

ALASKA LEGISLATURE

1282

HOUSE and SENATE FINANCE COMMITTEE FILES, 1995-1996

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. CSHB27

Revision Date: _____ Dept. Affected: Alaska Judicial Council
 Title: Act directing DPS to establish a BRU: _____
DNA registration system Components: _____
 Sponsor: Parnell, etc.
 Requestor: _____ COMPONENT SERIAL NO. 0771

EXPENDITURES/REVENUES (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	1.1	.4	.4	.4	.4	.4
SUPPLIES	.1					
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	1.2	.4	.4	.4	.4	.4

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						
1005 GF/Program Receipts						
1006 GF/MH/PA						
Other						
TOTAL						

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY 95) cost: \$ None

ANALYSIS: (Attach a separate page if necessary)

The first year contractual funds include long distance telephone, teleconferences, computer research and postage. Existing staff would do the research and write the report on the use of DNA evidence. The Judicial Council would follow developments in the field and issue supplemental reports when necessary.

Prepared by: William T. Cotton Phone: 279-2526
 Agency: Alaska Judicial Council Date: 3/9/95
 Approved by: William T. Cotton
 Agency: Alaska Judicial Council Date: 3/9/95

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Alaska State Legislature

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REPRESENTATIVE
SEAN R. PARNELL



HOUSE OF REPRESENTATIVES

March 9, 1995

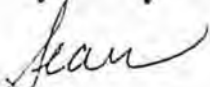
Senator Rick Halford
Senate Finance Committee Chair
State Capitol, Room 508
Juneau, AK 99801

HAND CARRIED

Dear Senator Halford:

House Bill 27, requiring the DNA registration of persons convicted of a felony crime against a person, has been assigned to Finance Committee. I respectfully request a hearing of this bill on Friday, March 17, or at your earliest convenience. Thank you for consideration of this request.

Very Truly Yours,


Rep. Sean Parnell

Alaska State Legislature

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REPRESENTATIVE
SEAN R. PARNELL



HOUSE OF REPRESENTATIVES

SPONSOR STATEMENT House Bill 27

"An act directing the Department of Public Safety to establish and maintain a deoxyribonucleic acid (DNA) identification registration system."

This bill requires the Department of Public Safety (DPS) to draw a blood sample from persons convicted of a felony crime against a person and authorizes DPS to use the samples in establishing a DNA registration system for purposes of DNA analysis. DPS will use the data to investigate violent crimes and DPS may provide DNA analysis and testimony to law enforcement agencies and prosecutors throughout the state for use as evidence in court.

The bill requires compatibility of Alaska's DNA registration system with the Federal Bureau of Investigation's system. A local databank is greatly enhanced when linked to the databanks of other states through the Federal system. The DNA data may not be used for any purpose unrelated to a criminal investigation or improvement of the operation of the system.

DPS' State Crime Lab will be technologically incapable of maximizing use of a DNA databank or utilizing samples until about 1997; however, DPS is currently capable of maintaining DNA blood samples from convicted criminals. Passing HB 27 will establish a DNA database on persons convicted of a felony crime against a person and modernize our criminal prosecution efforts. I respectfully request your support of HB 27.

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 23, 1995

SUBJECT: House Bill 27, directing establishment of a DNA identification registration system, and requiring registration in it by convicted felony sex offenders: sectional analysis (Work Order No. 9-LS0148\A)

TO: Representative Sean Parnell
ATTN: Richard Vitale

FROM: Jack Chenoweth
Legislative Counsel

The bill would direct the Department of Public Safety to establish and maintain a statewide deoxyribonucleic acid (DNA) identification system and require that persons convicted of felony sex offenses be registered to it. The measure tracks relevant provisions of the comparable Washington enactment, codified as RCW 43.43.752 - 43.43.759.

Bill section 1 sets out legislative findings for the measure.

Bill section 2, adding a proposed new section, AS 44.41.035, prescribes establishment and maintenance of the DNA identification system:

-- subsection (a) directs the Department of Public Safety to establish the system, to be compatible with the existing FBI registration system;

-- subsection (b) directs that persons convicted of sex offenses--the term is defined in proposed AS 44.41.035(g)--have a blood sample drawn for purposes of DNA identification analysis, and sets limits on the proper use of that blood sample;

-- subsection (c) enumerates additional powers of the department relevant to DNA analysis;

-- subsection (d) imposes limitations on local (municipal) law enforcement operation of comparable DNA identification registration systems;

-- subsection (e) explicitly permits local law enforcement agencies to perform DNA identification analysis;

Legislative Research Agency

Alaska State Legislature



130 Seward Street, Suite 218
Juneau, Alaska 99801-2196

Phone: (907) 465-3991
Fax: (907) 463-3351

February 23, 1995

MEMORANDUM

TO: Representative Sean Parnell

FROM: Patricia Young *P Young*
Legislative Analyst

RE: Recidivism Rates for Violent Offenders
Research Request 95.088 (Supplemental Information)

As noted in the original memorandum of this title, recidivism rates for Alaska are extremely difficult to determine because there is no coordinated statewide database for arrest, prosecution, conviction/sentencing, and corrections information. During the life of the Alaska Sentencing Commission, however, Alan McKelvie attempted to integrate criminal justice data from the systems used by the Departments of Public Safety, Law, and Corrections.

The resulting database contains information from 1983 through 1991. Although subject to errors inherent in each of the sources as well as its own inaccuracies, it is nevertheless the best source of information on recidivism rates in Alaska. Mr. McKelvie's data show the following for prisoners released in 1986.¹ (See attached for full text.)

- Approximately 35 percent of all prisoners released had been incarcerated for criminal (Title 11) offenses.
- Approximately 19 percent of those (or approximately 7 percent of all released prisoners) had been incarcerated for violent crimes; approximately 4 percent had been convicted of sexual offenses.

¹Mr. McKelvie's analysis concentrates on 1983 and 1986. As he notes, the numbers for 1983 are misleading because the data are incomplete. The data for 1986 are more representative and would be the most current available because several years are needed to collect and collate arrest and court records on a cohort of prisoners released at a given time.

Representative Parnell

February 28, 1995

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- Of the individuals who had been incarcerated for criminal offenses, approximately 18 to 23 percent were rearrested for a felony within three years. Approximately 7 to 8 percent of individuals released after incarceration for a violent crime were rearrested for a violent crime, and approximately 2.5 percent of those released after incarceration for a sexual offense were rearrested for another sexual offense within three years.

Mr. McKelvie believes that the overall recidivism rate in Alaska is similar to the national rate although somewhat lower for violent offenders: he notes that in Alaska, overall recidivism (including felonies, misdemeanors, and parole/probation violations) is approximately 60 percent, but approximately 20 percent of released felons are rearrested for another felony. According to Mr. McKelvie, this is attributable to relatively long sentences for violent crimes and the frequency with which offenders are rearrested for alcohol-related misdemeanors.

I hope this information is helpful. If you have questions or need additional information, please let me know, or call Mr. McKelvie directly at the Alaska Judicial Council, 279-2526.

Attachment



alaska judicial council

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Daniel A. Moore, Jr.
Chief Justice
Supreme Court

MEMORANDUM

TO: Patricia Young
FROM: Alan R. McKeivie
DATE: February 22, 1995
RE: Recidivism Data Analysis

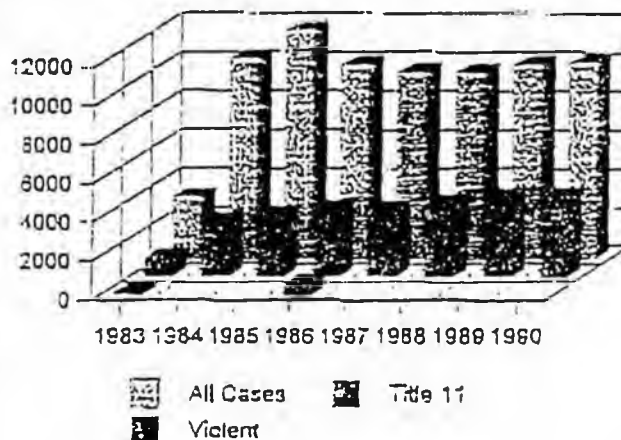
*Sent To You By
Legislative Research Agency*

The following data was extracted from the Judicial Council's inter-agency justice data which is a combination of the data bases of the Departments of Public Safety, Law, and Corrections, etc. The primary source and starting point for this analysis was the Department of Corrections OBSCIS data base and consisted of all prison discharges (not releases) for the years 1983 - 1991. The data was then selected to include only those persons convicted of Alaska statute violations (as opposed to municipal infractions and violations, DWI's, fish and game, etc.). For 1983 and 1986, the subjects were cross-matched with the Department of Law's PROMIS database (Felony referrals: 1984 - 1991) to locate subsequent arrests. Subjects released in 1986 who were not found in PROMIS were also cross matched with the Department of Public Safety's APSIN database (Criminal History Repository: Felony and Misdemeanor, 1984 - 1993) to check the validity of the other matches. The results are described and discussed below, and a description/discussion of the database with its strengths and weaknesses follows.

Patricia Young
2/22/95
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Figure 1 shows the number of released prisoners for the years 1983 - 1990 separated out by total releases, releases of prisoners convicted of Title 11 violations, and releases of prisoners convicted of violent crimes for 1983 and 1986 only. The year 1983 is spuriously low because in that year the electronic databases were just being implemented so the data is incomplete. For 1983, the percent of statute violations to all cases was 27.95%. In 1986 it was 35%. Similarly, in 1983 the percent of released violent prisoners to all cases was 1.8% percent and to statute violations, 6.4%. The equivalent figures for 1986 are 6.8% and 19.4%. Sex offenses comprised 2% of the statute releases in 1983 and 4.1% in 1986.

Prison Releases



In 1983, of the 979 Title 11 releasees, 202 or 20.6% were rearrested for a *felony* crime within 3 years. In 1986, 475 or 17.6% of the 2741 Title 11 releasees were rearrested for a *felony* crime within 3 years. For the violent crime category, 24 (2.4%) of the released prisoners were rearrested for a violent crime after having been released for the commission of a violent crime. For the sexual crime category (not on chart), 5 (0.5%) persons released for the commission of a sexual crime were rearrested for a sexual crime. For 1986 (n= 2741) the numbers are 192 (7%) for violent and 70 (2.5%) for sexual, respectively.

A few comments need to be made here regarding the comparison of the above data with the federal study that you received from Dr. Beck. In his study misdemeanors were a part of his release group as well as his re-offense category. The fact that our data is based on felony referrals lowers the rate of recidivism. In early studies conducted by the Judicial Council we found much higher recidivism rates when misdemeanors and parole/probation violations were included. An analysis presented to the Sentencing Commission showed overall recidivism at approximately 60%. But felon recidivism, i.e. a released felon rearrested for a felony, was 20%. Similar patterns were found in a random 10% sample of court files for the years 1985-1990. An analysis conducted with the Department of Corrections in 1993 showed a 2% to 10% impact of the 3 strikes legislation, depending on how tightly the "serious" crimes were defined, and how strictly the "previous" crimes were placed in time. Again, when restrictions are placed categorically on the recidivism rates, the rates drop dramatically.

Patricia Young
2/22/95
Page 3

In an effort to examine the impact of the categorical restrictions on the sample, all cases not found in the PROMIS cross-match were cross-matched with APSIN. The results added 142 cases to the overall recidivism rate, 29 cases to the violent category and none to the sexual offense category. This results in rate increases for 1986 to 22.5% (overall) and 3% (violent), respectively.

A note of caution here, considerable error may be found in our historical data. Some aspects of inter-agency analyses were simply not designed into the individual databases in use. For instance, APSIN, in the past, recorded the offense crime as an NCIC code, not a state statute. While there is some high degree of correspondence between the two, the relationship is not one to one. PROMIS, while it uses case numbers for the key field in their records, it is not the same as that used by APSIN, and they do not use a person ID. OBSCIS records the offense statute at the time of booking based on the officers report. This may or may not be the eventual "most serious" crime of conviction. Consequently, categorization of cases and matching cases between data sets is not 100%.

Note: The above information was derived from the Judicial Council's inter-agency statistical database. The database is comprised of information obtained from the states on-line agency information systems and includes extracts from Public Safety's APSIN(1984-1994), Department of Law's PROMIS(1984-1991), and Correction's OBSCIS(1984-1994). Information was cross indexed based on Last name, first four characters of first name, and date of birth. The result is a fairly comprehensive picture of the state's criminal justice process. However, as in all database efforts, the information is subject to various inaccuracies, stemming from input error, lack of common data element definitions and indexes, data crash losses, etc. For a complete description of the data base i.e., dates, elements, strengths and weaknesses, etc., please contact me at the Judicial Council.

Summary of DNA Database Hits in Minnesota

Minnesota's central crime laboratory in St. Paul has been a CODIS pilot site for the past several years as the system was under development. They have begun to show some success in linking sexual assault and murder cases to their state DNA database of convicted offenders, as the following cases show:

1. November 1994: A man wearing a nylon stocking over his face and armed with a knife jumped out from behind bushes and forced a woman who was walking by to perform oral sex. Semen was recovered from the victim's skirt and saliva samples. A suspect was excluded based on conventional serology. Searching Minnesota's DNA database, however, identified Terry Lee Anderson, who confessed and is now in prison.
2. October 1994: In St. Paul, a woman was grabbed by the neck and taken several blocks to an area near the railroad tracks. She was held by the neck, raped, and left at the scene. A suspect was eliminated because his DNA profile did not match the rape evidence. A previously unknown suspect was identified when the rapist's DNA was searched against Minnesota's DNA database.
3. October 1994: Two men were accused of sexually assaulting a woman whom they had brought home. She had been carrying a sign that said, "Work for food", and was intoxicated and bruised when police arrived. Both suspects were eliminated as contributors of the semen found on the woman's underwear. The DNA from the semen was then matched to a man who had been required to provide a blood sample from DNA typing as a result of a previous conviction.
4. October 1994: DNA evidence was matched from two unrelated assaults involving forced oral sex. Police departments in the two towns where the assaults occurred were notified that the same man committed both acts. A suspect was identified by searching the state DNA database.
5. February 1993: A woman entering her home was caught from behind and threatened with a screw driver. She was hooded with a ski mask, forced into her own car, and driven to a remote site where she was raped. Her attacker then dropped her off near her home and abandoned the car nearby. DNA evidence from vaginal swabs and the carpet from the car was matched in the DNA database to Troy Bradley Bloom. Bloom was convicted and sentenced to 30 years.
6. December 1991: Jean Broderick was raped and murdered in her home. Police had no suspect. The DNA from semen found on the Ms. Broderick's buttocks was matched to Martin Estrada Perez,

JAN-24-95 10E 12:28

STATE CRIME LABORATORY

FAX NO. 3386614

P.03/03

JAN-24-1995 15:57

SCIENTIFIC ANALYSIS SECT

222 3241462

P.02/02

whose DNA profile was stored in Minnesota's DNA database. Perez was found guilty of murder and sentenced to life in prison without the possibility of parole. His conviction and sentence were affirmed by the Minnesota Supreme Court. [Note: Perez was an illegal alien from Mexico who had a history of sexual assaults in Georgia, Texas and Minnesota. Perez had been deported to Mexico following his previous release from prison by Minnesota. He quickly made his way back to Minnesota where he was arrested for burglary. Because he gave an alias, his previous convictions were not discovered. Jean Broderick was murdered a few days after he was released on the burglary charges.]

TOTAL P.02

ENACTED STATES	TAKING SAMPLES	TYPING SAMPLES	TYPES OF OFFENDERS	RETROACTIVE SAMPLING	HITS	JUVENILE /ADULT OFFENDERS
ALABAMA	Oct-94	Dec-94	ALL FELONS, SOME MISDEMEANORS	CONVICTION OR PROBATION ON OR AFTER EFFECTIVE DATE	0	NOT SPECIFIC
ARIZONA	Aug-93	Aug-94	SPECIFIC SEX OFFENSES	CONVICTION OR PROBATION ON OR AFTER EFFECTIVE DATE	0	JUVENILE IF ORDERED BY JUDGE
CALIFORNIA	NO RESPONSE					
COLORADO	Jul-88	Aug-94	SEX OFFENSES	CONDITION OF PAROLE	1 CONVICTION	ADULT & JUVENILE
CONNECTICUT	NO RESPONSE					
DELAWARE	NO FUNDING	NO FUNDING	SEX & VIOLENT OFFENSES	CONVICED ON OR AFTER EFFECTIVE DATE	0	ADULT
FLORIDA	Jan-90	Jan-90	SEXUAL ASSAULT, LUDE & LACIVIOUS BEHAVIOR, HOMICIDE & ATTEMPTED HOMICIDE	SAMPLES TAKEN UPON PAROLE	1 CONVICTION; 3 UNDER IVESTIGATION	ADULT & JUVENILE
GEORGIA	Jan-95	SOON	SEX OFFENSES	CONVICTION OR PROBATION ON OR AFTER EFFECTIVE DATE	0	UNCERTAIN

ENACTED STATES	TAKING SAMPLES	TYPING SAMPLES	TYPES OF OFFENDERS	RETROACTIVE SAMPLING	HITS	JUVENILE/ ADULT OFFENDERS
HAWAII	1992	SOON	SEX & VIOLENT OFFENSES	RETROACTIVE TO INCLUDE ALL INCARCERATED	0	ADULTS
ILLINOIS	1992	1992	SEX OFFENSES	INCLUDES CONVICTS CURRENTLY SERVING OR ON PROBATION	1 ON TRIAL	ADULTS
IOWA	NO FUNDING	NO FUNDING	SEX & VIOLENT OFFENDERS	SAMPLE TAKEN PRIOR TO RELEASE	0	UNCERTAIN
KANSAS	1992	Jun-92	SEX & VIOLENT OFFENSES	ANYONE IN PRISON	0	ADULT, BILL RECENTLY PASSED TO INCLUDE JUVENILES BUT NO FUNDING
KENTUCKY	Jul-92	Mar-95	SEX OFFENSES	CONVICTED ON JULY 92	0	ADULT & JUVENILE
MARYLAND	Jul-92	Mar-95	SEX OFFENSES	CONVICTED ON JULY 92	0	ADULT & JUVENILE
MISSISSIPPI	Jan-96	Jan-96	SEX OFFENSES	ALL FELONS IN CUSTODY JAN 96	0	ADULT
MICHIGAN	Sep-94	Jan-95	SEX OFFENSES	RETROACTIVE TO PRISONERS RELEASED ON PAROLE	0	UNCERTAIN

ENACTED STATES	TAKING SAMPLES	TYPING SAMPLES	TYPES OF OFFENDERS	RETROACTIVE SAMPLING	HITS	JUVENILE/ ADULT OFFENDERS
MINNESOTA	MID 1990	Jan-91	SEX OFFENSES	RETROACTIVE TO ALL JAILED CONVICTS	2 CONVICTIONS; 1 FUGITIVE; 3 AWAITING TRIAL	ADULT & JUVENILE
MISSOURI	Jan-94	Jan-94	VIOLENT OFFENSES	NOT RETROACTIVE	0	ADULTS & JUVENILES
NEVADA	NO FUNDING				0	ADULT & JUVENILE
NEW JERSEY	Jan-95	Jan-95	SEX & VIOLENT OFFENSES	CASE BY CASE	0	UNCERTAIN
NEW YORK	Jan-96	Jan-96	SEX, HOMICIDE, & VIOLENT OFFENSES	UNCERTAIN	0	ADULT & JUVENILE
NORTH CAROLINA	Jul-94	Jul-94	VIOLENT OFFENSES, INCLUDING ARSON	ALL FELONS IN CUSTODY JULY 94	0	ADULT
OKLAHOMA	Jul-96	Jul-96	VIOLENT AND SEX OFFENSES	SAMPLES TAKEN ON EARLY PAROLE	0	ADULT
OREGON	Oct-91	Oct-91	SEX OFFENSES & MURDER	ALL FELONS IN CUSTODY ON OCT 91	1 IN TRIAL	ADULT & JUVENILE
SOUTH CAROLINA	Jul-95	Jul-95	SEX & VIOLENT OFFENSES	ALL FELONS GOING IN & COMING OUT	0	ADULT & JUVENILE
SOUTH DAKOTA	1991	1993	ARRESTED SEX OFFENSES	ALL FELONS IN CUSTODY IN 1991	0	ADULT & JUVENILE

ENACTED STATES	TAKING SAMPLES	TYPING SAMPLES	TYPES OF OFFENDERS	RETROACTIVE SAMPLES	HITS	JUVENILE/ ADULT OFFENDERS
TENNESSEE	LATE 1993	LATE 1994	SEX OFFENSES; JUDGE CAN REQUIRE ANYONE TO SUBMIT A SAMPLE	RETROACTIVE TO 1991	0	ADULT & JUVENILE
UTAH	Jul-95	Jul-95	SEX OFFENSES, MURDER, & AGGRIVATED MURDER	CONDITION OF PAROLE	0	ADULT
VIRGINIA	1989	1993	ALL CONVICTED FELONS	RETROACTIVE	1 CONVICTION; 1 WARRENT; 1 ARREST	ADULTS & JUVENILES
WASHINGTON	Jul-90	Apr-91	SEX & VIOLENT OFFENSES	CONVICTED ON/AFTER JULY 90	1 UNDETERMINED	ADULT & JUVENILE
WEST VIRGINIA	Jul-95	Jul-95	ALL FELONS	RETROACTIVE	0	ADULT & JUVENILE
WISCONSIN	Apr-94	LATE 94	SEX OFFENSES/ BURGLARY	ALL FELONS INCARCERATED UPON PASSING OF THE LAW	0	ADULT & JUVENILE



*Elek Mystrom,
Mayor*

ANCHORAGE POLICE DEPARTMENT

4501 South Bragaw Street • Anchorage, Alaska 99507-1599

Telephone (907) 786-8500



Service since 1921

January 24, 1995

Representative Sean R. Parnell
Alaska State Legislature
Juneau, Alaska 99801-1182

Dear Representative Parnell:

The Anchorage Police Department strongly supports the passage of House Bill 27, which establishes a deoxyribonucleic acid (DNA) registration system for convicted felony sex offenders. It has long been known that sex offenders have a higher rate of recidivism than those convicted of most other crimes.

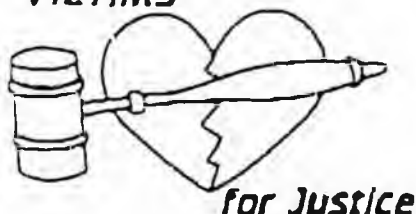
This law would provide criminal justice agencies with an important scientific tool in the apprehension of those who continue to prey on innocent victims.

Sincerely,

Kevin M. O'Leary

Kevin M. O'Leary
Chief of Police

VICTIMS



Rep. Sean Parnell
State Capital Building
Juneau, AK

Dear Rep. Parnell:

On behalf of all victims of crime, Victims for Justice would like to thank you for sponsoring HB27.

Victims for Justice (VFJ) strongly feels that the passage of HB27, dealing with the establishment of a DNA bank and the requirement of certain felons to register in this DNA bank, would be very beneficial to the victims of crime.

The DNA bank would allow for a positive identification to be made for many repeat violent offenders, making the victims "waiting time" from crime to capture and then conviction much shorter. HB27 will also allow for justice to be much more sure of itself, as the DNA match is an almost certain tool for a positive match for a perpetrator.

The common thread which should run through all criminal justice procedures or statutes should be the search for the truth, and HB27 will help to give law enforcement a good mechanism towards that end.

Sincerely,

A handwritten signature in black ink, appearing to read "Ralph Samuels". The signature is stylized and somewhat cursive.

Ralph Samuels
Victims for Justice

ALASKA PEACE OFFICERS ASSOCIATION

State APOA Office • P.O. Box 240106 • Anchorage, Alaska 99524-0106 • (907) 277-0515



February 8, 1995

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Representative Sean Parnell
Capitol Building
Juneau, Alaska 99801-1182

Dear Representative Parnell,

I am the State-wide president of the Alaska Peace Officers Association. Our organization represents over 1200 law enforcement officers from over 80 local, state and federal agencies. On January 31, 1995, the State Board met and discussed pending legislation dealing with peace officers.

We have chosen House Bill 27 as one of our priority pieces of legislation. In 1901 at the World's Fair in St. Louis fingerprinting was introduced to America. By 1906 it was widely accepted by American Courts. DNA has been used by police agencies in this country since 1986 (it was first used by the Alaska State Crime Lab in 1992). It is meeting constant challenges by the defense bar because of its devastating consequences at a jury trial. We feel this scientific procedure has passed muster in courts all over the world and we should not bow to the pressure of disgruntled defense attorneys who are trying to prohibit this useful piece of evidence from the court room.

If there is anything this organization can do to assist your effort in passing this legislation please contact me (451-5316) or our Executive Director, Joseph Young (277-0515), or Alyce Hanley (243-7574). On behalf of the Alaska Peace Officers Association, I want to thank you for proposing this legislation and wish you the best in this legislative session.

Respectfully yours,

Michael Corkill
Michael Corkill
Statewide President

ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

30 Seward Street, No. 501 • Juneau, Alaska 99801 • (907) 536-3650

Abused Women's Aid in Crisis (AWAIC); Advocates for Victims of Violence (AVV);
Aiding Women in Abuse and Rape Emergencies (AWAPE);
Alaska Women's Resource Center (AWRC); Arctic Women in Crisis (AWIC);
Bering Sea Woman's Group (BSWG); Emmonak Women's Shelter;
Kodiak Women's Resource & Crisis Center (KWRC);
Manilaq Regional Women's Crisis Program; Parent Aid Family Support Center;
Safe & Fear-Free Environment (SAFE); Seward Life Action Council (SLAC);
Sitkans Against Family Violence (SAFV); South Peninsula Women's Services (SPWS);
Standing Together Against Rape (STAR);
Tongass Community Counseling Center; Tundra Women's Coalition (TWC);
Unalaskans Against Sexual Assault & Family Violence (USAFV);
Valley Women's Resource Center (VWRC);
Women in Crisis Counseling & Assistance (WCCA);
Women in Safe Homes (WISH); Women's Resource & Crisis Center (WRCC)

HOUSE BILL 27 DNA IDENTIFICATION REGISTRATION SYSTEM

The Alaska Network on Domestic Violence and Sexual Assault (Network) is a statewide coalition of 22 nonprofit programs. Shelter, advocacy, crisis intervention and counseling, and referral services are offered by member programs to victims of domestic violence and sexual assault. During FY94, over 9,500 victims and minor children sought and received services from member programs.

The Network supports passage of HB27. Requiring DNA registration of convicted felons will assist in the swift and accurate apprehension and conviction of sex offenders. The Network supports the accessibility of as many identifiers as possible for use by law enforcement when investigating and prosecuting sex offenses.

Beginning to gather DNA "fingerprints" now will give the criminal justice system more information with which to work when a data bank becomes feasible. Experts debate the percentages of recidivism by sex offenders (Is it 50, 75, or 80%, with or without treatment), but what is not debated is the fact of recidivism. A sex offender is likely to commit more than one offense.

Sexual assault victims undergo rape exams as soon after an attack as possible in order to preserve among other samples those of semen, hair, and skin. Currently, those samples cannot be used until a suspect is identified and undergoes a similar exam to collect samples. With an operational DNA databank, the samples gathered from a victim can be used as soon as they are typed to match against known sex offenders to eliminate suspects; narrow the field of investigation; and, in some cases identify the perpetrator.

Alaskan law enforcement efforts should be supported with the best technology possible. Requiring convicted felons to register their DNA will not prevent sexual assault, but it will better equip the criminal justice system, and demonstrate Alaska's commitment to use every means available to apprehend and convict sex offenders.

DNA match convicts man of 1992 crime

Trial is first since high court
expanded use of evidence

By Margaret Zack
Staff Writer

In a case that probably wouldn't have led to criminal charges 10 years ago, an Andover man was found guilty Tuesday of kidnapping and raping a woman in 1992. It was the first case to go to trial since the Minnesota Supreme Court expanded the use of DNA evidence.

Troy Bloom, 32, had not been a suspect in the abduction and assault on a Brooklyn Park woman until a DNA analysis of body fluids found at the scene were matched with his.

The Minnesota Bureau of Criminal Apprehension (BCA), which did the analysis, was led to Bloom because it had samples of his DNA on file. He had two previous rape convictions.

The DNA match gave police their

only lead. The victim didn't see her assailant because he covered her head with a stocking cap, and she couldn't identify Bloom's voice in a voice lineup.

Assistant Hennepin County Attorney Karen Roessler said the guilty verdict supports the county attorney's office's contention that it is important to pursue new forensic or technological evidence. Having a convicted sex offender's DNA on file proved to be valuable, she said.

But Bloom's attorney, Clifford Poehler, said the wrong man was convicted.

"He knows where he was that day," he said of Bloom, who provided two alibi witnesses.

DNA continued on page 5B

DNA / County attorney looking into life sentence

Continued from page 1B

The jury deliberated about nine hours before returning the verdict to Hennepin County District Judge Isabel Gomez. Bloom will be sentenced Sept. 27. Roesler said the county attorney's office will research whether Bloom can be given a mandatory life sentence because he is a repeat offender. If not, the state will seek a 30-year sentence, she said.

Prosecutor Steve Redding told the jury in his closing argument Monday that the BCA concluded that the chances were 1 in 4.6 million that someone with the same DNA as Bloom left the samples. The ratio is the frequency with which that particular DNA pattern would show up in the general population. DNA, deoxyribonucleic acid, is a basic material in the chromosomes of a cell nucleus.

It wasn't until the April ruling by the Minnesota Supreme Court that statistical probabilities were permitted at trial. However, three Ramsey

County judges had allowed such evidence before the ruling.

Two DNA experts testified for the state and two for the defense.

A juror who asked to remain anonymous said that the DNA evidence was important but that the jury weighed all the evidence and found more pointing to guilt than to innocence, she said. The jury didn't believe that Bloom's alibi was airtight, she said.

She also said the two prior offenses were a factor.

"We didn't say he did it once, [therefore] he did it again. But the pattern was there," she said.

Redding asked the jury Monday: "Is Mr. Bloom the person who committed this crime or is there a Mr. X out there in our community who committed it?"

In addition to the DNA evidence,

Redding said, the kidnap and rape in November 1992 were similar to those committed by Bloom in 1980 and 1982, for which he served nine years in prison. The similarities included finding the victims early in the morning near their homes, putting them into a car through the driver's side, going to a secluded area in the northern metropolitan area, assaulting them and taking them home.

He has three other attempted-kidnapping charges that the jury was not told about.

Pochler said after the verdict Tuesday that the issue of whether the jury should learn of the prior offenses had been hotly contested. He said he thinks a different verdict would have been reached if that evidence had not been allowed.

He told the jury Monday that the description the victim gave of her assailant did not match Bloom's.

Her ability to observe was impaired

because she had had five alcoholic drinks and smoked marijuana before her abduction, Pochler said.

He also questioned the reliability of the DNA tests because of questionable handling of samples at the sheriff's laboratory and the wrong date on one.

"That shows mistakes can be made," he said.

Pochler said Bloom's alibi — that he was at a girlfriend's house — was solid.

Bloom, who testified in his own behalf, denied being involved. He denied telling a co-worker that he would commit a crime again and that the only thing he'd do differently would be to make sure the person wouldn't be able to identify him.

"Were you the person who raped this woman?" Pochler asked Bloom.

"No way," Bloom said.

Rapist gets 30-year prison sentence in case decided on DNA evidence

MIKE SWEENEY STAFF WRITER

Hennepin County Judge Isabel Gomez sentenced convicted rapist Troy Bloom to 30 years in prison on Tuesday, calling him a sexual predator who deserves lengthy incarceration.

Bloom cried as he read a pre-sentence statement proclaiming his innocence.

"The jury messed up," he told Gomez. "They convicted me on my prior record . . . I did not commit this crime."

Gomez didn't show any sympathy for Bloom, convicted in August of breaking into a 34-year-old Brooklyn Park woman's residence, forcing her to drive with him for 20 minutes, threatening her with a screwdriver and raping her.

"I have a lot of trouble believing you," Gomez told Bloom, who was convicted of at least two rapes in the early 1980s, "because that's what you always say."

The judge told Bloom that he must serve at least 20 years in prison.

Gomez referred to a pre-sentence report stating Bloom maintained his innocence in the earlier rapes for nearly his entire 10-year prison term before finally admitting them.

"You have caused other people too much pain, Mr. Bloom," Gomez said after sentencing him.

The judge told Bloom, 32, that he must serve at least 20 years in prison and successfully complete a sex offenders' treatment program before he can be eligible for release.

And if he's released after 20 years, Gomez said, Bloom must be placed under close supervision for a minimum of 10 years.

Gomez denied a motion by Bloom's public defender, who ar-

gued the verdict should be overturned because the jury convicted Bloom on faulty DNA genetic pattern evidence.

Bloom's trial was the first in Minnesota in which a DNA sample taken at a crime scene was the only evidence linking a suspect to the act. The DNA sample from the rape matched Bloom's.

The trial was also the first in which jurors heard testimony on

the statistical probability that matching DNA samples came from the same person. In Bloom's case, jurors heard that the chance DNA found at the scene did not belong to Bloom was about 1 in 4.6 million.

Similar testimony is expected in the ongoing trial of Timothy Baugh, who has been linked by DNA tests to a dozen sexual assaults.

DNA test leads to arrest in Brooklyn Park rape

MARIA DOUGLAS REEVE
STAFF WRITER

Using DNA profiling, Brooklyn Park police this week arrested a man in the Nov. 23 rape of a Brooklyn Park woman.

Troy Bradley Bloom's arrest marks only the second time in the nation that DNA profiling has resulted in the arrest of a previously unidentified rape suspect. The first was also a Minnesota case.

As part of their sexual assault investigation, the Brooklyn Park police submitted biological samples to the Bureau of Criminal Apprehension Laboratory for analysis.

Bloom, who had a prior conviction for sexual assault, had a sample in the BCA laboratory database.

He is accused of abducting a Brooklyn Park woman on Nov. 23, 1992, driving her around for 20 minutes in her car, and then threatening her with a screwdriver and raping her.

Convicted sexual assault offenders are required by Minnesota law to submit blood samples to the BCA. The samples are entered into a DNA database and are compared to the DNA from specimens of sexual assault cases where the suspect is not known. The database contains more than 3,000

samples of DNA. The law went into effect three years ago.

"It is gratifying to see three years of preparation and effort culminate in an arrest and underscore the credibility of DNA technology," said Michael Campion, acting superintendent of the BCA.

Minnesota is one of 10 states participating in a pilot project with the FBI to establish a nationwide DNA database of offenders.

The first case in which an unknown offender was identified using DNA profiling was in December 1991.

Martin Estrada Perez was charged with the Nov. 17, 1991, slaying of Jean Ann Broderick of Minneapolis' Lowry Hill neighborhood.

Authorities took a blood sample from Perez before he was released from Stillwater Prison in March 1991 after serving less than six years of a nine-year sentence. He was in prison for second-degree criminal sexual conduct and attempted first-degree sexual conduct for attacking a Minneapolis woman in 1984.

DNA, known as a biological fingerprint, stands for deoxyribonucleic acid. It is a genetic material unique in every human being and because of this is considered a promising tool in tracking down suspects in crimes.

Fiscal Notes

HB 27 -- DNA TESTING OF VIOLENT OFFENDERS

<u>NO.</u>	<u>DEPT.</u>	<u>DATE</u>	
3.	DPS Info.Net	1/24/95	20.0
4.	DOLaw	1/23/95	0
5.	HFC/DPS Lab.Serv.	2/1/95	25.8
6.	DPS Records	2/3/95	11.0
New	DH&SS Johnson/Juno	2/14/95	0
New	DH&SS Nome	2/14/95	0
New	DH&SS Fbks.	2/14/95	0.3
New	DH&SS McLaughlin	2/14/95	1.6
New	DH&SS Bethel	2/14/95	0.1
			<hr/>
Total			58.8

02/10/95
HB 27

HOUSE JOURNAL

PAGE 0314

THE FOLLOWING, WHICH WAS ADVANCED TO THIRD READING FROM THE FEBRUARY 8, 1995, CALENDAR (PAGE 281), WAS READ THE THIRD TIME:

02/10/95
HB 27

HOUSE JOURNAL

PAGE 0315

CS FOR HOUSE BILL NO. 27(FIN) AM

"AN ACT DIRECTING THE DEPARTMENT OF PUBLIC SAFETY TO ESTABLISH AND MAINTAIN A DEOXYRIBONUCLEIC ACID (DNA) IDENTIFICATION REGISTRATION SYSTEM AND REQUIRING DNA REGISTRATION BY PERSONS CONVICTED OF A FELONY CRIME AGAINST A PERSON AND OF MINORS 16 YEARS OF AGE OR OLDER WHO ARE ADJUDICATED A DELINQUENT FOR AN ACT THAT WOULD BE A FELONY CRIME AGAINST A PERSON IF COMMITTED BY AN ADULT; AND PROVIDING FOR AN EFFECTIVE DATE."

**REPRESENTATIVE MARTIN, WHO HAD BEEN PREVIOUSLY EXCUSED (PAGE 289), LEFT THE CHAMBER.

THE QUESTION BEING: "SHALL CSHB 27(FIN) AM PASS THE HOUSE?" THE ROLL WAS TAKEN WITH THE FOLLOWING RESULT:

CSHB 27(FIN) AM
THIRD READING
FINAL PASSAGE

YEAS: 33 NAYS: 1 EXCUSED: 6 ABSENT: 0

YEAS: AUSTERMAN, BARNES, BUNDE, DAVIES, B.DAVIS, G.DAVIS, ELTON, FINKELSTEIN, GREEN, GRUSSENDORF, HANLEY, IVAN, JAMES, KELLY, KOHRING, KUBINA, MACKIE, MASEK, MOSES, MULDER, NAVARRE, OGAN, PARNELL, PHILLIPS, PORTER, ROBINSON, ROKEBERG, SANDERS, THERRIAULT, TOOHEY, VEZEY, WILLIAMS, WILLIS

NAYS: BROWN

EXCUSED: BRICE, FOSTER, KOTT, MACLEAN, MARTIN, NICHOLIA

SELECTION=>

PF1	PF2	PF3	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP		EXIT	MENU		PRINT	BWD	FWD		FIRST	LAST	QUIT

SENATE FINANCE COMMITTEE REPORT

DATE: 3/9/95

FURTHER:

DATE TURNED INTO OFFICE: 3-23-95

The Finance Committee considered CS FOR HOUSE BILL NO. 27(FIN) am

Directing the Dept of Public Safety to establish and maintain a DNA identification registration system and requiring DNA registration by persons convicted of a felony crime against a person and of minors 16 years of age or older; efd.

and recommends:

be replaced with S CS CS HB 27 (JUD)

adopt previous CS _____

attached amendment(s)

adopt Letter of Intent by _____ Committee

further referral to the _____ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical change

new: SCR# _____

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	✓	<i>[Signature]</i>	✓		
<i>[Signature]</i>	✓	<i>[Signature]</i>	✓		
<i>[Signature]</i>	✓				
Co-Chair: <i>[Signature]</i>	✓				
Co-Chair: <i>[Signature]</i>	✓				

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

DH+SS Johnson	2/14/95	0	0
DH+SS Dome	2/14/95	0	
DH+SS FBKS	2/14/95		0.3
DH+SS McLaughlin	2/14/95		1.6
DH+SS Rothel	2/14/95		0.1
Ark. Jud. Council	2/09/95		1.2

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

3	DPS	1/24/95	20.0
4	DOL	2/21/95	0
5	HFC/DPS	2/1/95	25.8
6	DPS / Records	2/3/95	11.0

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

SENATE COMMITTEE REPORT

DATE: 2/14/95

FURTHER: Finance *further referral*

DATE TURNED INTO OFFICE: 3-9-95

JWR

Judiciary Committee considered CS FOR HOUSE BILL NO. 27(FIN) am

directing the Department of Public Safety to establish and maintain a DNA identification registration system and requiring DNA **DNA Identification** of a felony crime against a person and of minors 16 years of age or older and a delinquent for an act that would be a felony crime against a person if committed by an adult; etc.

PH & FNS + FN

and recommends:

- be replaced with Jud S CS HB 27 (JUD)
- adopt previous CS ()
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:
- same title
 - new title
- House Bill:
- technical change
 - new: SCR# _____
 - same title

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Mike Miller</i>	<input checked="" type="checkbox"/>	<i>all adst.</i>	<input checked="" type="checkbox"/>		
<i>Hydon Green</i>	<input checked="" type="checkbox"/>	<i>J. Ellis</i>	<input checked="" type="checkbox"/>		
CHAIR: <i>Adrian Taylor</i>	<input checked="" type="checkbox"/>				

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

Department	Date	Zero	Fiscal

PREVIOUS/FISCAL NOTE(S):*

Department Date Zero Fiscal

Department	Date	Zero	Fiscal
<i>DPS - Statewide</i>	<i>1/24/95</i>		<i>11.0</i>
<i>DPS - Statewide - LAB</i>	<i>2/1/95</i>		<i>25.8</i>
<i>Law</i>	<i>1/23/95</i>	<input checked="" type="checkbox"/>	
<i>DPS - Statewide Info Net</i>	<i>1/24/95</i>		<i>20.0</i>

[] APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

HB

28

HFIN

FILE

Adopted

AMENDMENT # 1

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: CSHB 28(JUD)

Page 5, lines 9 - 10:

Delete all material and insert:

"(d) Each school district shall adopt a policy providing for the

(1) referral to law enforcement authorities of
students who violate AS 11.61.210(a)(8);

(2) identification of procedures and conditions for early
re-instatement of students suspended or expelled under this
section."

ATTENTION ;
Lynn

AMENDMENT

#2 A failed

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: CSHB 28(HES)

- 1 Page 4, lines 14 - 15, following "officer":
- 2 Delete "to determine compliance with"
- 3 Insert "if the person conducting the search is acting under reasonable suspicion that
- 4 the search will provide evidence of a past or present violation of"

-
- 5 Page 4, line 16, following "laws.":
 - 6 Insert "A search or examination under this section may not be more intrusive than
 - 7 reasonably necessary to meet the objectives of the search."

2B Adopted



REPRESENTATIVE CON BUNDE
CO-CHAIR HEALTH, EDUCATION
& SOCIAL SERVICES
VICE-CHAIR RULES

**Alaska State Legislature
House of Representatives**

DURING SESSION:
STATE CAPITOL, ROOM 108
JUNEAU, ALASKA 99801-1182
1 (907) 465-4843

**SPONSOR STATEMENT
CSHB 28 (JUD)**

DURING INTERIM:
716 WEST 4th AVENUE
ANCHORAGE, ALASKA 99501-2133
1 (907) 258-8168

The increasing trend towards violence and guns in schools across the nation is the reason the Federal Gun Free Schools Act was passed by Congress. This act requires a school system, as a condition of receiving federal education funds, to implement a program for the control of guns and weapons in schools. HB 28 will put Alaska into compliance with the mandates of the Federal Gun Free Schools Act.

The possession of deadly weapons and defensive weapons on school grounds, in parking lots adjacent to public or private schools, and while participating in school events is prohibited within HB 28. However, a person can obtain permission from the chief administrative officer of a school to carry a prohibited weapon into a school. This provision will allow a school to use an existing gun range or continue functions within a school that require the legal use of a deadly or defensive weapon.

HB 28 provides for a one year expulsion or suspension of a student that possesses a weapon on school grounds. However, in instances of disabled or special education students the school administrator is granted the ability to modify the mandatory expulsion or suspension. Additionally, this legislation requires an annual statistical report to the Department of Education regarding the number of students expelled and the types of weapons involved. This provision will improve the way many school districts keep weapons reports. Both of these provisions are for compliance with the Gun Free Schools Act.

This legislation allows school locker searches in order to determine compliance with school regulations and state laws. The policy of locker searches must be posted in prominent locations throughout the school.

Alaska must comply with the Federal Gun Free Schools Act by passing this legislation, or our schools will lose needed federal dollars. However, the most important reason for passing this legislation is, schools cannot work well when students and teachers are concerned about their safety. The educational process stops when people are afraid. Although a wide range of underlying social ills contribute to violent incidents, children with guns and weapons in our schools is a strong catalyst for governmental action. I urge your favorable consideration of HB 28.

HOUSE COMMITTEE REPORT

(11)

Date Referred: March 14, 1995

FURTHER REFERRALS:

Date of Committee Action: 4/10/95

The FINANCE Committee considered:

HB 28

HOUSE BILL NO. 28

POSSESSION OF GUNS ON SCHOOL PROPERTY

"An Act relating to the possession of weapons within the grounds of or on the parking lot of preschools, elementary, junior high, and secondary schools or while participating in a school-sponsored event; requiring the expulsion or suspension of students possessing deadly weapons on school grounds; and relating to school lockers and other containers provided in a public or private school by the school or the school district."

recommends it be replaced with the following committee substitute CS HB 28 (Fin) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal note(s) _____ fiscal note(s) _____

zero fiscal note(s) _____ zero fiscal note(s) ^{2/22/95} DPS ^{2/22/95} DCE

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Mark Hanley</i>	Hanley	X			
<i>Bill Mulder</i>	Mulder				
<i>Terry Martin</i>	Martin			+	
<i>Will Kohring</i>	Kohring	X			
<i>Jan Grossendort</i>	Grossendort			X	
<i>Mike Navarre</i>	Navarre			X	
<i>Tan Brown</i>	Brown			X	
<i>Pete Kelly</i>	Kelly			X	
<i>Cam Theriault</i>	Theriault	X			
<i>Richard Foster</i>	Foster			X	

CHAIR'S SIGNATURE *Mark Hanley* *Richard Foster*

FISCAL NOTE

1
 Bill Version: CS HB 28(HES)
 (H) Publish Date: 2/22/95

STATE OF ALASKA
 1995 LEGISLATIVE SESSION

Revision Date: _____

Title: Possession of Guns on School Property

Sponsor: Representative Bunde

Requester: Representative Bunde

Department Affected: Education

BRU: K-12 Support and Education Program Support

Component: Foundation Program and Special and Supplemental Services

COMPONENT SERIAL NO. 141 and 166

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
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						
---------	--	--	--	--	--	--

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

FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY95) impact: \$ 0.0

ANALYSIS: (Attach a separate page if necessary.)

Federal legislation, *Gun Free Schools Act*, requires that each state, in order to receive funds under the Elementary and Secondary Education Act (ESEA), must enact a law by October 20, 1995 which mandates a one-year expulsion of a student who brings a weapon to school. Section 6 of HB 28 address this needed provision. In FY 95, the State of Alaska received over \$ 90 million, most of which went directly to local school districts, under ESEA. Please see the attached sheet for a break down on the funds received in FY 95.

Prepared by: Sheila Peterson *Sheila Peterson*

Phone: 465-2803

Division: Commissioner's Office

Date: _____

Approved by Commissioner: *Mike Maher*

Mike Maher, Acting Commissioner

Agency: Education

Date: _____

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COMMITTEE COPY

Elementary and Secondary Education Act
FY 95 Program Funding
(Thousands of Dollars)

Chapter I	\$ 12,475.5
Chapter II	1,833.1
Migrant	6,983.1
Evenstart	250.0
Neglected and Delinquent	149.4
Eisenhower Grants	1,241.5
Drug Free Schools	1,371.2
Governor's Drug Free Schools	441.8
Equity	110.8
Bilingual	75.0
Impact Aid	66,000.0
TOTAL	\$ 90,930.5

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL N
No. 2
Bill Version: CS HB 28(HES)
(H) Publish Date: 2/22/95

Revision Date: _____ Dept. Affected: Public Safety
Title: Possession of guns on school property BRU: Alaska State Troopers
Component: Detachments
Sponsor: Representative Runde
Requestor: (H) HESS COMPONENT SERIAL NO. 0799

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ()	-0-	-0-	-0-	-0-	-0-	-0-
<small>Revenue Code</small>						

FUNDING: (Thousands of Dollars)

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

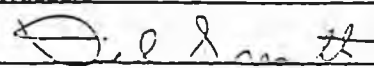
Estimate of current year (FY 95) impact: \$ -0-

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: (Attach a separate page if necessary.)

No fiscal impact is anticipated.

Prepared By: Francis C. Allan Phone: 269-5691
Division: Alaska State Troopers Date: 02/10/95
Approved by Commissioner:  Date: 2/17/95
Agency: Ronald L. Otte, Dept. of Public Safety

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**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

February 14, 1995

SUBJECT: Sectional Summary of CSHB 28 (HES), draft, dated 2/13/95
(Work Order No. 9-LS0151\F)

TO: Representative Con Bunde
Attn: Patty

FROM: Jerry Luckhaupt *JLL*
Legislative Counsel

You have asked for a sectional summary of the above-described bill. Please be advised that a sectional summary is not an authoritative statement of the contents of a bill - the bill itself is the best statement of its contents.

Section 1 of the bill amends AS 11.61.210(a) by providing that a person other than a student commits the crime of misconduct involving weapons in the fourth degree if the person possesses a deadly weapon¹ or a defensive weapon,² on school grounds or the parking lot of a preschool, elementary, junior high, or secondary school, in certain situations or while participating in a school sponsored event. This section also provides that a student commits the crime of misconduct involving weapons in the third degree if the student possesses a deadly weapon or a defensive weapon on school grounds or at a school-sponsored event, except that a student may possess a deadly weapon, other than a firearm as defined under federal law, or a defensive weapon with the permission of school authorities. Violation of this section is a class A misdemeanor.³ AS 11.61.220(g). The possession of firearms and defensive weapons is currently prohibited at schools and their grounds under AS 11.61.220-(a)(4) which is being repealed in sec. 3 of this bill.

¹ "Deadly weapon" is defined at AS 11.81.900(b)(13) as:

firearm, or anything designed for and capable of causing death or serious physical injury, including a knife, an axe, a club, metal knuckles, or an explosive . . .

² "Defensive weapon" is defined at AS 11.81.900(b)(16).

³ A class A misdemeanor is punishable as provided in AS 12.55.135 (imprisonment) and 12.55.035 (fine).

Representative Con Bunde

February 14, 1995

Page 2

Section 2 of the bill provides that a peace officer may possess a deadly weapon on school grounds.

Section 3 of the bill amends AS 11.61.220(a) to correspond with the change made in sec. 1 of the bill.

Section 4 of the bill amends AS 14.03.080 by adding a new subsection that provides that school officials do not have to admit a child under suspension or expulsion under AS 14.03.160, added in sec. 6 of the bill.

Section 5 of the bill amends AS 14.03 by adding a new section that provides for the search and examination of school lockers by school officials. Subsection (c) of that section, provides that this grant of authority does not diminish any separate authority to search that might exist.

Section 6 of the bill amends AS 14.03 by adding a new section that mandates expulsion or suspension for students that possess weapons on school grounds and requires reports from school districts concerning these suspensions and expulsions.

Section 7 of the bill amends AS 14.45 by adding a new section that permits private schools to search school lockers as provided in AS 14.03.105 (added by sec. 5 of the bill).

GPL:lmb:glc

95-121.lmb

GUIDANCE CONCERNING STATE AND LOCAL
RESPONSIBILITIES UNDER THE
GUN-FREE SCHOOLS ACT OF 1994

This guidance is to provide information concerning State and local responsibilities under the Gun-Free Schools Act (GFSA), which was enacted on October 20, 1994 as part of the Improving America's Schools Act of 1994 [the reauthorization of the Elementary and Secondary Education Act of 1965 (ESEA)], Public Law 103-382. Preliminary information, including a copy of this new legislation, was mailed to Governors and Chief State School Officers in a letter dated November 28, 1994.

The GFSA states that each State receiving Federal funds under ESEA must have in effect, by October 20, 1995, a State law requiring local educational agencies to expel from school for a period of not less than one year a student who is determined to have brought a weapon to school. Each State's law also must allow the chief administering officer of the local educational agency (LEA) to modify the expulsion requirement on a case-by-case basis.

The legislation explicitly states that the GFSA must be construed to be consistent with the Individuals with Disabilities Education Act (IDEA). Therefore, by using the case-by-case exception, LEAs will be able to discipline students with disabilities in accordance with the requirements of Part B of the IDEA and Section 504 of the Rehabilitation Act (Section 504), and thereby maintain eligibility for Federal financial assistance. The Department intends to issue separate, more detailed guidance on discipline of students with disabilities, which will include clarification of the implementation of the GFSA consistent with IDEA and Section 504.

The following questions and answers have been prepared to assist States, State educational agencies (SEAs), and LEAs in implementing these new requirements.

- Q1. What entities are affected by the provisions of the Gun-Free Schools Act?
- A. Each State, as well as its State educational agency and local educational agencies, has responsibilities under the GFSA.
- Q2. Are private schools subject to the requirements of the Gun-Free Schools Act?
- A. Private schools are not subject to the provisions of the GFSA, but private school students who participate in LEA programs or activities are subject to the one-year expulsion.

requirement to the extent that such students are under the supervision and control of the LEA as part of their participation in the LEA's programs. For example, a private school student who is enrolled in a Federal program, such as Title I, is subject to a one-year expulsion, but only from Federal program participation, not a one-year expulsion from the private school. Of course, nothing prohibits a private school from imposing a similar expulsion from the private school on a student who brings a weapon to school.

Q3. Will SEAs and LEAs have a period of time to comply with the requirements of the Gun-Free Schools Act?

A. States must take prompt action to implement the requirements of the GFSA, including prompt action to initiate the legislative process. States have until October 20, 1995 to enact and make effective the one-year expulsion legislation required by Section 14501. States that have not enacted and made effective legislation by this date risk losing ESEA funds.

In order to be eligible to receive ESEA funds, LEAs must have an expulsion policy consistent with the required State law.

LEAs must take immediate action to implement the referral policy required by Section 14602, because the GFSA directs that no ESEA funds shall be made available to an LEA unless that LEA has the required referral policy.

Q4. Is compliance with the requirements of the Gun-Free Schools Act a condition for the receipt of Federal financial assistance under the ESEA?

A. Yes, compliance with the requirements of the GFSA is a condition for the receipt of funds made available to the State under the ESEA.

Q5. Will failure to comply with the requirements of the Gun-Free Schools Act result in the termination or withholding of funds made available to the State under the ESEA?

A. Failure to comply with the requirements of the GFSA could result in the withholding, under the provisions of the General Education Provisions Act, of funds made available to the State under the ESEA; however, it is anticipated that technical assistance provided to States will result in timely compliance and make withholding of funds unnecessary.

Q6. May a State request a waiver of the requirements of the Gun-Free Schools Act?

A. Yes. The ESEA authorizes the Secretary to waive the requirements of the GFSA if that action will increase the quality of instruction for students or will improve the academic performance of students. However, it is not anticipated that the requirements of the GFSA will be waived except in unusual circumstances.

Q7. Does the Gun-Free Schools Act's one-year expulsion requirement preclude any due process proceedings?

A. No. Students facing expulsion from school are entitled under the U.S. Constitution and most State constitutions to the due process protection of notice and an opportunity to be heard. If, after due process has been accorded, a student is found to have brought a weapon to school, the GFSA requires an expulsion for a period of not less than one year (subject to the case-by-case exception discussed below).

Q8. What does the Gun-Free Schools Act require of States?

A. The GFSA requires that each State receiving Federal funds under the ESEA must, by October 20, 1995: (1) have in effect a State law requiring LEAs to expel from school for a period of not less than one year a student who is determined to have brought a weapon to school; (2) have in effect a State law allowing the LEA's chief administering officer to modify the expulsion requirement on a case-by-case basis; and (3) report to the Secretary on an annual basis concerning information submitted by LEAs to SEAs. SEAs must also ensure that no ESEA funds are made available to an LEA that does not have a referral policy consistent with Section 14602.

One-Year Expulsion Requirement

Each State's law must require LEAs to comply with a one-year expulsion requirement; that is, subject to the exception discussed below, any student who brings a weapon to school must be expelled for not less than one year.

Case-by-Case Exception

Each State's law must allow the chief administering officer of an LEA to modify the one-year expulsion requirement on a case-by-case basis.

Annual Reporting

Each State must report annually on LEA compliance with the one-year expulsion requirement, and on expulsions imposed under the State law, including the number of students expelled in each LEA and the types of weapons involved.

Q9. What does the Gun-Free Schools Act require of LEAs?

- A. The GFSA requires that LEAs (1) comply with the State law requiring the one-year expulsion; (2) provide an assurance of compliance to the SEA; (3) provide descriptive information to the SEA concerning the LEA's expulsions; and (4) adopt a referral policy for students who bring weapons to school.

One-Year Expulsion Requirement

LEAs must comply with the State law requiring a one-year expulsion; that is, subject to the case-by-case exception, any student who brings a weapon to school must be expelled for not less than one year.

LEA Assurance

An LEA must include in its application to the State educational agency for ESEA assistance an assurance that the LEA is in compliance with the State law requiring the one-year expulsion.

Descriptive Report to SEA

An LEA must include in its application for ESEA assistance a description of the circumstances surrounding expulsions imposed under the one-year expulsion requirement, including:

- (A) the name of the school concerned;
- (B) the number of students expelled from the school; and
- (C) the type of weapons concerned.

Referral Policy

LEAs must also implement a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a weapon to school.

Q10. When must an LEA implement its referral policy?

- A. LEAs must take immediate action to implement a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a weapon to school. The GFSA directs that no ESEA funds shall be made available to an LEA unless that LEA has the required referral policy.

Q11. When must an LEA submit the required assurance?

- A. In its first application to the State educational agency for ESEA funds after the date that the State enacts and makes effective the required one-year expulsion legislation, the LEA must include an assurance that the LEA is in compliance with the State law.

Q12. What is the role of the SEA in determining whether an LEA is in compliance with the Gun-Free Schools Act?

- A. The GFSA requires States to report to the Secretary on an annual basis concerning LEA compliance. Therefore, before awarding any ESEA funds to an LEA, the SEA must ensure that the LEA has: (1) implemented a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a weapon to school; and (2) included in its application for ESEA funds the assurance and other information required by the GFSA. SEAs must ensure that the LEA application contains:

(1) an assurance that the LEA is in compliance with the State law requiring the one-year expulsion; and

(2) a description of the circumstances surrounding expulsions imposed under the one-year expulsion requirement, including:

- (A) the name of the school concerned;
(B) the number of students expelled from the school; and
(C) the type of weapons concerned.

Q13. Who is an LEA's "chief administering officer"?

- A. The term "chief administering officer" is not defined by the GFSA. Each LEA should determine, using its own legal framework, which chief operating officer or authority (e.g., Superintendent, Board, etc.) has the power to modify the expulsion requirement on a case-by-case basis.

Q14. Can any individual or entity other than the LEA's "chief administering officer" modify the one-year expulsion requirement on a case-by-case basis?

A. No. However, the chief administering officer may allow another individual or entity to carry out preliminary information gathering functions, and prepare a recommendation for the chief administering officer.

Q15. Is it permissible for an LEA to use the case-by-case exception to avoid compliance with the one-year expulsion requirement?

A. No, this exception may not be used to avoid overall compliance with the one-year expulsion requirement.

Q16. How is the term "weapon" defined?

A. For the purposes of the GFSA, a "weapon" means a firearm as defined in Section 921 of Title 18 of the United States Code.

According to Section 921, the following are included within the definition:

- any weapon which will or is designed to or may readily be converted to expel a projectile by the action of an explosive
- the frame or receiver of any weapon described above
- any firearm muffler or firearm silencer
- any explosive, incendiary, or poison gas
 - (1) bomb,
 - (2) grenade,
 - (3) rocket having a propellant charge of more than four ounces,
 - (4) missile having an explosive or incendiary charge of more than one-quarter ounce,
 - (5) mine, or
 - (6) similar device
- any weapon which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter

- any combination of parts either designed or intended for use in converting any device into any destructive device described in the two immediately preceding examples, and from which a destructive device may be readily assembled

According to Section 921, the following are not included in the definition:

- an antique firearm
- a rifle which the owner intends to use solely for sporting, recreational, or cultural purposes
- any device which is neither designed nor redesigned for use as a weapon
- any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device
- surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10

In addition, we have been advised by the Bureau of Alcohol, Tobacco, and Firearms that Class-C common fireworks are not included in the definition of weapon.

Q17. Does the Gun-Free Schools Act preclude classes such as hunting or military education, or activities such as hunting clubs or rifle clubs, which may involve the handling or use of weapons?

A. No, the GFSA does not prohibit the presence at school of rifles that the owners intend to use solely for sporting, recreational, or cultural purposes.

Q18. Are knives considered weapons under the Gun-Free Schools Act?

A. No, for the purposes of the GFSA, the definition of weapon does not include knives. State legislation or an SEA or LEA may, however, decide to broaden its own definition of weapon to include knives.

Q19. What is meant by the term "expulsion"?

A. The term "expulsion" is not defined by the GFSA; however, at a minimum, expulsion means removal from the student's regular school program at the location where the violation occurred.

Q20. Is a State, SEA, or LEA required to provide alternative educational services to students who have been expelled for bringing a weapon to school?

A. The GFSA neither requires nor prohibits the provision of alternative educational services to students who have been expelled. Other Federal, State, or local laws may, however, require that students receive alternative educational services in certain circumstances.

Q21. What is an "alternative setting" for the provision of educational services to an expelled student?

A. An alternative setting is one that is clearly distinguishable from the student's regular school placement.

Q22. Is Federal funding available to provide alternative educational services?

A. Yes, formula grants awarded under the Safe and Drug-Free Schools and Communities Act may be used for alternative educational services. In addition, other Federal funds may be available for alternative educational services, consistent with each program's statutory and regulatory requirements.

Q23. Do the requirements of the Gun-Free Schools Act conflict with requirements that apply to students with disabilities?

A. No. Compliance with the GFSA may be achieved consistently with the requirements that apply to students with disabilities, as long as discipline of such students is determined on a case-by-case basis in accordance with the IDEA and Section 504. The Department intends to issue separate, more detailed guidance on discipline of students with disabilities, which will include clarification of the implementation of the GFSA consistent with IDEA and Section 504.

Q24. Is it permissible to expel a student for a "school year" rather than a year?

A. No. The statute explicitly states that expulsion shall be for a period of not less than one year.

Q25. Does the expulsion requirement apply only to violations occurring in the school building?

A. No. The one-year expulsion requirement applies to students who bring weapons to any setting that is under the control and supervision of the LEA.



NEA-ALASKA

Affiliated with the National Education Association

NEA-ALASKA

POSITION STATEMENT

HB 28

NEA-Alaska supports passage of HB 28 to restrict the possession of weapons on school property and at school sponsored events. We commend the sponsors for taking one step to curb violence in our schools. Passage of this bill will not end school violence but will clearly send a clear message to students and to parents that weapons are not allowed at school or extracurricular events.

We are aware that the epidemic of violence in Alaskan society has reached the school house door. Nationally the Centers for Disease Control have classified violence among youth as an epidemic. Any serious effort at ending this epidemic must address its root causes. Among the causes is family disintegration, loss of moral values and a popular culture that glorifies violence as a means of settling disputes.

NEA-Alaska is committed to working with its local associations and the legislature to insist upon development and enforcement of laws that guarantees the safety of school employees and children from physical attacks on their person or property. We feel that violence must be addressed because it disrupts the school environment which affects the teaching and learning process.

Safe homes plus safe schools equal safe schools. Safe homes begin with parents spending quality time with their children and exhibiting love and caring within the family setting. Children must be taught the difference between assertiveness and aggressiveness. Little can be done if violence is not seen as wrong at home. Schools cannot change student behavior but families can shape constructive behavior in children.

The issue is complex but we view HB 28 as a step toward creating "gun free zones" for children. Schools must be a safe haven where children and school employees can feel safe from violent attacks.

3-10-95

HB

32

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred: March 14, 1995

FURTHER REFERRALS:

Date of Committee Action: 3/20/95

The FINANCE Committee considered:

HB 32

HOUSE BILL NO. 32

PFD ADMINISTRATIVE PROCEEDINGS

"An Act relating to administrative proceedings involving a determination of eligibility for a permanent fund dividend or authority to claim a dividend on behalf of another."

recommends it be replaced with the following committee substitute CS HB 32 (FIN) the same title a new title

additional referral to _____ Committee

attached amendment(s)

ADOPTS: _____ Letter of Intent

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

APPROVES PREVIOUS: (Dept/Date) _____

fiscal note(s) _____

fiscal note(s) Revenue 2/13/95

zero fiscal note(s) _____

zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
	MULDER		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
	Kelly			<input checked="" type="checkbox"/>	
	Martin			<input checked="" type="checkbox"/>	
	Anusindant			X	
	Pannell			X	
	Thernawit		<input checked="" type="checkbox"/>		

CO-CHAIR'S SIGNATURE _____

FISCAL NOTE

no. 1

Bill Version: CS&B 32(STA)

(H) Publish Date: 2/13/95

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Department of Revenue
 Title: PFD Administrative Proceedings BRU: Permanent Fund Dividend Division
 Component: Permanent Fund Dividend Division
 Sponsor: Representative GREEN
 Requester: House State Affairs COMPONENT SERIAL NO. 981

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES		(7.9)	(52.7)	(97.5)	(142.3)	(142.3)
TRAVEL						
CONTRACTUAL					(21.0)	(29.4)
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	(7.9)	(52.7)	(97.5)	(163.3)	(171.7)

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	121.8	129.0	129.0	129.0	129.0	129.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
1050 Dividend Fund		(7.9)	(52.7)	(97.5)	(163.3)	(171.7)
TOTAL	0.0	(7.9)	(52.7)	(97.5)	(163.3)	(171.7)

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

FULL-TIME			(1)	(2)	(3)	(3)
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

See Page 2.

Prepared by: Thomas C. Williams, Director *Thomas Williams* Phone: 465-2323
 Division: Permanent Fund Dividend Division Date: 2/6/95
 Approved by Commissioner: *[Signature]* Date: 2/16/95
 Agency: Department of Revenue

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ALASKA DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND DIVISION
ANALYSIS OF HB 32
As of February 6, 1995

Assumptions

- A. This legislation would be effective in FY 96.
- B. 55% of all appeals received involve bright line issues and 45% of all appeals received involve non-bright line issues. Bright line issues are those that are clearly definable by objective criteria, such as whether an individual was physically present in state during the two previous calendar years or met an application deadline. Non-bright line issues are those that involve issues that are more subjective, such as whether an individual demonstrated an intent to return to Alaska.
- C. The addition of a fee will mean some of those individuals whose denial involved a bright line issue as well as some of those individuals whose denial involved a non-bright line issue will not appeal.
- D. Necessary data processing programming updates to the PFD masterfile computer system would require approximately 4 staff weeks work for PFD Division data processing staff. Other data processing programming projects would be delayed to make time for the initial programming.
- E. Additional data entry and fee processing could be accomplished by current staff, since with the adoption of the appeal fee requirement the total number of appeals received is expected to decline.
- F. See the attached *Projected Revenues Resulting From HB 32* and *Projected Inventory Resulting From HB 32* regarding the number of appeals to be received and the required staffing levels. If these assumptions are correct then:
 - 1. in FY 97 one PFDS II could be reallocated to a PFDS I resulting in a savings of \$7.9. In FY 98, FY 99 and again in FY 00, a PFDS I position could be eliminated each year for an additional savings of \$44.8 each; and
 - 2. funding for one range 22 Formal Hearing Officer in the Commissioner's Office could be reduced to 75% in FY 00, and 65% in FY 01.
- G. To the extent that the number of appeals does not decline as projected, staffing levels could not be reduced as reflected. Similarly, to the extent that the number of appeals declines more than projected, staffing levels might be able to be reduced more than the amount reflected.

Attachments

COMMITTEE COPY

COMMITTEE

ALASKA DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND DIVISION
PROJECTED REVENUES RESULTING FROM HB 32

As of February 6, 1995

	<u>FY96</u>	<u>FY97</u>	<u>FY98</u>	<u>FY99</u>	<u>FY00</u>	<u>FY01</u>
<u>Informal Conference Appeals</u>						
Appeals Received without a fee	8,000	8,000	8,000	8,000	8,000	8,000
Bright Line Issue Appeals Received without a fee (55%)	4,400	4,400	4,400	4,400	4,400	4,400
Non-Bright Line Issue Appeals Received (45%)	3,600	3,600	3,600	3,600	3,600	3,600
Bright Line Issue Appeals with Fee (50% of those without a fee)	2,200	2,200	2,200	2,200	2,200	2,200
Non-Bright Line Issue Appeals with Fee (85% of those without a fee)	3,060	3,060	3,060	3,060	3,060	3,060
Total Appeals with Fee	5,260	5,260	5,260	5,260	5,260	5,260
Amount Collected	\$131,500	\$131,500	\$131,500	\$131,500	\$131,500	\$131,500
Projected Overturn Rate	15%	10%	10%	10%	10%	10%
Amount Refunded	\$19,725	\$13,150	\$13,150	\$13,150	\$13,150	\$13,150
Amount Retained at Informal before Formal Overturns	\$111,775	\$118,350	\$118,350	\$118,350	\$118,350	\$118,350
<u>Formal Hearing Appeals</u>						
Projected Appeal Rate with fee	10%	10%	10%	10%	10%	10%
Appeals Received	447	473	473	473	473	473
Amount Collected	\$11,175	\$11,825	\$11,825	\$11,825	\$11,825	\$11,825
Projected Overturn Rate	5%	5%	5%	5%	5%	5%
Amount of Formal Hearing Fee Refunded	\$550	\$600	\$600	\$600	\$600	\$600
Amount of Related Informal Conference Fee Refunded	\$550	\$600	\$600	\$600	\$600	\$600
Amount Retained at Formal	\$10,625	\$11,225	\$11,225	\$11,225	\$11,225	\$11,225
<u>Net Retained</u>	<u>\$121,850</u>	<u>\$128,975</u>	<u>\$128,975</u>	<u>\$128,975</u>	<u>\$128,975</u>	<u>\$128,975</u>

ALASKA DEPARTMENT OF REVENUE
 PERMANENT FUND DIVIDEND DIVISION
PROJECTED INVENTORY RESULTING FROM HB 32

As of February 6, 1995

	<u>FY95(A)</u>	<u>FY96</u>	<u>FY97</u>	<u>FY98</u>	<u>FY99</u>	<u>FY00</u>	<u>FY01</u>
<u>Informal Conference Appeals</u>							
Beginning Appeal Inventory	9,704	8,954	6,714	3,224	984	0	260
Total New Appeals	3,000	5,260	5,260	5,260	5,260	5,260	5,260
Total Resolutions	(3,750)	(7,500)	(8,750)	(7,500)	(6,244)	(5,000)	(5,000)
Ending Inventory	8,954	6,714	3,224	984	0	260	520
<u>Formal Hearing Appeals</u>							
Beginning Appeal Inventory	978	988	735	509	282	55	4
Total New Appeals	535	447	473	473	473	473	473
Total Resolutions	(525)	(700)	(700)	(700)	(700)	(525)	(455)
Ending Inventory	988	735	509	282	55	4	22
<u>Staffing Levels</u>							
Permanent Fund Dividend Division							
Informal Conference Staff	6	6	7	6	5	4	4
Formal Hearing Staff	2	2	1	1	1	1	1
Total Permanent Fund Dividend Division Staff	8	8	8	7	6	5	5
Commissioner's Office Formal Hearing Staff funded by PFD Division	1.5	1	1	1	1	0.75	0.65

(A) Beginning Inventory for FY95 is as of January 1, 1995

9-LS0161NK
Cook
3/21/95

CS FOR HOUSE BILL NO. 32(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVE GREEN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to administrative proceedings involving a determination of
2 eligibility for a permanent fund dividend or authority to claim a dividend on
3 behalf of another; and providing for an effective date."

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

5 * Section 1. AS 43.23.015(g) is amended to read:

6 (g) If an individual is aggrieved by a decision of the department determining
7 the individual's eligibility for a permanent fund dividend or the individual's authority
8 to claim a permanent fund dividend on behalf of another, the individual may, upon
9 payment of a \$25 appeal fee, request the department to review its decision. If the
10 individual is aggrieved by the decision of the department after all administrative
11 proceedings, the individual may appeal that decision to the superior court in
12 accordance with AS 44.62.560. An appeal to the court under this section does not
13 entitle the aggrieved individual to a trial de novo. The appeal shall be based on the
14 record of the administrative proceeding from which appeal is taken and the scope of

1 appeal is limited to matters contained in the record of the administrative proceeding.

2 If, as a result of an administrative proceeding or a court appeal, the individual
3 prevails, the \$25 appeal fee shall be returned to the individual by the department.

4 * Sec. 2. AS 43.23.015 is amended by adding a new subsection to read:

5 (i) An indigent individual may apply for a waiver of the appeal fee required
6 under (g) of this section. The department shall prescribe and furnish a form for that
7 purpose. The department shall grant the waiver if, during the year immediately
8 preceding the year the form is submitted to the department, the individual was a
9 member of a family with an income equal to or less than the federal poverty guidelines
10 for Alaska set by the United States Department of Health and Human Services.

11 * Sec. 3. AUTHORIZATION TO ADOPT REGULATIONS. The Department of Revenue
12 may adopt regulations to implement secs. 1 and 2 of this Act; however, the regulations may
13 not be effective before the effective date of those sections.

14 * Sec. 4. Sections 1 and 2 of this Act take effect January 1, 1996.

15 * Sec. 5. Section 3 of this Act takes effect immediately under AS 01.10.070(c).

Parnell
with
conceptual amend.

9-LS0161NG

Regulation Be adopted
for calendar
1995

CS FOR HOUSE BILL NO. 32(STA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered: 2/13/95
Referred: Judiciary, Finance

Sponsor(s): REPRESENTATIVE GREEN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to administrative proceedings involving a determination of
2 eligibility for a permanent fund dividend or authority to claim a dividend on
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10 individual is aggrieved by the decision of the department after all administrative
11 proceedings, the individual may appeal that decision to the superior court in
12 accordance with AS 44.62.560. An appeal to the court under this section does not
13 entitle the aggrieved individual to a trial de novo. The appeal shall be based on the
14 record of the administrative proceeding from which appeal is taken and the scope of

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If, as a result of an administrative proceeding or a court appeal, the individual prevails, the \$25 appeal fee shall be returned to the individual by the department.

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Alaska State Legislature

WHOLE IN SESSION
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NORTH ALASKA HOUSES
JULY 1995
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ANCHORAGE, ALASKA 99501
T. 477-4143 FAX



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OFFICIAL STATE AFFAIRS COMMITTEE

FINANCE SUBCOMMITTEE
DEPT. OF NATURAL RESOURCES
DEPT. OF COMMERCE & ECONOMIC DEVELOPMENT
DEPT. OF ENVIRONMENTAL CONSERVATION

Representative Joe Green

District 12

SPONSOR STATEMENT HB 32

HB 32 addresses a serious problem with the number of appeals filed after an applicant is denied a Permanent Fund Dividend, and the length of time that it takes to process those appeals. As of January 1, 1995 there were approximately 9,740 appeals pending, the highest number since the PFD program's inception. One district 10 resident is still waiting to be heard more than 2 years after filing, and there are people who have waited even longer for their appeals to be processed and resolved. Processing such a large number of appeals is costly as well as being unfair to those who have a legitimate claim. Currently there are 10 permanent full time employees in the Permanent Fund Division and one appeals officer in the commissioners office working on processing the appeals, yet there are still almost 10,000 appeals pending, with no end in sight. Part of the problem is that it only costs a 32 cent stamp to file an appeal. Many people who clearly do not meet the qualifications for receiving a dividend protest their denial simply because they have the opportunity to do so at no risk to themselves. The 1994 denial rate was 64%. In years prior to 1994 the percentage rate of denials has been significantly higher.

HB 32 would implement a \$25 filing fee for individuals protesting the denial of their PFD application. The legislation provides for a waiver of the fee for an indigent individual who is a member of a family whose income is equal to or less than the federal poverty guidelines published yearly by the United States Department of Health and Human Services. The filing fee would be refundable if the appeal is successful, and non-refundable if the denial is upheld. It is anticipated that the implementation of a filing fee would discourage frivolous appeals, thereby reducing costs which are deducted from the amount of the dividend, and making the appeals process significantly shorter for legitimate claims.

Alaska State Legislature

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NEAR ALASKA STREET
JUNEAU, ALASKA 99801
PHONE 461-1111 FAX 461-1111

INTERMEDIARY
100 WEST 5TH AVENUE
ANCHORAGE, ALASKA 99501
PHONE 581-1111 FAX 581-1111



CHAIRMAN FINANCE COMMITTEE
VICE CHAIR FINANCE COMMITTEE
MEMBER STATE AFFAIRS COMMITTEE

FINANCE COMMITTEE
DEPT. OF NATURAL RESOURCES
DEPT. OF COMMERCE & ECONOMIC DEVELOPMENT
DEPT. OF ENVIRONMENTAL CONSERVATION

Representative Joe Green

District 12

Memorandum

TO: Representative Richard Foster, Co-Chair
Representative Mark Hanley, Co-Chair
House Finance Committee

FROM: Representative Joe Green

DATE: March 13, 1995

RE: CSHB 32, "Permanent Fund Administrative Proceedings"

I respectfully request that CSHB 32 be scheduled for a hearing before the House Finance Committee. HB 32 is one of my top legislative priorities for the nineteenth legislature and I would appreciate it being heard at the earliest possible date.

Currently there are almost 10,000 PFD appeals pending, with the wait for some being in excess of two years. While there are those who have a legitimate reason for appealing, there is also a large percentage of those who do so because it only costs the price of a 32 cent stamp. HB 32 would implement a \$25 filing fee for individuals protesting the denial of their PFD application. The legislation includes an waiver from the appeal fee for indigent individuals. The filing fee would be refundable if the appeal is successful, and non-refundable if the denial is upheld. It is anticipated that the implementation of a filing fee would discourage clearly frivolous appeals, thereby reducing costs which are deducted from the amount of the dividend, and making the appeals process significantly shorter for legitimate claims.

Thank you for your consideration.

designated above at the following address:
 OMB Reports Management Branch, New Executive Office Building, room 3206, Washington, DC 20506.
 Dated: January 28, 1994.
 Dennis P. Williams,
 Deputy Assistant Secretary, Budget.
 FR Doc. 94-3100 Filed 2-9-94; 8:45 am
 BILLING CODE 4150-04-00

Annual Update of the HHS Poverty Guidelines

AGENCY: Department of Health and Human Services.

ACTION: Notice.

SUMMARY: This notice provides an update of the HHS poverty guidelines to account for last (calendar) year's increase in prices as measured by the Consumer Price Index.

EFFECTIVE DATE: These guidelines go into effect on the day they are published (unless an office administering a program using the guidelines specifies a different effective date for that particular program).

ADDRESSES: Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services (HHS), Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: For information about how the poverty guidelines are used in a particular program, contact the Federal (or other) office which is responsible for that program.

For general information about the poverty guidelines (but not for information about how they are used in a particular program), contact Gordon Fisher, Office of the Assistant Secretary for Planning and Evaluation, HHS—telephone: (202) 690-6141.

For information about the Hill-Burton Uncompensated Services Program (no-fee or reduced-fee health care services at certain hospitals and other health care facilities for certain persons unable to pay for such care), contact the Office of the Director, Division of Facilities Compliance, HHS—telephone: (301) 443-5656. The Division of Facilities Compliance notes that as set by 42 CFR 124.505(b), the effective date of this update of the poverty guidelines for facilities obligated under the Hill-Burton Uncompensated Services Program is sixty days from the date of this publication.

Under a recent amendment to the Older Americans Act, the figures in this notice are the figures that area agencies on aging should use to determine

'greatest economic need' for Administration on Aging programs. For information about those programs, contact Donald Fowles, Administration on Aging, HHS—telephone: (202) 619-2614.

For information about the Department of Labor's Lower Living Standard Income Level (an alternative eligibility criterion with the poverty guidelines for certain Job Training Partnership Act programs), contact Hugh Davies, Office of Employment and Training Programs, U.S. Department of Labor—telephone: (202) 219-5580.

For information about the number of persons in poverty or about the Census Bureau (statistical) poverty thresholds, contact Kathleen Short, Chief, Poverty and Wealth Statistics Branch, U.S. Bureau of the Census—telephone: (301) 763-8578.

1994 POVERTY GUIDELINES FOR ALL STATES (EXCEPT ALASKA AND HAWAII) AND THE DISTRICT OF COLUMBIA

Size of family unit	Poverty guideline
1	57,360
2	9,840
3	12,320
4	14,800
5	17,280
6	19,760
7	22,240
8	24,720

For family units with more than 8 members, add \$2,480 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)

1994 POVERTY GUIDELINES FOR ALASKA

Size of family unit	Poverty guideline
1	59,200
2	12,300
3	15,400
4	18,500
5	21,600
6	24,700
7	27,800
8	30,900

For family units with more than 8 members, add \$3,100 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)

1994 POVERTY GUIDELINES FOR HAWAII

Size of family unit	Poverty guideline
1	58,470
2	11,320
3	14,170
4	17,020
5	19,870
6	22,720
7	25,570
8	28,420

For family units with more than 8 members, add \$2,850 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)

The preceding figures are the 1994 update of the poverty guidelines required by sections 652 and 673(2) of the Omnibus Budget Reconciliation Act (OBRA) of 1981 (Pub. L. 97-35). As required by law, this update reflects last year's change in the Consumer Price Index (CPI-U); it was done using the same procedure used in previous years.

Section 673(2) of OBRA-1981 (42 U.S.C. 9902(2)) requires the use of the poverty guidelines as an eligibility criterion for the Community Services Block Grant program, while section 652 (42 U.S.C. 9847) requires the use of the poverty guidelines as an eligibility criterion for the Head Start program. The poverty guidelines are also used as an eligibility criterion by a number of other Federal programs (both HHS and non-HHS). When such programs give an OBRA-1981 citation for the poverty guidelines, they cite section 673(2).

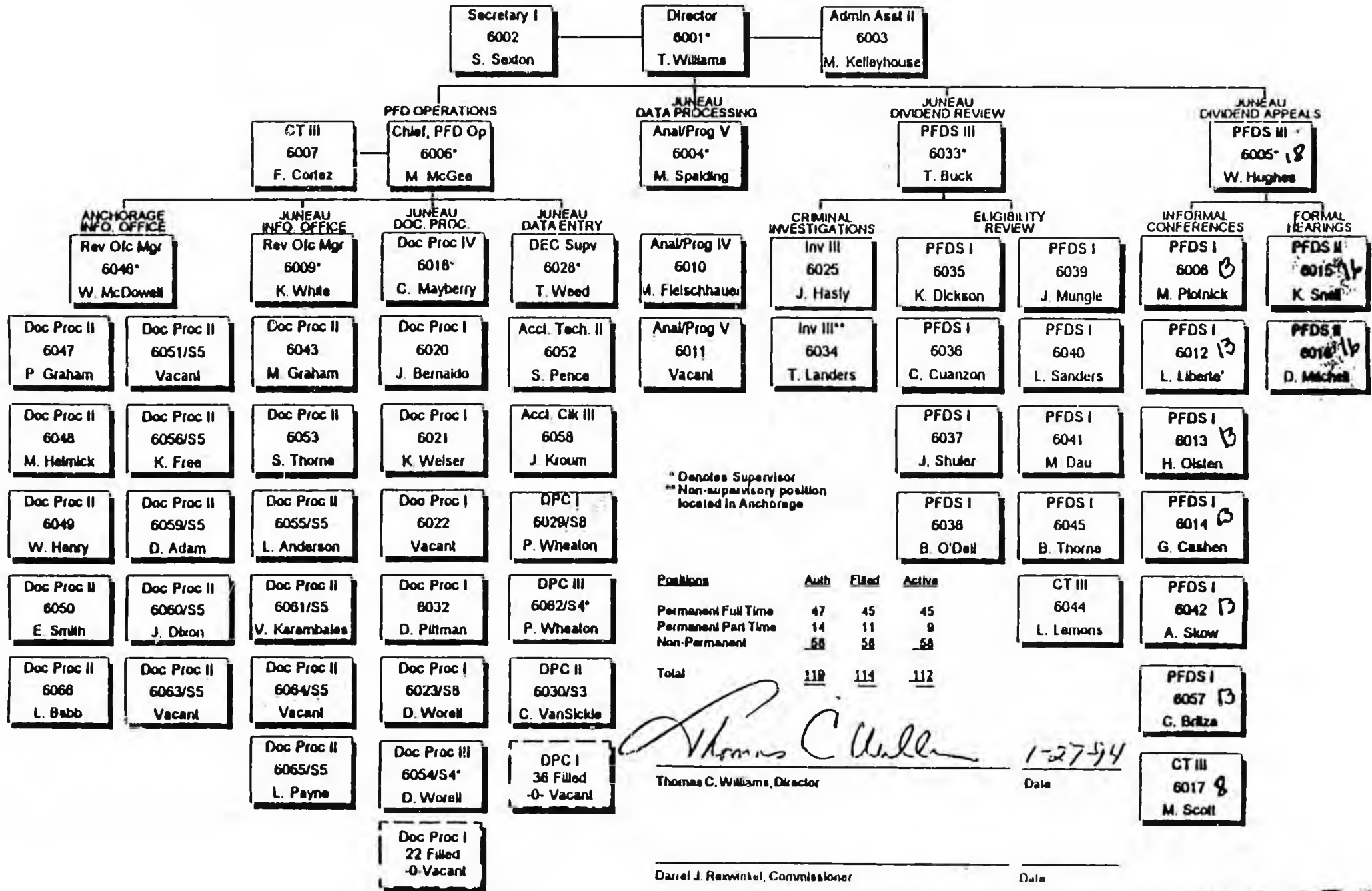
The poverty guidelines are a simplified version of the Federal Government's statistical poverty thresholds used by the Bureau of the Census to prepare its statistical estimates of the number of persons and families in poverty. The poverty guidelines issued by the Department of Health and Human Services are used for administrative purposes—for instance, for determining whether a person or family is financially eligible for assistance or services under a particular Federal program. The poverty thresholds are used primarily for statistical purposes. Since the poverty guidelines in this notice—the 1994 guidelines—reflect price changes through calendar year 1993, they are approximately equal to the poverty thresholds for calendar year 1993 which the Census Bureau will publish in late summer 1994.

In certain cases, as noted in the relevant authorizing legislation or program regulations, a program uses the

ALASKA DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND DIVISION

ORGANIZATION CHART

January 18, 1994



* Denotes Supervisor
** Non-supervisory position located in Anchorage

Positions	Auth	Filled	Active
Permanent Full Time	47	45	45
Permanent Part Time	14	11	9
Non-Permanent	58	58	58
Total	119	114	112

Thomas C. Williams, Director

Date

Darrel J. Reinwinkel, Commissioner

Date

HB

32

SFIN

FILE

Revision Date: _____ Dept. Affected: Revenue
 Title: PFD Administrative Proceedings BRU: Permanent Fund Dividend Division -
 Component: Permanent Fund Dividend Division
 Sponsor: Representative Green
 Requestor: Conference Committee COMPONENT SERIAL NO. 981

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	152.3					
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT	14.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	166.3	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()	130.3	143.3	149.8	156.3	162.8	166.1
------------------------	-------	-------	-------	-------	-------	-------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other Permanent Fund Div. Fund	166.3					
TOTAL	166.3	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost \$ 0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

(See Attached Analysis)

*4/19/96
Captured
for budget
funding*

Prepared by: Nahci A. Jones, Director Phone: 465-2323
 Division: Permanent Fund Dividend Date: 3/20/96
 Approved by Commissioner: [Signature] Date: _____
 Agency: Department of Revenue

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DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND DIVISION

Fiscal Note Analysis
Conference CS for House Bill NO. 32

OVERVIEW

This bill would amend section AS 43.23.015, Application and proof of eligibility, section (g) to allow an administrative appeal to be filed upon payment of a \$25 appeal fee. Within twelve months after the administrative appeal is filed, the department shall provide the individual with a final written decision. If as a result of the administrative appeal, or court proceeding, the individual prevails, the \$25 appeal fee shall be returned to the individual by the department. This bill will effect all appeals filed after January 1, 1997.

FISCAL IMPACT

The department will need 4 additional Specialist I positions for one fiscal year, beginning July 1, 1996 through June 30, 1997, in order to help eliminate the current appeals backlog for 1995 and those new appeals that will be received starting in May 1996. By eliminating the appeals backlog we will be able to meet the twelve month maximum turn-around time for appeals filed after January 1, 1997.

Each position including benefits cost \$38,070 for a total cost of \$152,280 in personal services. Additional costs for computers for each employee are \$14,000. The total fiscal impact will be \$166,280 for the four positions.

FISCAL NOTE

110. 2

Bill Version: CS HB 32 CFIN

Revision Date: 6-Feb-96 Dept. Affected: Revenue (S) Publish Date: 2/7/96
 Title: PFD Administrative Proceedings BRU: Permanen Fund Dividend Division
 Component: Permanent Fund Dividend Division
 Sponsor: Representative Green
 Requestor: Senate Rules COMPONENT SERIAL NO. 981

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
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 EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()	130.3	143.3	149.8	156.3	162.8	166.1
------------------------	-------	-------	-------	-------	-------	-------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost \$ 0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

(See Attached Analysis)

*2/7/96
Captured
for 96
fiscal notes*

Prepared by: Nanci A. Jones
 Division: Permanent Fund Dividend Division
 Approved by Commissioner: [Signature]
 Agency: Department of Revenue

Phone: 465-2323
 Date: 2/6/96
 Date: 2/6/96

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ALASKA DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND DIVISION
ANALYSIS OF CS HB 32 (FIN)
As of February 6, 1996

Assumptions

- A. This legislation would be effective in FY 97.
- B. 50% of all appeals received involve bright line issues and 50% of all appeals received involve non-bright line issues. Bright line issues are those that are clearly definable by objective criteria, such as whether an individual was physically present in state during the two previous calendar years or met an application deadline. Non-bright line issues are those that involve issues that are more subjective, such as whether an individual demonstrated an intent to return to Alaska.
- C. The addition of a fee will mean some of those individuals whose denial involved a bright line issue as well as some of those individuals whose denial involved a non-bright line issue will not appeal.
- D. Necessary data processing programming updates to the PFD masterfile computer system would require approximately 4 staff weeks work for PFD Division data processing staff. Other data processing programming projects would be delayed to make time for the initial programming.
- E. It is projected that there will be an increase in the number of appeals due to the annual increase in the number of applications filed. We do not anticipate any staff reductions due to this increase in the number of appeals filed.

Attachments

ALASKA DEPARTMENT OF REVENUE
 PERMANENT FUND DIVIDEND DIVISION
PROJECTED REVENUES RESULTING FROM CS HB 32 (FIN)

As of February 6, 1996

	<u>FY97</u>	<u>FY98</u>	<u>FY99</u>	<u>FY00</u>	<u>FY01</u>	<u>FY02</u>
<u>Informal Conference Appeals</u>						
Estimated Appeals Received	7,000	7,700	8,050	8,400	8,750	8,925
Amount Collected	175,000	192,500	201,250	210,000	218,750	223,125
Projected Overturn Rate	25%	25%	25%	25%	25%	25%
Amount Refunded	<u>\$43,750</u>	<u>\$48,125</u>	<u>\$50,313</u>	<u>\$52,500</u>	<u>\$54,688</u>	<u>\$55,781</u>
Amount Retained at Informal before Formal Overturns	\$131,250	\$144,375	\$150,937	\$157,500	\$164,062	\$167,344
<u>Formal Hearing Appeals</u>						
Projected Appeal Rate with fee	15%	15%	15%	15%	15%	15%
Appeals Received	788	866	906	945	984	1,004
Projected Overturn Rate	5%	5%	5%	5%	5%	5%
Amount of Formal Hearing Fee Refunded	<u><\$975></u>	<u><\$1,083></u>	<u><\$1,133></u>	<u><\$1,181></u>	<u><\$1,230></u>	<u><\$1,275></u>
<u>Net Retained</u>	<u>\$130,275</u>	<u>\$143,292</u>	<u>\$149,804</u>	<u>\$156,319</u>	<u>\$162,832</u>	<u>\$166,069</u>

ALASKA DEPARTMENT OF REVENUE
 PERMANENT FUND DIVIDEND DIVISION
PROJECTED INVENTORY RESULTING FROM CS HB 32 (FIN)

As of February 6, 1996

	<u>FY97</u>	<u>FY98</u>	<u>FY99</u>	<u>FY00</u>	<u>FY01</u>	<u>FY02</u>
<u>Informal Conference Appeals</u>						
Beginning Appeal Inventory	7,000	5,000	3,700	2,750	2,150	1,900
Total New Appeals	7,000	7,700	8,050	8,400	8,750	8,925
Total Resolutions	<u>(9,000)</u>	<u>(9,000)</u>	<u>(9,000)</u>	<u>(9,000)</u>	<u>(9,000)</u>	<u>(9,000)</u>
Ending Inventory	<u>5,000</u>	<u>3,700</u>	<u>2,750</u>	<u>2,150</u>	<u>1,900</u>	<u>1,825</u>
<u>Formal Hearing Appeals</u>						
Beginning Appeal Inventory	1,200	1,488	1,854	2,260	2,705	3,189
Total New Appeals	788	866	906	945	984	1,004
Total Resolutions	<u>(500)</u>	<u>(500)</u>	<u>(500)</u>	<u>(500)</u>	<u>(500)</u>	<u>(500)</u>
Ending Inventory	<u>1,488</u>	<u>1,854</u>	<u>2,260</u>	<u>2,705</u>	<u>3,189</u>	<u>3,693</u>

SENATE FINANCE COMMITTEE REPORT

DATE: 4/12/95

FURTHER:

DATE TURNED INTO OFFICE: 5-6-95

Finance Committee considered CS FOR HOUSE BILL NO. 32(FIN)

Administrative proceedings involving a determination of eligibility for a permanent fund dividend or authority to claim a dividend on behalf of another; efd.

and recommends:

be replaced with _____ CS _____ (_____)

adopt previous _____ CS _____ (_____)

attached amendment(s)

adopt Letter of Intent by _____ Committee

further referral to the _____ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical change

new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
		<i>Plus Fee</i>	✓		
		<i>REPEC 100</i>	✓		
<i>Ben M...</i>	✓	<i>Handwritten signature</i>	✓		
Co-Chair: <i>D...</i>					
Co-Chair: <i>Rick Halford</i>	✓				

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

DOR	2/6/95	0		121.8 revenue

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

NO. 1

Bill Version: CSHB 32(STA)

(H) Publish Date: 2/13/95

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Department of Revenue
 Title: PFD Administrative Proceedings BRU: Permanent Fund Dividend Division
 Component: Permanent Fund Dividend Division
 Sponsor: Representative GREEN
 Requester: House State Affairs COMPONENT SERIAL NO. 981

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES		(7.9)	(52.7)	(97.5)	(142.3)	(142.3)
TRAVEL						
CONTRACTUAL					(21.0)	(29.4)
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	(7.9)	(52.7)	(97.5)	(163.3)	(171.7)
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()	121.8	129.0	129.0	129.0	129.0	129.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
1050 Dividend Fund		(7.9)	(52.7)	(97.5)	(163.3)	(171.7)
TOTAL	0.0	(7.9)	(52.7)	(97.5)	(163.3)	(171.7)

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

FULL-TIME			(1)	(2)	(3)	(3)
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

See Page 2.

Prepared by: Thomas C. Williams, Director Phone: 465-2323
 Division: Permanent Fund Dividend Division Date: 2/6/95
 Approved by Commissioner: [Signature] Date: 2/16/95
 Agency: Department of Revenue

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ALASKA DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND DIVISION
ANALYSIS OF HB 32
As of February 6, 1995

Assumptions

- A. This legislation would be effective in FY 96.
- B. 55% of all appeals received involve bright line issues and 45% of all appeals received involve non-bright line issues. Bright line issues are those that are clearly definable by objective criteria, such as whether an individual was physically present in state during the two previous calendar years or met an application deadline. Non-bright line issues are those that involve issues that are more subjective, such as whether an individual demonstrated an intent to return to Alaska.
- C. The addition of a fee will mean some of those individuals whose denial involved a bright line issue as well as some of those individuals whose denial involved a non-bright line issue will not appeal.
- D. Necessary data processing programming updates to the PFD masterfile computer system would require approximately 4 staff weeks work for PFD Division data processing staff. Other data processing programming projects would be delayed to make time for the initial programming.
- E. Additional data entry and fee processing could be accomplished by current staff, since with the adoption of the appeal fee requirement the total number of appeals received is expected to decline.
- F. See the attached *Projected Revenues Resulting From HB 32* and *Projected Inventory Resulting From HB 32* regarding the number of appeals to be received and the required staffing levels. If these assumptions are correct then:
 - 1. in FY 97 one PFDS II could be reallocated to a PFDS I resulting in a savings of \$7.9. In FY 98, FY 99 and again in FY 00, a PFDS I position could be eliminated each year for an additional savings of \$44.8 each; and
 - 2. funding for one range 22 Formal Hearing Officer in the Commissioner's Office could be reduced to 75% in FY 00, and 65% in FY 01.
- G. To the extent that the number of appeals does not decline as projected, staffing levels could not be reduced as reflected. Similarly, to the extent that the number of appeals declines more than projected, staffing levels might be able to be reduced more than the amount reflected.

Attachments

COMMITTEE COPY

ALASKA DEPARTMENT OF REVENUE
 PERMANENT FUND DIVIDEND DIVISION
PROJECTED REVENUES RESULTING FROM HB 32

As of February 6, 1995

	<u>FY96</u>	<u>FY97</u>	<u>FY98</u>	<u>FY99</u>	<u>FY00</u>	<u>FY01</u>
<u>Informal Conference Appeals</u>						
Appeals Received without a fee	8,000	8,000	8,000	8,000	8,000	8,000
Bright Line Issue Appeals Received without a fee (55%)	4,400	4,400	4,400	4,400	4,400	4,400
Non-Bright Line Issue Appeals Received (45%)	3,600	3,600	3,600	3,600	3,600	3,600
Bright Line Issue Appeals with Fee (50% of those without a fee)	2,200	2,200	2,200	2,200	2,200	2,200
Non-Bright Line Issue Appeals with Fee (85% of those without a fee)	3,060	3,060	3,060	3,060	3,060	3,060
Total Appeals with Fee	5,260	5,260	5,260	5,260	5,260	5,260
Amount Collected	\$131,500	\$131,500	\$131,500	\$131,500	\$131,500	\$131,500
Projected Overturn Rate	15%	10%	10%	10%	10%	10%
Amount Refunded	\$19,725	\$13,150	\$13,150	\$13,150	\$13,150	\$13,150
Amount Retained at Informal before Formal Overturns	\$111,775	\$118,350	\$118,350	\$118,350	\$118,350	\$118,350
<u>Formal Hearing Appeals</u>						
Projected Appeal Rate with fee	10%	10%	10%	10%	10%	10%
Appeals Received	447	473	473	473	473	473
Amount Collected	\$11,175	\$11,825	\$11,825	\$11,825	\$11,825	\$11,825
Projected Overturn Rate	5%	5%	5%	5%	5%	5%
Amount of Formal Hearing Fee Refunded	\$550	\$600	\$600	\$600	\$600	\$600
Amount of Related Informal Conference Fee Refunded	\$550	\$600	\$600	\$600	\$600	\$600
Amount Retained at Formal	\$10,625	\$11,225	\$11,225	\$11,225	\$11,225	\$11,225
<u>Net Retained</u>	<u>\$121,850</u>	<u>\$128,975</u>	<u>\$128,975</u>	<u>\$128,975</u>	<u>\$128,975</u>	<u>\$128,975</u>

Alaska State Legislature

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907/258-3198
907/258-9171 FAX




CO-CHAIR, RESOURCES COMMITTEE
VICE CHAIR, JUDICIARY COMMITTEE
MEMBER, STATE AFFAIRS COMMITTEE

FINANCE SUBCOMMITTEES
DEPT. OF NATURAL RESOURCES
DEPT. OF COMMERCE & ECONOMIC DEVELOPMENT
DEPT. OF ENVIRONMENTAL CONSERVATION

Representative Joe Green
District 10

Memorandum

TO: Senator Rick Halford, Co-Chair
Senate Finance Committee

FROM: Representative Joe Green 

DATE: March 13, 1995

RE: CSHB 32, "Permanent Fund Administrative Proceedings"

I respectfully request that CSHB 32 be scheduled for a hearing before the Senate Finance Committee. HB 32 is one of my top legislative priorities for the nineteenth legislature and I would appreciate it being heard at the earliest possible date.

Currently there are almost 10,000 PFD appeals pending, with the wait for some being in excess of two years. While there are those who have a legitimate reason for appealing, there is also a large percentage of those who do so because it only costs the price of a 32 cent stamp. HB 32 would implement a \$25 filing fee for individuals protesting the denial of their PFD application. The legislation includes a waiver from the appeal fee for indigent individuals. The filing fee would be refundable if the appeal is successful, and non-refundable if the denial is upheld. It is anticipated that the implementation of a filing fee would discourage clearly frivolous appeals, thereby reducing costs which are deducted from the amount of the dividend, and making the appeals process significantly shorter for legitimate claims.

Thank you for your consideration.

BASIS JOURNAL TEXT

04/10/95

HOUSE JOURNAL

PAGE 1215

CSHB 32(FIN)
SECOND READING
AMENDMENT TO AMENDMENT No. 1

YEAS: 4 NAYS: 35 EXCUSED: 0 ABSENT: 1

YEAS: KOTT, MOSES, MULDER, SANDERS

04/10/95

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NAYS: AUSTERMAN, BARNES, BRICE, BROWN, BUNDE, DAVIES, B.DAVIS,
G.DAVIS, ELTON, FINKELSTEIN, FOSTER, GREEN, GRUSSENDORF, HANLEY, IVAN,
JAMES, KELLY, KOHRING, KUBINA, MACKIE, MARTIN, MASEK, NAVARRE,
NICHOLIA, OGAN, PARNELL, PHILLIPS, PORTER, ROBINSON, ROKEBERG,
THERRIAULT, TOOHEY, VEZEY, WILLIAMS, WILLIS

ABSENT: MACLEAN

SELECTION=>

PF1	PF2	PF3	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP		EXIT	MENU		PRINT	BWD	FWD		FIRST	LAST	QUIT