims on dividends. The process promises to be a simpler and cheaper debt collection method than small claims court or civil litigation. HB 331 gives the Department a simple and effective tool to improve welfare program accountability. It offers a better way to collect debts from former recipients who fail to repay the state for the benefits they received incorrectly.

POSITION PAPER

STATE OF ALASKA ★ DEPARTMENT OF HEALTH & SOCIAL SERVICE

Position Paper
HB 331
Page 2

The Department of Health and Social Services strongly supports House Bill No. 331.

Jan L. Hansen
Jan L. Hansen, Director
Division of Public Assistance
Department of Health and
Social Services

1/25/94

Date

Margaret R. Lowe
Margaret R. Lowe, M.Ed., Ed.S.
Commissioner
Department of Health and
Social Services

1-25-94

Date

Statement of Support/Opposition

House Bill 331, "An Act relating to claims on permanent fund dividends for defaulted public assistance overpayments."

The Department of Health and Social Services strongly supports this bill.

No opposition is known or anticipated.

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 amendment. — 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).

HB

331

SFIN

FILE

claims REPORTED OUT OF
SFC 5/1/94

FISCAL NOTE

No. 1
Bill Version: HB 331
(H) Publish Date: 2/22/94

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL

Revision Date: _____ Dept. Affected: Health and Social Services
Title: An Act relating to claims on PFDs for BRU: Public Assistance Administration
defaulted public assistance overpayments Component: AFDC
Sponsor: Toohy
Requestor: _____ COMPONENT SERIAL NO. 0220

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE FUND SOURCE	16.5	24.7	27.5	22.0	22.0	20.6

FUNDING: (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	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 (FY94) impact: NONE

ANALYSIS: (Attach a separate page if necessary)

SEE ATTACHED

Prepared by: Jan L. Hansen, Director
Division: Division of Public Assistance
Approved by Commissioner: Margaret R. Lowe, M.Ed., Ed.S.
Agency: Department of Health & Social Services

Phone: 465-2680
Date: 1/25/94
Date: 1-25-94

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Revision Date: _____

BI , NO. HB 331

ANALYSIS (cont.):

HB 331 amends existing statutes to provide authority for the Department of Health and Social Services to collect delinquent public assistance overpayment debts by administrative garnishment of Permanent Fund dividends. This legislation results in increased debt collection by the Division of Public Assistance.

AFDC benefits are 50 percent state/50 percent federally funded. When the State recovers AFDC overpayments, it returns the federal share to the federal government and retains the state share.

Assumptions:

- All revenues are collections against prior years' costs
- The state retains 50 percent of AFDC collections as General Fund receipts
- 50 percent of AFDC collections are returned directly to the federal government
- Average claim collection via PFD garnishment = \$550
- Collections will rise in the first 3 years, then decline as backlog of delinquent claims is cleared.

Calculations:

	FY95	FY96	FY97	FY98	FY99	FY00
Claims collections	60	90	100	80	80	75
Total collected	33.0	49.5	55.0	44.0	44.0	41.3
Increased GF Receipts	16.5	24.7	27.5	22.0	22.0	20.6

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

No. 2
BILL Bill Version: HB 331
(H) Publish Date: 2/22/94

Revision Date: _____ Dept. Affected: Health and Social Services
Title: An Act relating to claims on PFD's for BRU: Public Assistance Administration
defaulted public assistance overpayments Component: PA Administration
Sponsor: Toohy
Requestor: _____ COMPONENT SERIAL NO. 233

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE FUND SOURCE	3.4	4.1	11.3	9.0	9.0	8.1
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	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 (FY94) impact: NONE

ANALYSIS: (Attach a separate page if necessary)

SEE ATTACHED

Prepared by: Jan L. Hansen, Director
Division: Division of Public Assistance
Approved by Commissioner: Margaret R. Lowe, M.Ed., Ed.S
Agency: Department of Health & Social Services

Phone: 465-2680
Date: 1/25/94
Date: 1-25-94

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ANALYSIS (cont.):

HB 331 amends existing statutes to provide authority for the Department of Health and Social Services to collect delinquent public assistance overpayment debts by administrative garnishment of Permanent Fund dividends. This legislation results in increased debt collection by the Division of Public Assistance

Food Stamp Program overpayment collections generate revenue to the State. Although food stamps are 100 percent federally funded, states are allowed to retain collection incentives of 10 percent of recoveries of overpayments caused by inadvertent household error and 25 percent of recoveries of payments caused by recipient fraud. These recovery incentives will increase to 25 and 50 percent respectively in October, 1995.

Assumptions:

- All revenues are collected against prior years' costs
- Average state retention rate = 15 percent in FY95 and FY96
- Average state retention rate = 30 percent in FY97 through FY00
- State retentions are applied as GF receipts
- Balance after state retention is returned directly to the federal government
- State portion of recoveries is applied against prior years' costs for Public Assistance Administration
- Collections will rise in the first 3 years, then decline as backlog of existing claims is cleared

Collections:

	FY95	FY96	FY97	FY98	FY99	FY00
Claims collections	90	90	125	100	100	90
Total Collected	22.5	27.0	37.5	30.0	30.0	27.0
Increased GF Receipts	3.4	4.1	11.3	9.0	9.0	8.1

FISCAL NOTE

No. 3

Bill Version: HB 331

(H) Publish Date: 2/22/94

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO

Revision Date: _____
Title: Use PFD's to recover welfare overpayments
Sponsor: TOOHEY
Requestor: House Judiciary

Dept. Affected: Revenue
BRU: Permanent Fund Dividend
Component: Permanent Fund Dividend
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	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE FUND SOURCE:						
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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:

This Legislation would establish a procedure for serving attachments against dividends that is virtually identical to the process currently in place under AS 43.23.067 for the Alaska Commission on Postsecondary Education. Accordingly, the Division does not anticipate any significant additional costs to implement this legislation if enacted.

Prepared by: Thomas C. Williams *Thomas Williams*
Division: Permanent Fund Dividend
Approved by Commissioner: [Signature]
Agency: Department of Revenue

Phone: 465-2323

Date: 01/19/94

Date: 1/21/94

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HB

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HOUSE COMMITTEE REPORT

(11)

Date Referred: March 11, 1994

FURTHER REFERRALS:

Date of Committee Action: 4/11/94

The FINANCE Committee considered:

HB 334

HOUSE BILL NO. 334

99 YR PENALTY-3RD SERIOUS FELONY OFFENDER

"An Act relating to criminal sentencing; and relating to mandatory life imprisonment, parole, good time credit, pardon, commutation of sentence, reprieve, furlough, and service of sentence at a correctional restitution center for offenders with at least three serious felony convictions."

RECOMMENDATIONS:

be replaced with (S) HB 334 (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) _____

fiscal impact ⁽²⁾ Admin; AK Court; 1 W

fiscal note(s) Admin

zero fiscal note Conviction

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
		Eileen P. Maclean ^{Maclean}	X		
		Ronald J. Larson ^{LARSON}		X	
		Mark Hanley ^{Hanley}		X	
		Larry Martin ^{MARTIN}		X	
		Heard Parnell Parnell	X		
		Jay Brown ^{BROWN}	✓		
		Gene Hernandez ^{Hernandez}			X

Ronald J. Larson Eileen P. Maclean
 CHAIRMAN'S SIGNATURE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

FISCAL NOTE

BILL NO.: CSHB 334 (JUD)

Revision Date: March 21, 1994

Dept. Affected: Corrections

Title: Three Strikes

BRU: All

Sponsor: Rep. Bunde

Component: All

Requestor: House Finance

Component Serial #: 694-1884

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXP.	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXP	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGES IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0
---------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE

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

Estimate of any current year (FY94) cost \$ 0.0

POSITIONS

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

ANALYSIS: Please see the attached explanation. Fiscal impact will be significant, but delayed beyond the years measured in this fiscal note.

Prepared by: Diane Schenker, Special Assistant
 Division: Office of the Commissioner
 Approved by: J. Frank Prewitt, Jr., Commissioner
 Agency: Department of Corrections

D. Schenker
JFP

Phone: 465-4643/786-2147
 Date: 3/22/94
 Date: 3/22/94
 Page 1 of 5

The bill would mandate a life sentence for a conviction for an unclassified or Class A felony if the offender has been previously convicted of two or more separate "most serious" felonies: any unclassified or Class A felony (or attempt, conspiracy or solicitation regarding an unclassified or Class A felony), or Assault II, Sexual Assault II, Sexual Abuse of a Minor II, or Unlawful Exploitation of a Minor. Offenders sentenced to mandatory 99 year sentences would not be eligible to earn statutory good time. Prisoners sentenced under the provisions of the bill would be ineligible for parole or other forms of early or graduated release, but could apply for a modification or reduction of sentence after serving half of the 99-year mandatory sentence (49.5 years.)

Assumptions

1. According to the department's data, approximately 19% of the prisoners incarcerated on November 4, 1993 had been convicted of three or more felonies. A June 30, 1993 profile indicated that approximately 1,052 (almost 40%) of the prisoners were incarcerated for a "most serious felony." Estimates from the Alaska Judicial Council and from the department's OBSCIS system suggest that only 10% of incarcerated felons have been convicted of prior, multiple, most serious felonies. To check these assumptions, ten cases were randomly selected from the list of prisoners incarcerated for unclassified and class A felonies, and criminal histories were checked according to file information. One out of the ten had a prior most serious felony conviction. Criminal justice information records are not available to discern whether or not prior convictions were separate, consecutive offenses. The department does not have the resources to conduct individual file reviews to determine this factor and therefore assumes the 10% estimate is correct.
2. The 99 year sentence is assumed to be a "life" sentence. The estimated lifespan of a male, by the year 2000, is estimated to be 73.5 years, according to the United States Statistical Abstract. The estimated age at the time of conviction for a most serious felony is estimated to be 28 years, according to the Alaska Judicial Council. Thus, those sentenced under this bill would be incarcerated for 45.5 years, rounded up to 46 years. (Age for males is used, since the prison population is over 95% male.) If allowed to earn statutory good time on a 99 year sentence, the prisoner would still have to serve 66 years. Furlough eligibility would not occur until the prisoner had served 63 years, with good time, and sentence modification allowed under the bill would not occur until after serving 49.5 years. Since the average prisoner would be dead prior to meeting these requirements, the provisions governing good time, furlough, and sentence modification are assumed to be irrelevant.

3. The estimated length of incarceration for applicable crimes under current law is listed in the table below, with the associated increase based upon sentencing under this bill. The current average lengths of incarceration for unclassified and Class A felonies are based upon data from the department's OBSCIS system on current prisoners.

Offense Category	Current Length of Incarceration	Proposed Incarceration	Difference	% increase
Unclassified: Murder I, Murder II, Kidnapping	over lifespan	over lifespan	0	0
Unclassified: MICS I, SA I, SAM I	13 years	46 years	+ 33 years	+ 354%
A felonies	12 years	46 years	+ 34 years	+ 383%

4. The statewide average cost of incarceration in a state correctional center is \$113 per day. This figure does not include CRC beds, since prisoners under this bill are prohibited from furlough, restitution center placement, etc. This figure includes the standard overhead for medical and administrative costs. This number should be considered to be conservative, since medical expenses for older prisoners doing life sentences are expected to be higher than average. Operating expenses are reflected under "miscellaneous" on page 1 of the fiscal note since the total operating cost involves multiple categories of expenses.

6. The average cost for construction of a maximum security prison bed in Alaska is \$160,000. It is assumed that prisoners sentenced to life will require high security housing. Capital expenses might be reduced if additional beds were purchased under contract, however there are no contract beds currently available in Alaska for prisoners with higher than minimum custody.

7. The correctional system cannot absorb any additional prisoners without additional resources. The system has been operating over emergency capacity throughout the past year. Even when all aspects of the department's current population management plan are achieved, only the current overcrowding will be addressed, not including any additional numbers of inmates caused by new legislation. In addition to posing safety hazards, operating over emergency capacity for prolonged periods may result in fines of up to \$1,000 per day if the department is found in contempt of court for violating population caps.

8. Because a number of crime bills are pending before the legislature this year, it is difficult to predict the total number of beds by which the prison system may need to be increased, and therefore difficult to predict how and where such beds would be added: through new facility construction, facility modification, or contracting. It is not possible to estimate the number of staff positions needed until specific expansion plans are made.

Operating Expenses and Capital Expenses

There will be long-term impact and expenses which the department will have to address through the budget process in subsequent years, because the impact will not occur during the six-year period addressed in the fiscal note process.

The table below calculates the increased costs of all the categories of offenders whose actual length of stay would be increased under the bill. Although the increases for various categories of offenses would result over varying periods of time, this method arrives at an aggregate increase in population in order to predict future needs for the prison system. It is assumed that 10% of the unclassified and class A felony population would increase according to the percentage increase in sentence lengths shown in the table under Assumption 3. Murder I, Murder II, and Kidnapping are excluded since the current average sentence already exceeds the expected lifespan.

Offense	Total in DOC on 6/30/93	10% (3rd repeaters)	Current Prisoner-days	% sent. length increase	Additional Prisoner-days
Unclassified Felonies					
SAM I	153	15.3	5,584.5	X 3.54	19,769.1
SA I	178	17.8	6,497		22,999.4
MICS I	9	.9	328.5		1,162.9
TOTAL UNCLASSIFIED					43,931.4
Class A Felonies					
Assault I	57	5.7	2,080.5	X 3.83	7,968.3
Manslaughter	28	2.8	1,022		3,914.3
Robbery I	101	10.1	3,686.5		14,119.3
Arson I	6	.6	219		838.7
Escape I	2	.2	73		279.6
MIW I	20	2	730		2,795.9
TOTAL A FELONIES					29,916.1
TOTAL ADDITIONAL PRISONER-DAYS					73,847.5

Fiscal Note/DOC
CSHB 334 (JUD)
March 21, 1994
Page 5 of 5

This suggests that the actual prison population would, over time, increase by 73,848 prisoner-days, or 202 prisoners as a result of the increased sentence lengths required by the bill.

73,848 prisoner-days X \$113 per day = \$ 8,344,824 operating expenses

202 beds X \$160,000 per maximum bed = \$ 32,320,000 capital expenses

TOTAL ADDITIONAL EXPENSE = \$ 40,664,824

This increase would be spread over the 46-year lifespan expectancy of the first batch of prisoners sentenced to 99 years, less the 12 years the first batch would be expected to receive, on average, under current law, or a 34 year period between FY07-41. Spread over those years, the average yearly cost would be approximately \$1,196,024.

This figure does not include any inflation factor and does not assume any increase in the rate of convictions/incarcerations. It does not account for increases in medical costs for a larger, aging population.

Offsetting this number, it would be expected that some savings might be expected in the Community Corrections component, since most of these prisoners would otherwise have been released and supervised on probation or parole under current law. However, the \$6 average cost per day for this supervision is almost negligible compared to the \$113 cost per day of incarceration, and would only be a factor for a relatively small portion of the total sentence.

Another offsetting factor might be the avoidance of costs of new crimes, probably violent, that these chronic types of offenders might be assumed to commit if they were released, under current law. These savings would be experienced by other agencies and departments through avoidance of arrests, investigations, trials, etc.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 334

Revision Date: _____
Title: 'An Act relating to criminal sentencing; and relating to mandatory life imprisonment, parole...'
Sponsor: Representatives Bunde, Olberg
Requestor: House Judiciary

Department Affected: Administration
BRU: Office of Public Advocacy
Component: Office of Public Advocacy
COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	83.1	83.1	83.1	83.1	83.1	83.1
TRAVEL	10.0	10.0	10.0	10.0	10.0	10.0
CONTRACTUAL	83.4	83.4	83.4	83.4	83.4	83.4
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	3.6	3.6	3.6	3.6	3.6	3.6
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	181.1	181.1	181.1	181.1	181.1	181.1

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ()	0	0	0	0	0	0
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FUNDING SOURCE:

(Thousands of Dollars)

1002 Federal Receipt	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	181.1	181.1	181.1	181.1	181.1	181.1
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	181.1	181.1	181.1	181.1	181.1	181.1

Estimate of any current year (FY 94) cost: \$ None

POSITIONS:

FULL-TIME	1.0	1.0	1.0	1.0	1.0	1.0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

See attached.

Prepared by: Brant McGee, Public Advocate
Division: Office of Public Advocacy

Phone: 274-1684
Date: _____

Approved by Commissioner: Nancy Bear Usery
Agency: Administration

Date: 3/22/94

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 334

ANALYSIS: (continued)

The revisions in the original 'Three Strikes' proposal made by CSHB 334, the House Judiciary substitute, should significantly reduce the number of criminal defendants susceptible to the 99 year prison term. The changes allow prosecutorial discretion, modify the way prior felony convictions are viewed by the court, and require that the final charge be an A or Unclassified felony.

The Alaska Judicial Council, which provided the statistical analysis related to the original HB 334, has not provided additional statistics regarding the potential impact of the new bill on criminal justice agencies. However, the assumptions regarding the initial fiscal notes remain valid. While the numbers of cases will undoubtedly be reduced by the modifications contained in the committee substitute, there is no question that litigation surrounding 'Three Strikes' cases will be lengthy and costly. Costs will be dictated by the high stakes of each case, the necessity for collateral attacks on prior convictions both in State and Federal courts, and the certainty that each of these cases will go to trial.

Because of the necessity of attacking underlying convictions and the treatment of each case as most serious because of the severity of the sanction, litigation will require the filing of numerous motions, not only on the current charge, but in each prior case which resulted in convictions. This will require the review of voluminous records associated with each of the prior felony cases and the initiation of new litigation in each case. If that prior conviction occurred in a different state, it would be necessary to retain out-of-state counsel to launch the collateral attacks upon these convictions. Further, expert testimony regarding the adequacy of prior counsel would probably need to be prepared in many of the cases.

While it is not possible to estimate the indirect impact of such legislation on client decision-making in first and second felony cases, there is little question that some clients will be influenced to go to trial rather than plead guilty when they know that this conviction will make them eligible for life in prison if they commit another felony. More trials mean higher costs for each criminal justice agency.

It should also be noted that these cases will give rise to many conflicts of interest which will necessitate withdrawal of the Public Defender Agency and the assignment of OPA to provide representation. These conflicts of interest will arise because the Public Defender will have provided representation in the earlier cases which resulted in convictions, and which would be subject to collateral attack during the litigation of each 'Three Strikes' case.

Because OPA criminal lawyers are currently at maximum caseload capacity, and because of the loss of one such attorney in FY93, it will be necessary to add an additional experienced attorney to provide representation in these cases throughout the state.

Further, because at least one of these cases each year will require the appointment of conflict counsel, at an estimated cost of \$60,000 per case, contractual costs will also be high.

Position Title Attorney IV		No. of Positions 1	Range / Step 24/A	Barg. Unit PX
Time Status PFT	Staff Months 12.0	Location Anchorage		Election District 8
TYPE OF EXPENDITURE		AMOUNT		
Salary		61.0		
Benefits		22.1		
Premium Pay				
Other				
Total Personal Services		0.0 83.1		
Travel				
Contractual		3.4		
Commodities		1.0		
Equipment		3.6		
Other				
Total Cost		91.1		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts 1002				
G.F. Match 1003				
General Fund 1004		91.1		
I-A Receipts 1007				
CIP Receipts 1061				
Other				
Justification The Anchorage Office of Public Advocacy presently has three attorney positions devoted to criminal defense. These attorneys are also handling several major cases outside of the Anchorage area as staff coverage and travel is more cost effective than contracting major cases to private attorneys in rural areas. Current caseloads indicate that these three attorneys cannot absorb the additional cases which would result from this legislation. It is necessary that an additional attorney be added to the Anchorage staff to cover the resultant increased caseload.				

07/leg94/137/csnb334a.kp

Request For New Position

AGENCY ADMINISTRATION
 BRU OFFICE OF PUBLIC ADVOCACY
 COMPONENT OFFICE OF PUBLIC ADVOCACY

FY 95

Page 3 of 3
 Revised Date: _____

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 334 (JUD)

Revision Date: _____ Dept. Affected: Alaska Court System
 Title: An Act relating to criminal sentencing... BRU: Trial Courts
 Components: _____
 Sponsor: Reps. Bunde, Olberg
 Requestor: _____ COMPONENT SERIAL NO. 768

EXPENDITURES/REVENUES (Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	40.6	40.6	40.6	40.6	40.6	40.6
TRAVEL						
CONTRACTUAL	37.5	37.5	37.5	37.5	37.5	37.5
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	78.1	78.1	78.1	78.1	78.1	78.1

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

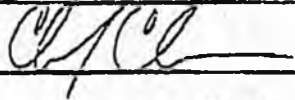
1002 Federal Receipts						
1003 GF Match						
1004 GF	78.1	78.1	78.1	78.1	78.1	78.1
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	78.1	78.1	78.1	78.1	78.1	78.1

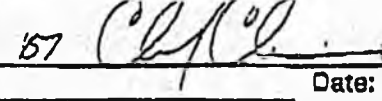
POSITIONS

FULL-TIME						
PART-TIME	2.0	2.0	2.0	2.0	2.0	2.0
TEMPORARY						

Estimate of current year (FY 94) cost: \$ None

ANALYSIS: (Attach a separate page if necessary)
See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel  Phone: 264-8228
 Agency: Alaska Court System Date: 03/22/94

Approved by: Arthur H. Snowden, II, Administrative Director  Date: 03/22/94
 Agency: Alaska Court System

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ALASKA COURT SYSTEM
FISCAL ANALYSIS
CSHB 334 (JUD)

The Judiciary CS for HB 334 amends Alaska's presumptive sentencing laws to provide that a defendant convicted of a third felony offense is subject to a mandatory term of imprisonment of 99 years. The first two convictions must be for a "most serious" felony, and the third conviction must be for a class A or unclassified felony. The prosecutor has the discretion to pursue or not pursue the 99-year mandatory sentence.

The Department of Law has estimated that prosecutors will seek the mandatory 99-year sentence five or six times per year. Because of the potential sentence, these cases can be expected to rival first-degree murder cases in the amount of court time spent on the actual trial, as well as on evidentiary hearings, collateral attacks on previous convictions, and other pre- and post-trial motion work. This is estimated to average four weeks of trial time per case, plus one week of additional hearings. If the defendant was not subject to a 99-year sentence, only one of these cases would statistically be expected to go to trial; that would most likely be a first-degree murder case, with an average five week length.

In addition to the costs of the third felony case, the existence of the mandatory 99-year sentence will encourage offenders charged with their first or second "most serious" felony to fight the charge more strenuously, because conviction would greatly increase the chance that the offender would be vulnerable to the 99-year sentence at a later time. In the years 1984 through 1990, an average of about 900 defendants each year were charged with a first or second "most serious" felony. Trial rates for those charged with these felonies range from eight to 20 percent, depending on the classification of the offense (class B, class A, or unclassified). If the trial rate increases by 50 percent, over 50 additional felony trials will be held each year. Such changes in the trial rate are not unprecedented. When the plea bargaining ban was imposed in 1975, the felony trial rate doubled during the first year and tripled during the second year. Because it is impossible to predict what increase will occur in the trial rate as a result of HB 334, this note does not reflect those costs. Should HB 334 result in a significantly higher trial rate, the court system will need to return to the legislature for additional funding.

For similar reasons, it can be expected that the appeal rate and rate of applications for post-conviction relief will increase among the 900 defendants charged each year with a first or second "most serious" felony. Again, this note does not attempt to quantify those costs.

Alaska Court System
Fiscal Analysis
CSHB 334 (JUD)

Personal Services

	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Pro Tem Superior Court Judge, PPT, fully vested, Anchorage, 6 months	\$12,075	\$8,868	\$20,943
In-court Clerk, range 12A, PPT, Anchorage, 6 months	13,554	6,116	<u>19,670</u>
Total Personal Services			<u>40,613</u>

Contractual Services

Jury fees for 12 jurors and 3 alternates for 20 days for law trials at \$25 a day for each juror 37,500

Estimated Total Cost \$78,113

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 334 (JUD)

Revision Date: _____

Department Affected: Administration

Title: An Act relating to criminal sentencing. . . .

BRU: Public Defender Agency

Component: Public Defender Agency

Sponsor: Reps. Bunde, Olberg

Requestor: House Judiciary

COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	171.8	177.0	182.3	187.8	193.4	199.2
TRAVEL	3.0	3.1	3.2	3.3	3.4	3.5
CONTRACTUAL	25.0	25.8	26.6	27.4	28.2	29.0
SUPPLIES	3.0	3.1	3.2	3.3	3.4	3.5
EQUIPMENT	4.5	-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	207.3	209.0	215.3	221.8	228.4	235.2

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUNDING SOURCE:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match	207.3	209.0	215.3	221.8	228.4	235.2
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	207.3	209.0	215.3	221.8	228.4	235.2

Estimate of any current year (FY 94) cost: \$ 0

POSITIONS:

FULL-TIME	3	3	3	3	3	3
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

See attached.

Prepared by: John B. Salemi, Director
Division: Public Defender Agency

Phone: 264-4400
Date: _____

Approved by Commissioner: Nancy Bear Usery
Agency: Department of Administration

Date: 3/22/94

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 334

ANALYSIS: (continued)

CSHB 334, the House Judiciary substitute bill for the original 'Three Strikes' proposal, makes significant changes which serve to limit the pool of criminal defendants susceptible to the 99 year prison term which is the hallmark of the bill. These changes include 1) discretionary, rather than mandatory, application (discretion rests with prosecuting authority), 2) the manner in which prior triggering felony convictions are considered by the court and, 3) the requirement that the 'third strike' be an A or Unclassified felony.

This agency, along with the Department of Law, relied to some extent on research and analysis done by the Alaska Judicial Council related to the original HB 334, in determining fiscal impact. No statistical analysis has been prepared regarding the present substitute version, and as such, the revised fiscal notes may be more speculative in terms of the actual number of cases which will be prosecuted under the 'Three Strikes' law. This much is certain: there will be a real and distinct impact on this agency if this proposal becomes law. Repeat felony offenders are regularly assigned as clients to the Public Defender for legal representation. The cases which are susceptible to 'Three Strikes' penalties will be intensely litigated (as described in our original fiscal analysis). And while this version of the bill builds prosecutorial discretion into the law, there is no way of knowing how and to what extent the prosecution will exercise such discretion. If a prosecuting authority decided to prosecute each potential 'Three Strikes' case as one appropriate for the maximum penalty, neither the defendant, the courts, nor the Department of Corrections could complain that discretion wasn't being properly exercised.

In summary, this committee substitute will lessen the fiscal impact on criminal justice agencies. It is, however, difficult to quantify the effect of said changes. This agency believes the substitute version will reduce the number of 'Three Strikes' cases by roughly 50%. As such, the Public Defender fiscal note is adjusted downward by approximately the same percentage amount.

BUDGET ANALYSIS

100: Anchorage - Attorney IV	83.1
Paralegal Asst. II	51.8
Legal Secretary I	36.9
	171.8
200: Travel	3.0
300: Contractual	25.0
400: Supplies	3.0
500: Equipment (one time)	<u>4.5</u>
TOTAL	207.3

Position Title Legal Secretary I		No. of Positions 1	Range / Step 10/A	Barg. Unit GGU
Time Status PFT	Staff Months 12.0	Location EBA		Election District 50
TYPE OF EXPENDITURE		AMOUNT		
Salary		24,756		
Benefits		12,110		
Premium Pay				
Other				
Total Personal Services	0.0	36,866.0		
Travel		0.0		
Contractual		0.0		
Commodities		1,000.0		
Equipment		1,500.0		
Other				
Total Cost		39,366.0		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004	39,366.0		
I-A Receipts	1007			
CIP Receipts	1061			
Other				
Justification				
<p>The "Three Strikes" legislation will create a category of serious felony cases which will be litigated as intensely as homicide cases. Because of the effort involved, and because this will have statewide impact on this 13-office agency, additional staff will be required. The litigation effort will necessarily include collateral attacks on prior felony convictions, and other pretrial investigation and motion work. Some travel (both in and out of state) will be required. Contractual funds will be required in those instances where collateral attacks will involve challenging prior convictions which are sited in other states.</p> <p>The positions described below will work in the Anchorage office but will also provide litigation support to the other 12 offices whenever a "Three Strikes" case is assigned to the agency:</p> <p>Anchorage: Attorney IV 83.1 Paralegal Assistant II 51.8 Legal Secretary I 36.9</p>				

1/leg94/13/8113d.kp

Request For New Position

AGENCY ADMINISTRATION

BRU PUBLIC DEFENDER AGENCY

COMPONENT PUBLIC DEFENDER AGENCY

FY 94

Page 3 of 3
Revised Date: _____

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 334 (JUD)

Revision Date: March 11, 1994
Title: "...relating to criminal sentencings... mandatory life imprisonment, parole, good time credit, pardon, commutation..."
Sponsor: Representative Bunde
Requestor: Representative Bunde

Department Affected: Department of Law
BRU: Prosecution
Component: Third District
COMPONENT SERIAL NO. 0087

EXPENDITURES/REVENUES:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL	81.7	81.7	81.7	81.7	81.7	81.7
TRAVEL	7.5	7.5	7.5	7.5	7.5	7.5
CONTRACTUAL	13.6	13.6	13.6	13.6	13.6	13.6
SUPPLIES	3.3	3.3	3.3	3.3	3.3	3.3
EQUIPMENT	6.5					
LAND &						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	112.6	106.1	106.1	106.1	106.1	106.1

CAPITAL						
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REVENUE						
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FUNDING:

1002 Federal						
1003 GF Match						
1004 GF	112.6	106.1	106.1	106.1	106.1	106.1
1005 GF/Program						
1006 GF/MHTIA						
OTHER						
TOTAL	112.6	106.1	106.1	106.1	106.1	106.1

POSITIONS:

FULL-TIME	1.0	1.0	1.0	1.0	1.0	1.0
PART-TIME						
TEMPORARY						

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

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

Richard I. Peques

Prepared by: Richard I. Peques, Director

Phone: 465-3672

Division: Administrative Services Division

Date: March 11, 1994

Approved by Commissioner: Bruce M. Botelho, Attorney General

Agency: Department of Law

Date: March 11, 1994

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 334 (JUD)

ANALYSIS CONTINUATION:

The House Judiciary Committee Substitute for HB 334 makes three important changes from the original version of the bill.

First, the committee substitute provides prosecutors with the discretion to persue or not persue a 99-year mandatory sentence.

Second, the committee substitute makes it clear that the sequence of most serious felony convictions consists of thrae separate crimes and three separate convictions in terms of criminal episode and time before a 99-year mandatory sentence can be invoked.

Third, the committee substitute provides that the third and triggering most serious felony conviction must be for an unclassified felony or a class A felony in order for a 99-year mandatory sentence to be imposed.

In view of these changes, the Department of Law believes that the number of cases where prosecutors will seek a 99-year mandatory sentence will be reduced to five or six each year. Because a trial with consequences this serious can require two or more months of a prosecutors time, and because the largest number of serious crimes occur in Southcentral Alaska, we are reducing fiscal note costs to include a single prosecutor for the Anchorage area at a cost of \$112,600, or a reduction of \$217,800 from the department's original fiscal note request.

01/26/94

14:56:24.0

PERSONAL SERVICES EXPENDITURES NEW POSITION DETAIL REPORT

PAGE: 2

DEPARTMENT OF LAW

SCENARIO: 3

COMPONENT #: 6501020300 NAME: THIRD JUDICIAL DISTRICT

BRU NAME: PROSECUTION

PCN	UNAUTH PCN	JOB CLASS TITLE	Y S	LOCATION NAME	R B S C U	R&S NOS BUDG	SALARY	PREM PAY	BENES	PER.SERV. COSTS	G. F. AMOUNT
03/044		ATTORNEY IV		F ANCHORAGE		A XE AA 24A 12	61000	0	20660	81668.60	

**** JUSTIFICATION:

CSMB 334 (JUD)

TRAVEL COSTS	7500.00
CONTRACTUAL COSTS	13600.00
SUPPLIES COSTS	3300.00
EQUIPMENT COSTS	6500.00
OTHER COSTS	0.00

*** FUNDING DETAIL:

TOTAL COSTS	112568.60	81668.60
1004 GENERAL FUND RECEIPTS	81668.60	
TOTAL FUNDING	81668.60	

**** COMPONENT TOTALS:

FULL TIME NEW POSITIONS	1	TOTAL PERSONAL SERVICES	81668.60
PART TIME/SEASONAL NEW POSITIONS	0		
NON PERMANENT NEW POSITIONS	0	TOTAL COSTS INC. ASSOC COSTS	112568.60
OTHER.....	0		

NUMBER OF NEW POSITIONS IN COMPONENT: 1

FUNDING DATA: G.F. & G.F. MATCH:	81668.60
OTHER FUNDS:	0.00
TOTAL FUNDING:	81668.60

AMENDMENT

I

adopted

OFFERED IN THE HOUSE
TO: CSHE 334(JUD)

BY REPRESENTATIVE BROWN

Page 3, line 19:

Delete "or (l)"

Insert "of this section or a definite term of imprisonment under (l)"

Page 3, line 20, following "mandatory":

Insert "or definite"

Page 3, line 24:

Delete "mandatory"

Insert "definite"

Page 3, line 25, following "imprisonment of":

Insert "at least 30 years but not more than"

Page 3, line 27:

Delete "99-year mandatory sentence"

Insert "definite sentence under this subsection"

Page 3, lines 27 - 28:

Delete "mandatory 99-year sentence"

Insert "definite"

Page 6, line 31:

Delete "(l)"

Insert "a definite term under AS 12.55.125(l)"

Page 7, line 9, following "to a":

Insert "(1)"

Page 7, line 11:

Delete "(1)"

Page 7, line 12, following "(2)":

Insert "definite term under"

Page 7, line 15:

Delete "mandatory 99-year"

Insert "definite"

Page 8, line 1:

Delete "mandatory 99-year"

Insert "definite"

Page 8, line 6:

Delete "mandatory"

Page 8, line 7:

Delete "of 99 years"

Page 8, line 8:

Delete "mandatory"

D.1

AMENDMENT II adopted

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: CSHB 334(JUD)

Page 6, line 20 after "AS 11":

Delete " ;"
Insert " ;"

Page 6, line 21 through line 24:

Delete all material

A M E N D M E N T 3

withdrawn

Offered in the House
CSHB 334 (JUD)

By Rep. MacLean

Page 6, line 21:

Delete all material.

Reletter subsequent items.



House of Representatives

SPONSOR STATEMENT

HB 334

"THREE STRIKES YOU'RE OUT"

"An Act relating to criminal sentencing; and relating to mandatory life imprisonment, parole, good time credit, pardon, commutation of sentence, reprieve, furlough, and service of sentence at a correctional restitution center for offenders with at least three serious felony convictions."

HB 334 provides a mandatory 99-year sentence for a specific group of violent offenders who have two previous most serious violent felony convictions. This law is intended to affect only the criminals who work their way through the criminal justice system twice for most serious offenses and then commit a third and separate most serious crime.

There is a notification requirement in HB 334. Offenders who have two violent felony convictions must be informed in writing of sentencing requirements upon a third violent felony conviction.

Under this proposed legislation parole is not available to an offender who has been given a 99-year sentence, but release is possible. When the offender is no longer thought to be a threat, or becomes chronically ill, the governor may grant clemency or a pardon. This provision would prevent our correctional facilities from becoming overburdened.

The cost of keeping a person incarcerated for 99 years is high. However, when cost is considered, the true cost and benefits must be enumerated before concluding that this legislation is too expensive. First, strong punishments can shape behavior and deter crime by scaring some offenders away. Second, many studies have shown that the recidivism rates for three time offenders let back into society are between 65-76%. These offenders are taking up costly time in our judicial system by committing the same crimes again and again.

Third, this legislation has been narrowly focused to include only specific violent felony offenses. The intention is to keep the cost to the state to a minimum.

This proposed legislation will make our state a safer place to be by taking some violent offenders off the street. I urge your positive consideration of this legislation.

Back-up

Representative Kay Brown

ALASKA STATE LEGISLATURE

Legislative Information Office
716 W. 4th Ave, #420
Anchorage, AK 99501-2133
(907) 258-8162

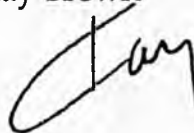
During Session
State Capitol
Juneau, Alaska 99801-1182
(907) 465-4998

MEMORANDUM

TO: Representative Eileen MacLean, Co-chair
Representative Ron Larson, Co-chair
House Finance Committee

FROM: Representative Kay Brown

DATE: April 8, 1994



SUBJECT: HB 334, "3 strikes you're out"

"Three strikes, you're out!" it's so appealing. A simple concept, easy to grasp and easy to communicate.

The questions we need to ask ourselves are also simple:

1. Does Alaska need this change in the law?
2. Would such a change have any appreciable effect on crime, what would that effect be?

The major issues involved in this bill have little to do with deterring crime--there is no evidence that this approach will make society safer. Oh yes, it sounds logical, lock up the habitual, violent criminals for life and we all can breathe easier. What this bill really comes down to is:

• First, do we want sentencing discretion in the hands of judges or prosecutors?

Have we any evidence that Alaska judges are failing in their commitment to justice? Are Alaska judges letting habitual violent offenders off easy? Are the

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three-time, convicted violent criminals not spending most or all of their lives behind bars? Does the Legislature need to remove sentencing discretion from our judges? Is it better for that discretion to be given to prosecutors?

I'm disturbed by the implication that our judicial system is somehow deficient. Alaska has a unique, modern and nationally recognized judicial system. Our judges are not politicians. The framers of our constitution took great pains to ensure that we would have a unified, accessible court system, responsive to the citizens it serves. The qualifications and conduct of our judges is subject to review by the Judicial Council, the Commission on Judicial Conduct and finally regular approval or rejection in a non-partisan election.

Wouldn't it be great if crime were so simple--that every serious crime was the same--that there was no qualitative difference between one armed robbery or sexual assault or drug felony and another? Or that every person who committed a burglary or sold drugs or held up a convenience store were, each and every one, young and old, unredeemable? In that case, judges would only have to decide if the defendant was technically guilty as charged. Sentencing could be done by computer. But, justice in a democracy that values individual rights is not that simple. Part of a judge's task is to determine guilt. Another part is to ensure that the punishment fits the character of the crime, as well as the character of the defendant.

I see no reason to take this responsibility away from Alaska judges.

•Second, if we want longer sentences for "habitual" criminals, will we build new prisons to house them or will we release one time or two time violent offenders earlier? One way or another we have to face the facts--Alaska does not have enough prison beds to keep the criminals we have already convicted locked up for the duration of their sentence. Passing tougher sentencing laws, putting more juveniles in adult prisons, creating new crimes, sounds good to politicians and the public--they are meaningless without the resources to back them.

One of my concerns is that if we take up limited bed space with geriatric prisoners, we may be forced to release one-time violent offenders too soon.

Are the really violent monsters among us also the habitual serious offenders?

The experience in Washington State might indicate otherwise--the state has published a study titled "Ten High Profile Offenders, Did They Meet the Persistent Offender Definition?" What they found was that the most notorious, violent criminals had not been convicted of two previous serious offenses. Because of the nature of their crimes, these criminals were either put away forever or executed.

Rather than concentrating on counting "strikes" we should put our efforts to recognizing the potential violent offender, to intervention, to preventing the tragedy before it happens. The violent nature of the offense should dictate the length of treatment or imprisonment. That is the system we have now--when we have sufficient resources.

Please take a moment to review the enclosed information, which mostly applies to the "3 strikes" experience Washington state.

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

March 22, 1994

SUBJECT: Sectional Summary CSHB 334(JUD) (Work Order No. 8-LS1342\K)

TO: Representative Con Bunde
Attn: Pattie Swenson

FROM: Jerry Luckhaupt 
Legislative Counsel

You have requested a sectional summary of the above-described bill, please be advised that a sectional summary is not an authoritative statement of a bill and what it does - the bill is the best statement of its contents.

Section 1 of the bill provides findings and intent.

Section 2 of the bill amends AS 12.55.025(e) by clarifying that mandatory 99-year terms for certain three time felony offenders, added by sec. 6 of the bill, do not affect the court's ability to impose consecutive sentences.

Section 3 of the bill amends AS 12.55.125(c) by providing a conforming change to make it clear that the presumptive sentences provided in that subsection only apply if the defendant is not subject to sentencing as a third most serious felony offender under Sec. 6 of the bill.

Section 4 of the bill amends AS 12.55.125(i) by providing a conforming change to make it clear that the presumptive sentences provided in that subsection only apply if the defendant is not subject to sentencing as a third most serious felony offender under Sec. 6 of the bill.

Section 5 of the bill amends AS 12.55.125(j) to provide that a person sentenced to a mandatory term of 99 years under sec. 6 of the bill may apply to the court for a sentence reduction after serving one half of the sentence.

Section 6 of the bill amends AS 12.55.125 by providing a new subsection (l) that requires a court to sentence a defendant convicted of an unclassified or class A felony

to a mandatory 99-year term of imprisonment when the defendant has been previously convicted of at least two most serious felonies. This section also provides that the mandatory 99-year term may not be suspended or reduced.

Section 7 of the bill amends AS 12.55.145(a) to explain how a conviction can qualify as a prior most serious felony conviction for purposes of sentencing under sec. 6 of the bill.

Section 8 of the bill amends AS 12.55.145(c) to provide the procedure by which a defendant may challenge the use of a conviction as a prior most serious felony conviction at sentencing under sec. 6 of the bill.

Section 9 of the bill amends AS 12.55.145(d) relating to the burden of proof of showing that a conviction is a prior most serious felony conviction for purposes of sentencing under sec. 6 of the bill.

Section 10 of the bill amends AS 12.55.145 by adding a new subsection (f) that explains when a prior conviction has occurred for use at sentencing under AS 12.55.145.

Section 11 of the bill amends AS 12.55.155(c)(20) by providing a conforming change to the change made in sec. 7 of the bill.

Section 12 of the bill amends AS 12.55.185 by adding a new paragraph (14) that provides a definition of what is a "most serious felony."

Section 13 of the bill amends AS 33.16.090(b) to provide that a person receiving a mandatory 99-year term under AS 12.55.125(l) is not eligible for discretionary parole during the entire 99-year term.

Section 14 of the bill amends AS 33.20.010(a) to provide that a person receiving a mandatory 99-year term under AS 12.55.125(a)(after the effective date of this bill) or AS 12.55.125(l) may not earn good time deductions from the 99-year term.

Section 15 of the bill amends AS 33.30.101 by adding a new subsection (c) that provides that furlough regulations may not allow for the granting of a furlough to any inmate serving a mandatory 99-year term under AS 12.55.125(l) except in certain limited instances.

Section 16 of the bill amends AS 33.30.161(b) by adding a new paragraph (5) that provides that an inmate serving a mandatory 99-year term under AS 12.55.125(l) may not serve the inmate's sentence in a correctional restitution center.

Section 17 of the bill provides an applicability section.

Representative Con Bunde
March 22, 1994
Page 3

Section 18 of the bill provides notice that the change made in sec. 5 of the bill has the effect of modifying Alaska Rule of Criminal Procedure 35 which thereby necessitates a two-thirds vote.

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'Three strikes' may be harder than intended

Law for habitual criminals produces new difficulties

The New York Times

Washington, the only state requiring that criminals be locked up for life without parole if they are convicted of three felonies, is finding that the law has had some unintended side effects.

Two months after the law went on the books here, the state is seeing the first faces of the so-called "three strikes, you're out" law. And they present a picture that is much more complicated than the baseball slogan that inspired 76 percent of state voters to back the measure last fall.

And with 30 other states considering some version of the "three strikes" concept, it is proving to be a bipartisan prescription by politicians from President Clinton on down.

With nothing to lose, Washington prosecutors and police say, some criminals are showing a tendency to be more violent or desperate when officers try to arrest them. And prosecutors say first- and second-time offenders are less willing to plea bargain, which would mean leading guilty to a felony — the first or second strike. These offenders are instead forcing full trials in a court system that has neither the manpower nor space to take on the extra load.

Among the first candidates for life in prison under the three-strikes law, several seem to fit the profile of violent predators with long criminal histories. But other cases may not be what voters here had in mind. One man has led life as a small-time criminal, and his third-strike offense was robbing a sandwich shop of \$151, using a concealed finger as a threat.

In Seattle, King County prosecutors announced last week that under provisions of the law they were seeking life in prison for two ex-

From Page 1

convicts — Steven Michael Morgan, 40, and Paul Rivers, 26 — with a total of 34 convictions between them.

Both men are awaiting trial. Rivers is charged with robbing an espresso bar operator of \$337 in December. He has prior felony convictions for second-degree assault, second-degree robbery and second-degree attempted robbery, dating back to 1985, prosecutors said.

Morgan is accused of robbing a 91-year-old man twice, robbing a second man in the victim's home after kicking in the door and trying to rob a gas station.

"What people will see after they pass something like this is that the law sends away some people who probably weren't intended to be sent away for life," said Seth Dawson, the prosecutor in Snohomish County, where the man accused of the sandwich shop robbery will be tried.

Dawson supports the new law, but said it may need refining.

Three strikes, endorsed by President Clinton and written into the crime bill passed by the Senate (the House is working on a version of its own), is favored by more than 80 percent of Americans, according to recent polls.

Its supporters include Democrats like Gov. Mario Cuomo of New York as well as Republicans like Gov. Pete Wilson of California.

Under the Washington law, which has become the model for states trying to pass similar measures, criminals are required to spend life in prison without chance of parole if they are convicted of three separate felonies from a list of 44 crimes, most of them involving violence.

Washington does not give prosecutors or judges any discretion, though some states are allowing for more latitude in classifying three-strike crimes.

Pointing to federal figures showing that 6 percent of criminals commit about 70 percent of all crimes, supporters of three strikes said the law would remove from society a core group of violent felons who are incorrigible.

High-profile cases like the kidnapping and killing of 12-year-old Polly Klaas of California — committed, the police say, by a man with an extensive criminal history — have given powerful anecdotes for the debate.

From the early experience in Washington, some legal experts say the three-strikes notion may need retooling. Others say the law is achieving exactly what most voters wanted.

The case most troubling to the law's critics is that of Larry Lee Fisher, 35, who has been in and out of jail since he was a teenager.

His first strike (as classified by the new law) was in 1986, when he was convicted of pushing his grandfather down and taking \$390 from him — robbery in the second degree. Fisher served four months in jail.

Two years later came his second strike, a \$100 robbery of a pizza parlor, in which he veiled his finger and said it was a gun. He served 17 months on a work farm.

Last month he was arrested in the holdup of a sandwich shop in Everett. He is not accused of using a gun, but pretending he had one by pointing his finger inside his coat pocket. The police found Fisher an hour after the holdup, drinking beer in a nearby tavern.

Normally, he would face about 22 months in jail. But now, if convicted, he will spend the rest of his life in prison.

"You can understand he's in shock after he heard what he was facing," said Bill Jaquett, Fisher's lawyer. "He didn't know about the new law."

Fisher's case is also coming as a bit of shock around Everett.

"I went to a Rotary meeting this week, and a number of people came up to me and said they were pretty surprised that this is what they voted for," said Jim Townsend, the prosecutor handling Fisher's case. "What I think will happen is, we will put away a lot of people whom no one will have a second thought about, and then we will have a few cases that will give people pause."

Dave LaCourse, a leader of the three-strikes initiative in Washington, said Fisher's case was unusual but not unintended.

"Here's a guy with .10 misdemeanors on his record, he's 35 years old and he hasn't learned his lesson yet," LaCourse said. "What's it going to take? He seems to be one of those people who's making crime a career."

If Fisher's case is causing second thoughts, those of other three-strikes candidates are less contentious. Cecil Emile Davis, 34, of Tacoma, is facing life in prison without parole for his most recent charges: kidnapping, rape and attempted murder.

According to court records, Davis kidnapped a 24-year-old woman Dec. 28, raped her repeatedly, stabbed her in the throat and left her for dead. Unable to speak, the woman was able to draw a map to the site of her abduction, an apartment where Davis was arrested.

The first man to be charged under the new statute, Davis is "a poster child for three strikes and you're out," LaCourse said.

Pierce County Prosecutor John Ladenburg hailed Davis' arrest.

"This appears to be exactly the kind of case the public had in

mind when passing this law said. Davis had been convicted several crimes, including a tack with an ice pick on people and a robbery in which he beat a store clerk and a person who came to the clerk's rescue.

Though he had been sentenced close to the maximum — "for extreme cruelty" — he never served more than years in prison for any crime.

Before the three-strikes law Davis would have been in about 20 years in prison for current charges.

Nationwide, critics of three-strikes law say it will create a population of geriatric prisoners by locking up people who are past their peak crime years then keeping them in prison at a current cost of \$25,000 a year each inmate — until they die.

They say repeat offenders should be let go at an older age after serving extensive time.

Experts in criminal law say the peak crime years are from ages of 15 to 25. But of the five cases in Washington, three the criminals are in their mid-30s, one is 40 and only one is under 30.

If the typical age is higher than expected, the volume of people who fit the three-strikes category is running about a third of what is expected. In Washington, experts said the law would lock up 100,000 people a year.

For New York state, the estimate is about 300 a year. California, where a three-strikes measure is expected to pass by a big margin in the fall, the number would be slightly more than 100.

Police officers in Washington say they have run into one expected problem on the street: suspects who are more prone to use violence when cornered.

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Two weeks ago, Seattle police were about to make what they thought would be a routine arrest of a burglary suspect. Instead of surrendering, he threatened to shoot. Only after a special weapons squad surrounded the house did the standoff end.

After the suspect was taken into custody, the police were told by his acquaintances that he thought he was facing a three-strikes charge. Rather than face life in prison, he decided to confront officers, the police said.

"It now looks like some of these three-strikes cases might try to get away or shoot their way out," said Seattle police Sgt. Eric Barden. "Believe me, that's not lost on us. We're thinking about it."

Washington prosecutors said states now considering three-strikes laws would do well not to put too many crimes in the mix of what qualifies. Because of cases like Larry Lee Fisher's, Washington's law may have to be refined, they said.

What's Wrong With HB 334

"3 Strikes You're Out"?

- Little Impact on Crime
- Increased Court and Prison Costs
- Disparity in Sentencing
- Vehicle for Injustice
- Bad Public Policy

The Experience in Washington State

THE SENTENCING PROJECT

BRIEFING SHEET

WHY "3 STRIKES AND YOU'RE OUT" WON'T REDUCE CRIME

What Is "3 Strikes and You're Out?"

Following the passage of the nation's first "3 Strikes and You're Out" law in Washington state in 1993, legislators across the country have developed proposals to adopt similar policies. In general, these proposals require that offenders convicted of a third violent offense be sentenced to a prison term of life without parole.

Although the proposals are often described as directed at third-time violent offenders, in practice their scope is often considerably broader than what most people would think of as violent crime. In Washington state, for example, the offenses covered in the law include burglary, a serious but not necessarily violent crime. At the federal level, a similar proposal adopted in the 1993 Senate crime bill requires life without parole not only for third-time violent offenders, but also for third-time drug offenders or for offenses involving a threat to property.

Although the life without parole aspect of these proposals is new, the concept of enhanced penalties for habitual offenders has been in existence for many years. Thirty-four states currently have some type of habitual offender law, whereby a second or third-time felony offender receives substantial additional years in prison.

Why do some violent offenders receive shorter sentences than appears appropriate?

Most repeat violent offenders are punished harshly. Few judges would risk the wrath of imposing "soft" sentences on such offenders, and most judges abhor violent crime as much as the public. Serious violent offenses — murder, rape, armed robbery — are punishable by sentences up to life in prison or the death penalty in almost all states.

It is true, though, that a relatively small proportion of violent offenders receive prison terms that are shorter than might seem appropriate at first glance. This is generally due to the plea bargaining process wherein prosecutors, anxious to avoid time-consuming trials, make a plea offer to a defendant. Many times, their cases are not strong. Their evidence may be weak or witnesses may have disappeared, and so the plea offer may be more "generous" to the defendant than in cases with stronger evidence.

What will be the impact of these laws?Little impact on violent crime

Even widespread adoption of these policies will have little impact on violent crime. This is true for the following reasons:

1. Most serious crime is committed by young males in the 15-24 age group. For violent crime, 66 percent of the persons arrested are under age 30. Most persons subject to these laws will be

in their late 20s or older. Since crime rates for most offenses drop sharply after age 30, "3 Strikes and You're Out" will result in imprisoning a group of offenders for life who might be more appropriately sentenced to shorter terms of imprisonment until they "age out" of criminal activity.

2. Most violent crime is committed by people who have not committed a prior violent offense. A major study conducted in Columbus, Ohio, found that two-thirds of those persons convicted of serious violent crimes were first-time felony offenders.

Increased prison and court costs

There are no firm estimates yet of the long-term impact on prison populations and costs associated with these proposals. This is likely to vary substantially depending on the particular laws and sentencing policies of the jurisdiction. Current estimates range from 300 offenders a year being sentenced under these proposals in New York to as many as 11,000 additional inmates by the year 2005 in Pennsylvania. The most significant impact of these proposals, though, will begin to take place 10-20 years after their implementation, since the prisoners affected by these proposals would generally be locked up for at least that period of time under current practices. After that, the law's impact will be felt in "additional" prison years being added to sentences.

Generally, the cost of incarceration is about \$20,000 a year nationally. In addition to this, though, are costs associated with the fact that aging prisoners have disproportionate medical problems. In twenty years, we can expect to see geriatric prisons that resemble hospital wards.

In addition to increased prison costs, we can anticipate that there will be substantial increases in court costs. Defendants faced with a sentence of life without parole will have no incentive to plead guilty, and so it is likely that the number of such defendants going to trial will increase dramatically, along with associated costs.

Disparity in sentencing

Research has consistently shown that all types of mandatory sentencing, such as these proposals, contribute to sentencing disparity based on race. While discretion may be taken away from judges at sentencing, prosecutors still retain power to plea bargain by offering plea agreements that avoid the mandatory penalty. Studies have demonstrated that this discretion results in different outcomes based on race, quality of defense attorney, and other factors not related to public safety. In the federal courts, for example, studies have shown that black offenders are 21% more likely and Hispanic offenders 28% more likely than similar white offenders to receive a mandatory sentence.

Conclusion

The "3 Strikes and You're Out" laws represent the continuation of harsh sentencing policies that have been enacted by the federal government and most states over the past twenty years. Despite hundreds of mandatory sentencing laws now in effect, crime rates remain at near-record levels. There is no reason to believe that continuing to increase the severity of penalties will have any significant impact on crime.

One of the most unfortunate aspects of these proposals is that they divert public attention from a full discussion of the causes of violent crime and the range of possible solutions. Until such a national discussion takes place, we can expect more rhetoric on crime but little impact on public safety.

STATE	HABITUAL OFFENDER LAWS		MANDATORY SENTENCE FOR SPECIFIC OFFENSE		
	"2/3 STRIKES AND YOU'RE OUT"	OTHER	DRUGS	USE OF FIREARMS	CHARACTERISTICS OF VICTIMS
NEVADA	Yes		Possession/Sale	Several	Several
NEW HAMPSHIRE	Yes	Several	Sale	Several	Several
NEW JERSEY	Yes		Possession/Sale	Several	
NEW MEXICO	Yes	Several		Several	Several
NEW YORK	Yes	Several	Possession/Sale	Several	Several
NORTH CAROLINA	Yes		Possession/Sale	By repeat felon	
NORTH DAKOTA				In course of committing felony	
OHIO			Possession/Sale	In the course of committing felony	Felony against minor
OKLAHOMA	Yes		Possession/Sale	Several	Several
OREGON	Yes	Several		Several	
PENNSYLVANIA	Yes		Possession/Sale	In the course of committing felony	Several
RHODE ISLAND	Yes	Several	Sale near school	Several	Several
SOUTH CAROLINA	Yes		Possession/Sale	In the course of committing felony	
SOUTH DAKOTA			Sale	In the course of committing felony	
TENNESSEE					
TEXAS	Yes		Possession/Sale	Several	
UTAH				Several	Several
VERMONT					Several
VIRGINIA		Several	Sale	Several	
WASHINGTON	*				
WEST VIRGINIA	Yes	Several	Possession/Sale	Several	Several
WISCONSIN			Sale		
WYOMING	Yes				

Source: Information compiled by The Sentencing Project from State Justice Sourcebook of Statistics and Research, Bureau of Justice Statistics, 1992.

Notes

"2/3 Strikes and You're Out" represent habitual offender statutes that call for enhanced penalties for offenders with one or two prior felony convictions, depending on the state. These statutes generally require that the offender serve a number of years in prison in addition to the penalty for the current offense. "Other" habitual offender laws are generally related to specific types of prior offenses, such as crimes of violence or sex offenses.

The "Victims" category of mandatory sentences generally covers enhanced penalties for crimes against minors or the elderly.

* Washington State passed a "3 Strikes and You're Out" law requiring life without parole in 1993.

THE SENTENCING PROJECT

918 F Street, N.W. • Suite 501 • Washington, D.C. 20004 • (202) 628-0871 • FAX (202) 628-1091

STATE MANDATORY SENTENCING LAWS

STATE	HABITUAL OFFENDER LAWS		MANDATORY SENTENCE FOR SPECIFIC OFFENSE		
	2/3 STRIKES AND YOU'RE OUT	OTHER	DRUGS	USE OF FIREARMS	CHARACTERISTICS OF VICTIMS
ALABAMA	Yes		Possession/Sale	In the course of committing felony	Felony against public safety employee
ALASKA	Yes		Sale to minor near school	In the course of committing felony	Kidnapping
ARIZONA	Yes	Several	Sale by weight to minor near school	In the course of committing felony	Felony against minor
ARKANSAS	Yes		Possession/Sale	In the course of committing felony	
CALIFORNIA	Yes	Several	Possession/Sale	Several	Several
COLORADO	Yes	Several	Possession/Sale	Several	Several
CONNECTICUT			Sale	Several	Several
DELAWARE	Yes	Several	Possession/Sale	Several	
DIST. OF COL.			Possession/Sale	In the course of committing felony	
FLORIDA			Possession/Sale	Several	
GEORGIA	Yes	Several	Possession/Sale	Several	Several
HAWAII	Yes	Several	Sale near school	Several	Several
IDAHOO	Yes		Possession/Sale	In the course of committing felony	
ILLINOIS	Yes	Several	Sale	In the course of committing felony	Several
INDIANA	Yes	Several	Sale	With certain prior felony	Several
IOWA	Yes		Sale	In the course of committing felony	
KANSAS	Yes	Several	Possession/Sale	In the course of committing felony	Several
KENTUCKY	Yes	Several	Possession/Sale	Several	Several
LOUISIANA	Yes		Possession/Sale	Possession by convicted felon	Several
MAINE				In the course of committing felony	
MARYLAND	Yes	Several	Sale	Several	Felony against public safety employee
MASSACHUSETTS			Possession/Sale	Several	Several
MICHIGAN		Sex offenders	Possession/Sale	In the course of committing felony	
MINNESOTA		Several	Repeat Offenders	In the course of committing felony	
MISSISSIPPI	Yes		Possession/Sale	Several	Several
MISSOURI		Sex offenders		Several	
MONTANA	Yes		Possession/Sale	Several	Several
NEBRASKA	Yes		Possession/Sale		

Prosecutors Say "No" to Three-Strikes Initiative

A Letter to the Voters of Washington:

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We, the undersigned, are all present or former prosecutors. Collectively, we represent 175 years of experience prosecuting criminals in major felony cases. We wish to indicate our strong opposition to Initiative 593, the so-called "Three Strikes and You're Out" initiative.

Incredibly, Washington State officials, those in the best position to appreciate the tragic and foolish consequences of this misguided initiative, are, for the most part, unable or unwilling to speak out. State employees, including those in the Department of Corrections, have been told that they are precluded from commenting on ballot initiatives. Elected politicians have, for the most part, shied from opposing this measure as politically unwise.

In this climate, as present and former prosecutors with extensive experience in the state and federal criminal justice systems, we have no choice but to step forward.

We urge you to reject Initiative 593 for compelling reasons of justice, public policy, and fiscal responsibility.

Initiative 593 Will Work Great Injustice

Unquestionably, there are certain people who should be locked up for lengthy periods, including life, because they pose an immediate threat to our society if released. Equally certain, however, Initiative 593 will sweep into prison, without possibility of parole, many people whose crimes, while not petty, simply do not merit this sanction. The initiative includes a laundry list of offenses that covers an extraordinarily broad range of criminal conduct, from the most heinous to the relatively minor. To use a glaring but accurate example, imagine this scenario, which is quite possible under the initiative. An 18-year-old high school senior pushes a classmate down to steal his Michael Jordan \$150 sneakers--Strike One; he gets out of jail and shoplifts a jacket from the Bon Marche, pushing aside the clerk as he runs out of the store--Strike Two; he gets out of jail, straightens out, and nine years later gets in a fight in a bar and intentionally hits someone, breaking his nose--criminal behavior, to be sure, but hardly the crime of the century, yet it is Strike Three. He is sent to prison for the rest of his life. We could list dozens of similar examples.

Throughout our history, Americans have held that the punishment should fit the crime. But under Initiative 593 the punishment for the third strike, every time, is throwing away the key.

Initiative 593 Is Bad Public Policy

Initiative 593 is bad public policy for two reasons. First, it removes all discretion from the judge, someone who, by definition, we have elected to exercise judgment. At the time of sentencing in a third-strike context, both the judge and the defendant might as well be potted plants, because the judge must impose sentence without considering either the facts of the case or the defendant as a living human being. As we have noted, the punishment should fit the crime, and a big part of the crime is the criminal. If the defendant is a heinous criminal, the judge right now can impose a lengthy sentence; if the defendant is not, the judge can impose a sentence that fits the crime and fits the criminal. If we do not like the judgments the judge is making, we can elect someone else whose judgment we like better.

The initiative is bad public policy in a second respect. Our state's criminal justice system is a complex mechanism that imposes punishment on thousands of people every year. As it is, our determinate sentencing system sharply limits a judge's discretion in imposing lenient sentences, and he or she may impose an exceptional sentence in cases of gratuitous violence, breach of trust, vulnerable victims, and sexual predators who are likely to reoffend in the future. This system, consisting of intricate checks and balances on both prosecutors and judges, should not be addressed by the sledgehammer approach of Initiative 593, which will be decided by the voters on the basis of an emotional single-sentence ballot title. This is a case where, in our view, the cure will be far worse than the disease.

Initiative 593 Is Fiscally Irresponsible

With Initiative 593 we will be paying substantially increased criminal justice costs--for prosecuting and defending third-strike cases (most defenses will come straight out of county budgets) and for additional prison facilities--with no increase in safety in return. In our experience as prosecutors, there is most often no reliable way to identify violent criminal predators from their official records. Most are young and not likely to have extensive official criminal records; when they do have records, these records generally do not readily distinguish them from other, lesser offenders. But our concern with costs is more fundamental than this.

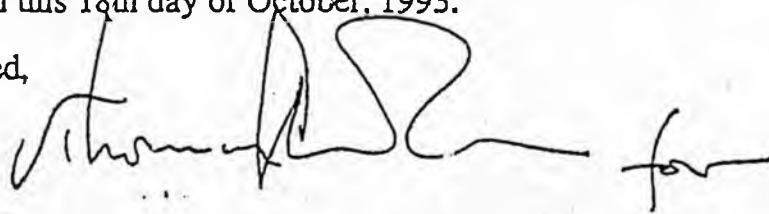
We can tell you with assurance that under the present system, people who commit three truly serious crimes are already getting long sentences, emerging from prison generally well into late middle age, if at all. Given that less than 1% of all serious crimes are committed by people over the age of 60, it makes no sense to continue paying tax dollars to house these people for the rest of their lives. It costs almost \$26,000 a year to house a young and fit prisoner; housing an aging prisoner means providing far more expensive geriatric care. With older offenders come all the medical problems of the elderly, including, among others, cancer, TB, Alzheimer's, pulmonary diseases, dialysis, and incontinence. A bone marrow transplant can cost nearly \$200,000; dialysis can cost up to \$40,000 per year. Are these costs we want to bear, to spend years housing and caring for someone almost certain not to reoffend?

Conclusion

Initiative 593 will cost an extraordinary amount and is likely to produce severe injustice. It is bad public policy. It will make bad law. We urge you to give it a thumbs down on November 2.

Dated this 18th day of October, 1993.

Signed,



John L. Austin, Mark N. Bartlett, Helen J. Brunner, David B. Bukey, William H. Fligeltau, C. James Frush, Murray B. Guterson, Susan Harrison, John W. Lundin, Peter K. Mair, David V. Marshall, Frederick Mendoza, James R. Moore, Jerald E. Olson, James M. Roe, Susan M. Roe, Kenneth W. Sharaga, J. Ronald Sim, Thomas C. Wales, Robert J. Wayne, Robert H. Westinghouse

All signatures are specifically authorized for this letter. Contact: Tom Wales at (206) 553-4495 between 12:00-1:00 p.m. or after 5:00 p.m., or at home (206) 284-0719

add names: Steve Schroeder, Angelo Calfo, Paul Bernstein, Paul Acheson, John Carver, Andrew Hamilton.

I-593 doesn't sit well with some on the bench

If the "Three Strikes, You're Out" initiative passes, the state's Superior Court judges would lose sentencing discretion, says King County Superior Court Judge Donald Haley.

The Superior Court Judges' Association of Washington has not taken a position on the measure, but Haley, association president, said he believes if a vote were taken, judges would oppose it.



Donald Haley

"Judges need broad discretion," said Haley. "The fact that everyone gets the same sentence for the same crime ...

doesn't mean it's just."

It's hard to explain to the public, Haley said, but there are differences between individual defendants, including their age, and chances of succeeding. Take away discretion and you might as well program a computer instead of using judges, Haley said. "We are convinced that's not justice."

A '3 strikes' law would have cost him a 2nd chance

BY PETER LEWIS
Seattle Times staff reporter



MARYSVILLE — If the proposed "Three Strikes, You're Out" initiative had been law when Cameron VanDunk was convicted of his last crime, he'd be behind bars now, for life.

Fortunately for VanDunk — and for taxpayers saving an estimated \$1 million — Washington's get-tough-on-crime initiative wasn't around when he struck out more than 10 years ago by trying to rob a pharmacy.

Now 44, the former heroin addict has turned his life around. He's gainfully employed, happily married and the father of two young children.

He credits his acceptance of Jesus Christ as the turning point in his life. But he believes other support systems, such as Alcoholics Anonymous, can also help make the difference. "You can't do it on your own," he said.

VanDunk, of Marysville, knows he's defied the odds — that it's rare for a three-time loser to go straight and stay that way.

VanDunk has agreed to tell his story because he believes the Three Strikes proposal would rob people of hope.



MURK HARRISON/SEATTLE TIMES

Cameron VanDunk, 44, is a former repeat offender who turned his life around. On his lap is his 3-year-old daughter, Christina, and behind him are his wife, Donna, and 6-year-old son, Cameron Jr.

Taking advantage of second chance

Three Strikes

CONTINUED FROM PAGE 1

VanDunk claims he's not unique, that there are other "losers" like him — losers with a criminal past who still have potential, losers who would be warehoused for life under Initiative 593.

That's why VanDunk plans to vote against the measure Nov. 2.

It would add more than 40 offenses to the list of crimes requiring a sentence of life without chance of parole following a third conviction of a qualifying crime.

Some of the offenses are violent: murder, kidnapping and rape. But others are relatively minor, including certain forms of robbery without a weapon and reckless driving that results in bodily harm. Under the initiative, the only relief from life in prison without parole would be to petition the governor for clemency.

Voters fed up with crime may find the proposal emotionally appealing.

But VanDunk says that, with few exceptions, giving up on people is not the answer. "We have enough laws," he said. "We just have to start instituting what you've got, and we have to help them (inmates) reform, too. . .

But he's hardly a bleeding heart. He supports the death penalty for malicious murderers, such as convicted triple killer Charles Campbell, who is on death row for slaying three people in Snohomish County in 1982. In fact, VanDunk was in jail with Campbell in Snohomish County more than a decade ago, and he thinks it's absurd that Campbell hasn't been executed yet.

VanDunk was born and reared in California's San Fernando Valley. His mother left the family when he was 3

and he was brought up by an alcoholic father.

His life of crime started early.

He was in trouble with the law from the age of 12: truancy, curfew violations, disorderly conduct, incorrigibility, petty theft and burglary. He finally was made a ward of the court.

At 14, he was put in a boys camp for juvenile delinquents in Los Angeles County. He fell in with gangs. He graduated to adult crimes in 1973 by pointing a pistol at a teller and robbing a California bank. He got 10 years. He escaped. Two years later, he robbed another bank, again using a deadly weapon. He got eight years. He escaped again.

In 1980, while still a federal fugitive and looking to get high, VanDunk decided to skip robbing another bank and go straight for the drugs. Armed with a pistol, he tried to rob an Everett pharmacy.

A Snohomish County judge gave VanDunk 10 years for attempted first-degree robbery. He suspended all but one year, with that year to run consecutively with his federal sentence. It was in the county jail, during conversations with the chaplain, that VanDunk "found the Lord."

He had received his high-school-equivalency degree while in federal prison in 1974. During his last stretch behind bars, he earned a two-year-college degree in hotel cookery and restaurant management.

When he was finally released from prison in 1983, his federal probation officer was skeptical of his chances of staying out of trouble. He wanted to send him back to California for continued supervision.

But VanDunk, having found Jesus in Snohomish County, considered Western Washington "God's country." He wanted to stay here. Reluctantly, federal probation officer Ronald Campbell agreed.

In a June 1985 probation review, Campbell noted VanDunk's progress: "(He) continues what must by any standard be considered an excellent adjustment."

VanDunk got help from M-2 Job Therapy of Snohomish County, Inc., a nonprofit group dedicated to helping offenders make the transition from prison to community life. The "M-2" refers to "man to man," said Executive Director Lou Kaufer, who describes VanDunk as an exceptional person.

In a bit of a twist, VanDunk eventually put his culinary skills to work as a cook in the Snohomish County jail, where authorities recognized him instantly and predicted he'd be back in a cell.

Some of them still "think I'm going to end up in jail," VanDunk observed. "Let them think that. I'm not going back."

The initiative's supporters contend that targeting repeat offenders will save money in the long run, even if there are extra costs to pay for rigorous "third-strike" defense work and more prison beds.

Such expenses, they claim, will

be offset by the savings from less crime, unnecessary prosecutions and fewer negligence suits against the state.

Opponents argue the law is too broad, would cost too much and would not cut violent crime.

If Three Strikes passes, robbers, as VanDunk once was, are likely to be the most common type of criminal ensnared in it. That is the experience of at least one other state — Illinois — that has had a similar statute for 15 years.

It is also the conclusion of a study by the Washington state Sentencing Guidelines Commission. It found that if the initiative had been in effect last year, 63 inmates would have qualified for mandatory life sentences. Of those, 34.1 percent would have been for robbery; 26.4 percent for sex offenses; 15.5 percent for assault; 10.9 percent for homicide; 6.2 percent for burglary; 6.2 percent for drugs; and 0.8 percent for "other."

Crime council opposes '3 strikes, you're out'

By Jack Hopkins
P-I Reporter

The Washington Council on Crime and Delinquency announced yesterday that it opposes Initiative 593, commonly known as "three strikes, you're out."

The council's board said it opposes the measure, which would permanently lock up repeat offenders who commit a wide variety of crimes, because it believes the initiative "will not reduce crime, is unfair and is not cost effective."

Executive Director Larry Fehr said the problem of repeat offenders could be better addressed by changing state sentencing guidelines to call for longer prison terms for people who commit serious violent crimes.

"If we are truly interested in reducing the unacceptable levels of violence, we must adopt a more balanced approach that, in addition to meting out punishment,

also strengthens families, provides child protection, ensures safe and effective schools and improves community efforts to prevent crime," Fehr said.

Aggravated first-degree murder is the only crime that currently carries a life prison term without hope of release.

Initiative 593, which will be on the Nov. 2 ballot, adds more than 40 crimes that would carry a life sentence for three-time offenders, including murder, robbery, rape, manslaughter, vehicular assault or homicide, child molestation and exploiting a child for pornography.

The council is a nonprofit organization formed in 1956 to push for improvements in the criminal and juvenile justice systems. Its 26-member board of directors includes individuals with backgrounds in law enforcement, prosecution, defense, the judiciary, corrections, juvenile justice and related fields.

