

ALASKA LEGISLATURE

HOUSE and SENATE FINANCE COMMITTEE FILES, 2005-2006 2881

HB

178

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 4/22/05

FURTHER:

DATE TURNED IN TO OFFICE: 5/03/05

REPORTED OUT

MAY 3 2005

SENATE FINANCE COMMITTEE

Finance Committee considered CS FOR HOUSE BILL NO. 178(STA) am

HB 178 SPECIAL REQUEST LICENSE PLATES

"An Act relating to special motor vehicle registration plates; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

CS Senate Bill:
 Same Title
 New Title

SCS House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#
DOA	5/2/05	5.0			

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓		✓	
<i>[Signature]</i>			✓	
COCHAIR: <i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			

FISCAL NOTE

REPORTED OUT

MAY 3 2005

SENATE FINANCE
COMMITTEE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSHB 178 (STA) am
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title: Act relating to the registration and registration plates for certain RDU: Division of Motor Vehicles
Sponsor: Rep. Olson Component: Motor Vehicles
Requester: (H) State Affairs (revised 5/2/05) Component No.: 2348

Expenditures/Revenues (Thousand of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual	5.0	0.0	0.0	0.0	0.0	0.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	5.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	45.0	45.0	10.0	10.0	10.0	10.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1156 Receipt Supported Services	5.0	0.0	0.0	0.0	0.0	0.0
TOTAL	5.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill will allow the greater use of personal, specialty and veteran license plates. Current statutes limit what type or class of vehicle may use such plates. With this correction, all plates approved by the department will be available for all motor vehicle registration. Change in revenue increase is due to additional projected plate sales. (1500 additional sets of plates in FY 06 & 07) One time change in operating expenditures will pay for programming changes required.

Prepared by: Duane Bannock, Director Phone: 269 5008
Division: Motor Vehicles Date/Time: 5/2/05 3 27 PM
Approved by: Michael Tibbles, Deputy Commissioner Date: 5/2/2005
Agency: Department of Administration

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSHB 178 (STA) am
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title Act relating to the registration RDU Division of Motor Vehicles
and registration plates for certain Component Motor Vehicles
Sponsor Rep. Olson
Requester (H) State Affairs (revised 5/2/05) Component No. 2348

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

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Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	5.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

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Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill will allow the greater use of personal, specialty and veteran license plates. Current statutes limit what type or class of vehicle may use such plates. With this correction, all plates approved by the department will be available for all motor vehicle registration. Change in revenue increase is due to additional projected plate sales. (1500 additional sets of plates in FY 06 & 07) One time change in operating expenditures will pay for programming changes required.

Prepared by: Duane Bannock, Director Phone 269 5008
Division: Motor Vehicles Date/Time 5/2/05 3 27 PM
Approved by: Michael Tibbles, Deputy Commissioner Date 5/2/2005
Agency: Department of Administration

New FN
received
5/3/05

Should get new fiscal note
If not intent is
to pass f/n #1

Committee motion must
indicate such

ALASKA STATE LEGISLATURE

REPRESENTATIVE KURT OLSON

- Co-Chair, Community and Regional Affairs
- Member, Resources



Session: January – May
State Capitol
Juneau, AK 99801-1182
Phone: 907-465-2693
Fax: 907-465-3835

Interim: May – December
145 Main Street Loop, Ste 221
Kenai, AK 99611
Phone: 907-283-2690
Fax 907-283-2763

Official Business

Sponsor Statement **CSHB 178(STA) am Special Request License Plates**

The State of Alaska, Department of Administration, Division of Motor Vehicles (DMV) is responsible for all motor vehicle registration. Part of the registration process includes the issuance of license plates displaying the registration identification (plate number) with the month and year of the vehicle's registration expiration. Currently the DMV is issuing the gold and blue "Last Frontier" plate as the standard plate, which is included in the cost of registering the vehicle.

Passenger vehicle owners interested in plates other than the standard "Last Frontier" plate have several options. DMV currently offers 32 specialty plates including veteran's plates, recipient of the Purple Heart, collector vehicles, children's trust plates and university plates. Some of the specialty plates are available to only those that meet certain criteria (e.g. veterans plates) and others are sold as revenue generators for a specific purpose (e.g. a portion of the fee for plates commemorating Alaska veterans may be appropriated to programs benefiting Alaska veterans). The purchase of these plates is separate from the fee for the vehicle registration. In addition to the specialty plates, passenger vehicle owners are able to purchase "vanity" plates that display up to six characters as requested by the vehicle owner.

Owners of vehicles used in commercial activities do not have the same options above as owners of passenger vehicles. The statute restricts the use of "vanity" plates and the use of most specialty plates to passenger vehicles, motorcycles, noncommercial vans or pick-ups, or motor homes.

This bill will change that practice. It will allow all motor vehicles subject to registration the opportunity to display the standard, "vanity" or a specialty plate offered by the DMV. Each additional plate sold will generate additional revenue for the State of Alaska.

This bill was amended to allow elected state official's registration plates to be retained after they have expired. Elected state officials may not display their special plates on visually identifiable commercial vehicles.

SECTIONAL ANALYSIS
CSHB 178(STA) am
SPECIAL REQUEST LICENSE PLATES

- * Sec. 1 - Removes unnecessary language from Vehicle Registration and Title Statute 28.10.181(b). Also makes a technical change.
- * Sec. 2 - Permits owner of any motor vehicle to purchase "vanity" plates.
- * Sec. 3 - Permits owner of any motor vehicle to purchase veterans with disabilities, disabled while in the Alaska Territorial Guard, or disability plates, if qualified.
- * Sec. 4 - Allows elected state officials to use their plates on vehicles which are not visually identifiable as commercial vehicles. Allows an elected official to retain their plates after they have expired.
- * Sec. 5 - Allows Alaska National Guard personnel specialty plates on any motor vehicle.
- * Sec. 6 - Allows special request university plates on any motor vehicle.
- * Sec. 7 - Removes the requirement that veterans use their specialty plates only on non-commercial vehicles.
- * Sec. 8 - Same as above for recipients of the Purple Heart specialty plates.
- * Sec. 9 - Permits dog mushing plates on any motor vehicle.
- * Sec. 10 - Permits Alaska children's trust plates on any motor vehicle.
- * Sec. 11 - Same as above for special plates commemorating the arts.
- * Sec. 12 - Same for Alaska Veterans plates.
- * Sec. 13 - States that commercial registration fees must be paid in addition to specialty plate fee.
- * Sec. 14 - July 1-2005 effective date.

SENATE COMMITTEE REPORT

DATE: 4/11/05

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 4/22/05

State Affairs Committee considered CS FOR HOUSE BILL NO. 178(STA) am

HB 178 SPECIAL REQUEST LICENSE PLATES

"An Act relating to special motor vehicle registration plates; and providing for an effective date."

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 Same Title
 New Title

SCS House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
TRA	4/11/05	✓			2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Wagoner</i> <i>Hickins</i> 	✓			
	X			
<i>Vertical</i> CHAIR:	✓			

HB

182

HFIN

FILE

adopted to P version

24-LS0507X.1
Craver
4/11/05

AMENDMENT /

OFFERED IN THE HOUSE
TO: CSHB 182()

BY REPRESENTATIVE

Rokeberg

1 Page 1, line 6, following "occupations;":

2 Insert "directing retrospective application of the provisions of this Act to work
3 performed before the effective date of this Act for purposes of claims filed on or after
4 the effective date of this Act, and disallowing retrospective application for purposes of
5 claims for that work that are filed before the effective date of this Act;"

6

7 Page 5, following line 30:

8 Insert a new bill section to read:

9 "* Sec. 6. The uncodified law of the State of Alaska is amended by adding a new section to
10 read:

11 APPLICATION AS TO WORK PERFORMED BEFORE THE EFFECTIVE DATE
12 OF THIS ACT. (a) This Act applies retrospectively to work performed before the effective
13 date of this Act for purposes of any claim or proceeding based on AS 23.10.050 - 23.10.150
14 (Alaska Wage and Hour Act) that is filed on or after the effective date of this Act.

15 (b) This Act does not apply to work performed before the effective date of this Act for
16 purposes of any claim or proceeding based on AS 23.10.050 - 23.10.150 that is filed before
17 the effective date of this Act."

18

19 Renumber the following bill section accordingly.

*adopted
4-13-05*

24-LS0507AP
Craver
4/6/05

CS FOR HOUSE BILL NO. 182()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVE ROKEBERG

A BILL

FOR AN ACT ENTITLED

1 **"An Act amending the Alaska Wage and Hour Act as it relates to the employment of a**
2 **person acting in a supervisory capacity or in an administrative, executive, or**
3 **professional capacity; relating to definitions under the Alaska Wage and Hour Act and**
4 **providing definitions for persons employed in administrative, executive, and**
5 **professional capacities, for persons working in the capacity of an outside salesman, for**
6 **persons working in the capacity of a salesman employed on a straight commission basis,**
7 **and for persons that perform computer-related occupations; and providing for an**
8 **effective date."**

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

10 *** Section 1. AS 23.10.055 is amended to read:**

11 **Sec. 23.10.055. Exemptions; compensation of executives, administrators,**
12 **and professionals. The provisions of AS 23.10.050 - 23.10.150 do not apply to**

1 (1) an individual employed in agriculture, which includes farming in
2 all its branches and, among other things, includes the cultivation and tillage of the soil,
3 dairying, the production, cultivation, growing, and harvesting of any agricultural or
4 horticultural commodities, the raising of livestock, bees, fur-bearing animals, or
5 poultry, and any practices, including forestry and lumbering operations, performed by
6 a farmer or on a farm as an incident to or in conjunction with the farming operations,
7 including preparation for market, or delivery to storage or to market or to carriers for
8 transportation to market;

9 (2) an individual employed in the catching, trapping, cultivating or
10 farming, netting, or taking of any kind of fish, shellfish, or other aquatic forms of
11 animal and vegetable life;

12 (3) an individual employed in the hand picking of shrimp;

13 (4) an individual employed in domestic service, including a baby-
14 sitter, in or about a private home;

15 (5) an individual employed by the United States or by the state or a
16 political subdivision of the state, except as provided in AS 23.10.065(b), including
17 prisoners not on furlough detained or confined in prison facilities;

18 (6) an individual engaged in the nonprofit activities of a nonprofit
19 religious, charitable, cemetery, or educational organization or other nonprofit
20 organization where the employer-employee relationship does not, in fact, exist, and
21 where services rendered to the organization are on a voluntary basis and are related
22 only to the organization's nonprofit activities; for purposes of this paragraph,
23 "nonprofit activities" means activities for which the nonprofit organization does not
24 incur a liability for unrelated business income tax under 26 U.S.C. 513, as amended;

25 (7) an employee engaged in the delivery of newspapers to the
26 consumer;

27 (8) an individual employed solely as a watchman or caretaker of a
28 plant or property that is not in productive use for a period of four months or more;

29 (9) an individual employed

30 (A) in a bona fide executive, administrative, or professional
31 capacity;

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- (16) an individual who
 - (A) provides emergency medical services only on a voluntary basis;
 - (B) serves with a full-time fire department only on a voluntary basis; or
 - (C) provides ski patrol services on a voluntary basis; or
- (17) a student participating in a University of Alaska practicum described under AS 14.40.065.

* Sec. 2. AS 23.10.055 is amended by adding new subsections to read:

(b) Notwithstanding (c) of this section, an individual employed in a bona fide executive, administrative, or professional capacity shall be compensated on a salary or fee basis at a rate of not less than two times the state minimum wage for the first 40 hours of employment each week, exclusive of board or lodging that is furnished by the individual's employer.

(c) In (a)(9) of this section,

(1) "bona fide executive, administrative, or professional capacity" has the meaning and shall be interpreted in accordance with 29 U.S.C. 201 - 219 (Fair Labor Standards Act of 1938), as amended, or the regulations adopted under those sections;

(2) "computer systems analyst, computer programmer, software engineer, or other similarly skilled worker" has the meaning and shall be interpreted in accordance with 29 U.S.C. 201 - 219 (Fair Labor Standards Act of 1938), as amended, or the regulations adopted under those sections;

(3) "outside salesman" means an employee

(A) who is customarily and regularly away from the employer's place of business; and

(B) whose primary duty is making sales or contracts for sales, consignments, or shipment, or obtaining orders for service or for use of facilities for which consideration will be paid by the client or customer;

(4) "salesman who is employed on a straight commission basis" means an employee

1 (B) [OR] in the capacity of an outside salesman or a salesman
2 who is employed on a straight commission basis; or

3 (C) as a computer systems analyst, computer programmer,
4 software engineer, or other similarly skilled worker;

5 (10) an individual employed in the search for placer or hard rock
6 minerals;

7 (11) an individual under 18 years of age employed on a part-time basis
8 not more than 30 hours in a week;

9 (12) employment by a nonprofit educational or child care facility to
10 serve as a parent of children while the children are in residence at the facility if the
11 employment requires residence at the facility and is compensated on a cash basis
12 exclusive of room and board at an annual rate of not less than

13 (A) \$10,000 for an unmarried person; or

14 (B) \$15,000 for a married couple;

15 (13) an individual who drives a taxicab, is compensated for taxicab
16 services exclusively by customers of the service, whose written contractual
17 arrangements with owners of taxicab vehicles, taxicab permits, or radio dispatch
18 services are based upon flat contractual rates and not based on a percentage share of
19 the individual's receipts from customers, and whose written contract with owners of
20 taxicab vehicles, taxicab permits, or radio dispatch services specifically provides that
21 the contract places no restrictions on hours worked by the individual or on areas in
22 which the individual may work except to comply with local ordinances;

23 (14) a person who holds a license under AS 08.54 and who is
24 employed by a registered guide or master guide licensed under AS 08.54, for the first
25 60 workdays [WORK DAYS] in which the person is employed by the registered
26 guide or master guide during a calendar year;

27 (15) an individual engaged in activities for a nonprofit religious,
28 charitable, civic, cemetery, recreational, or educational organization where the
29 employer-employee relationship does not, in fact, exist, and where services are
30 rendered to the organization under a work activity requirement of AS 47.27 (Alaska
31 temporary assistance program);

1 (A) who is customarily and regularly employed on the business
2 premises of the employer;

3 (B) who is compensated on a straight commission basis for the
4 purpose of making sales or contracts for sales, consignments, shipments, or
5 obtaining orders for services or the use of facilities for which a consideration
6 will be paid by the client or customer; and

7 (C) whose primary duty is making sales or contracts for sales,
8 consignments, shipments, or obtaining orders for service or the use of facilities
9 for which a consideration will be paid by the client or customer.

10 * Sec. 3. AS 23.10.060(a) is amended to read:

11 (a) An employer who employs employees engaged in commerce or other
12 business, or in the production of goods or materials in the state, may not employ an
13 employee for a workweek longer than 40 hours or for more than eight hours a day.
14 [THIS SECTION DOES NOT APPLY TO THE EMPLOYMENT OF A PERSON
15 ACTING IN A SUPERVISORY CAPACITY.]

16 * Sec. 4. AS 23.10.085(b) is amended to read:

17 (b) The regulations may, without limiting the generality of (a) of this section,
18 define terms used in AS 23.10.050 - 23.10.150, and restrict or prohibit industrial
19 homework or other acts or practices that the director finds appropriate to carry out the
20 purpose of AS 23.10.050 - 23.10.150, or to prevent the circumvention or evasion of
21 AS 23.10.050 - 23.10.150. [IF THE REGULATIONS DEFINING AN INDIVIDUAL
22 EMPLOYED IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE, OR
23 PROFESSIONAL CAPACITY FOR PURPOSES OF AS 23.10.055 REQUIRE THAT
24 THE INDIVIDUAL RECEIVE A MINIMUM SALARY, THE REQUIRED
25 MINIMUM SALARY MUST BE TWO TIMES THE STATE MINIMUM WAGE
26 FOR THE FIRST 40 HOURS OF EMPLOYMENT EACH WEEK.]

27 * Sec. 5. AS 23.10.145 is amended to read:

28 Sec. 23.10.145. Definitions. If not defined in this title or in regulations
29 adopted under this title, terms used in AS 23.10.050 - 23.10.150 shall be defined as
30 they are defined in 29 U.S.C. 201 - 219 ([THE FEDERAL] Fair Labor Standards Act
31 of 1938), as amended, or the regulations adopted under those sections [IT].

1

* Sec. 6. This Act takes effect July 1, 2005.

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS

RULES COMMITTEE, CHAIRMAN
LABOR & COMMERCE COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON OIL & GAS, MEMBER
SPECIAL COMMITTEE ON WAYS & MEANS, MEMBER

website: <http://www.akrepublicans.org/rokeberg/index.php>



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ALASKA STATE CAPITOL
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ANCHORAGE, AK 99501
PHONE (907) 465-4068
FAX (907) 465-2840

Representative Norman Rokeberg

e-mail: Representative_Norman_Rokeberg@legis.state.ak.us

SPONSOR STATEMENT FOR CSIB 182 (L&C)

By: Representative Norman Rokeberg

Title: An act amending the Alaska Wage and Hour Act as it relates to the employment of a person acting in a supervisory capacity; providing definitions for persons employed in administrative, executive and professional capacities, for persons working in the capacity of an outside salesman, and for persons working in the capacity of a salesman employed on a straight commission basis.

Alaska's Wage and Hour Act (AS 23.10.050-23.10.150) establishes the provisions for overtime compensation. AS 23.10.055 sets forth exemptions to the Wage and Hour Act. One of these exemptions is "an individual employed in a bona fide executive, administrative or professional capacity or in the capacity of an outside salesman or a salesman who is employed on a straight commission basis."

As currently defined in our administrative code, the definitions of "executive capacity," "administrative capacity," and "professional capacity" are confusing and difficult to interpret. In order to determine if someone is an executive, administrative or professional employee, you have to use what is known as the "long test." In addition to numerous other factors, the long test includes a calculation of the employee's time spent on "non-exempt work" (i.e. work that is not executive, administrative or professional). If an employee spends more than 20 percent (40 percent in retail or service establishments) of their time on non-exempt work, they become subject to the Wage and Hour Act and can qualify for overtime. The ambiguity within the definitions, including the implementation of the 80/20 test, has led to numerous wage and hour lawsuits, causing great expense to employers and employees.

HB 182 deletes the 80/20 test and sets forth definitions which are much more understandable. The simplicity provided by the new definitions will lead to greater compliance with the statutes. It is in the best interests of both the employer and employee that the statutes are straightforward, practical and easy to follow.

HB 182 also clarifies another area of confusion in the Wage and Hour provisions. Currently, a person acting in a "supervisory capacity" is exempt from payment of overtime, but not exempt from the full Wage and Hour Act. The definition of "supervisory capacity" in the regulations is also ambiguous and difficult to interpret. HB 182 removes this exemption from the statute. There are two reasons for deletion of the provision. The first reason is that due to the uncertainty in interpretation of the definition, the statute is currently unworkable. Secondly, the new definitions of "executive capacity" and "administrative capacity" would subsume a person working in a supervisory capacity. Therefore, there is no need to have a separate provision.

Enacting this bill will eliminate ambiguities, align Alaska more closely with other states and reduce the number of frivolous lawsuits, while protecting workers rights to receive overtime.

I urge your support of this legislation.

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS

RULES COMMITTEE, CHAIRMAN
LABOR & COMMERCE COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON OIL & GAS, MEMBER
SPECIAL COMMITTEE ON WAYS & MEANS, MEMBER

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Representative Norman Rokeberg

e-mail: Representative_Norman_Rokeberg@legis.state.ak.us

SECTIONAL ANALYSIS FOR CSHB 182(L&C)

By: Representative Norman Rokeberg

Title: An act amending the Alaska Wage and Hour Act as it relates to the employment of a person acting in a supervisory capacity; providing definitions for persons employed in administrative, executive and professional capacities, for persons working in the capacity of an outside salesman, and for persons working in the capacity of a salesman employed on a straight commission basis.

- Section 1:** Removes the provision that a person acting in a "supervisory capacity" is exempt from overtime. This sentence is being deleted, as "supervisors" will now be covered by the definitions found in Section 3 of the bill.
- Section 2:** Deletes the minimum salary requirement when defining these terms in regulation, as these terms will now be defined in statute (see Section 3).
- Section 3:** Defines "individual employed in an administrative capacity," "individual employed in an executive capacity," "individual employed in a professional capacity," "outside salesman," and "salesman employed on a straight commission basis."

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS

RULES COMMITTEE, CHAIRMAN
LABOR & COMMERCE COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON OIL & GAS, MEMBER
SPECIAL COMMITTEE ON WAYS & MEANS, MEMBER

Website: <http://www.akrepublicans.org/rokeberg/index.php>



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JUNEAU, AK 99801-1182
PHONE (907) 465-4968
FAX (907) 465-2040

Representative Norman Rokeberg

e-mail: Representative_Norman_Rokeberg@legis.state.ak.us

SECTIONAL ANALYSIS FOR CS HB 182()

24-LS0507\R

By: Representative Norman Rokeberg

Title: An act amending the Alaska Wage and Hour Act as it relates to the employment of a person acting in a supervisory capacity or in an administrative, executive or professional capacity; relating to definitions under the Alaska Wage and Hour act and providing definitions for persons employed in administrative, executive and professional capacities, for persons working in the capacity of an outside salesman, for persons working in the capacity of a salesman employed on a straight commission basis, and for persons that perform computer-related occupations; directing retrospective application of the provisions of this Act to work performed before the effective date of this Act for purposes of claims filed on or after the effective date of this Act, and disallowing retrospective application for purposes of claims for that work that are filed before the effective date of this Act; and providing for an effective date.

CHANGES FROM THE "Y" VERSION ARE NOTED IN BOLD

Section 1: Adds "computer systems analyst, computer programmer, software engineer or other similarly skilled workers" to the list of exemptions from the Wage & Hour Act.

The previous CS had "computer related occupations" within the definition of "professional capacity". We have now broken them out as a separate exemption.

Section 2: AS 23.10.055(b)
Requires individuals employed as executive, administrative and professionals be compensated on a salary of not less than two times the minimum wage for the first 40 hours of employment.

The CS has not changed this provision, but it has been moved within the statutes.

AS 23.10.055(c)(1)
Provides that "bona fide executive, administrative or professional capacity" be defined in accordance with the Fair Labor Standards Act.

The definitions for these terms in the previous CS mirrored the federal definitions, but were spelled out within the statute. Because there were questions as to the terms used within the definitions, we have reverted to the federal definitions for the above terms, as provisions have been made for each word used within the federal definitions.

AS 23.10.055(c)(2)

Provides that "computer systems analyst, computer programmer, software engineer or other similarly skilled worker" be defined in accordance with the Fair Labor Standards Act.

This section provides the definition for this exemption found in Section 1 of the bill. Currently, Alaska's regulations defer to the Fair Labor Standards Act when defining computer related occupations. 8 AAC 15.910(a)(11)(iv).

AS 23.10.055(c)(3)

Provides a definition for "outside salesman."

This definition has not changed from the previous CS, but it has been moved within the statutes.

AS 23.10.055(c)(4)

Provides a definition for "salesman who is employed on a straight commission basis."

This definition has not changed from the previous CS, but it has been moved within the statutes.

Section 3: Removes the provision that a person acting in a "supervisory capacity" is exempt from overtime.

This provision has not changed from the previous CS, but it has moved to a different section within the bill.

Section 4: Deletes the minimum salary requirement when defining these terms in regulation. This salary requirement has been moved to AS 23.10.055(b) (see Section 2).

This provision has not changed from the previous CS, but it has moved to a different section within the bill.

Section 5: Inserts the United States code reference to the Fair Labor Standards Act of 1938.

This section is new. Where any reference to a federal law is found within our statutes, our drafters would like the correct United States Code references inserted.

Section 6: Provides that the provisions found in this bill will be applied to any litigation that is filed on or after the effective date of this bill. This requirement does not apply, however, to any claims or proceedings filed before the effective date.

This section is new.

Section 7: Provides for an effective date of July 1, 2005.

This CS has included an effective date.

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April 12, 2005

Representative Kevin Myer, Co-Chair
Representative Mike Chenault, Co-Chair
House Finance Committee
State Capitol, Room 519
Juneau, AK 99801-1182

The Honorable Co-Chairs and Members of the House Finance Committee,

The Alaska State Chamber of Commerce supports the passage of Committee Substitute for House Bill 182. Keeping track of a salaried employee's hourly activities is a cumbersome if not impossible task. CSHB 182 is an important bill for business, both small and large, as it simplifies the rules related to Wage and Hour definitions for business.

Employers in Alaska must follow both the Federal Fair Labor Standards Act and the State Wage and Hour Act in setting employee wages. Federal and State law exempt administrative and professional employees from overtime requirements of the Wage and Hour Act. To determine if an employee is exempt, Alaska is one of a few states that continue to apply the "long test" which includes a calculation of the employees' time spent on non-exempt work. Most states use the overtime exemption definitions found in the FLSA relieving businesses of the burden of applying two systems.

The State Chamber believes that simplifying Alaska's wage and hour laws to more closely align with federal requirements cuts the costs of having to comply with two systems. Passage of CSHB 182 will help business clarify rules as they relate to overtime and supervisors.

Your careful attention and thoughtful consideration of this request for support is genuinely appreciated.

Yours in economic prosperity,

Wayne A. Stevens
President/CEO

Current Definitions vs. New Definitions

By: Representative Norman Rokeberg

Employees exempt from Wage and Hour Act	Current Definition	House Bill 182
Administrative	<ul style="list-style-type: none"> • Primary duties are management, supervising • Uses discretion and independent judgment • Performs work under only general supervision • Regularly and directly assists a proprietor or an exempt executive employee of the employer • Performs work along specialized or technical lines requiring special training • Salary at least 2.0 times minimum wage in first forty hours a week • 80/20 rule 	<ul style="list-style-type: none"> • Primary duty is performance of office or nonmanual work directly related to management or general business operations • Uses discretion and independent judgment • Salary is at least 2.0 times the minimum wage in first forty hours a week
Executive	<ul style="list-style-type: none"> • Primary duty is management of the business • Directs two or more employees • May hire and fire • Customarily and regularly exercises discretionary authority • Salary at least 2.0 times the minimum wage in first forty hours a week • 80/20 rule 	<ul style="list-style-type: none"> • Primary duty is management of the business • Directs two or more employees • May hire and fire • Salary at least 2.0 times the minimum wage in first forty hours a week
Professional	<ul style="list-style-type: none"> • Primary duty requires an advanced degree • Or, is creative in nature, teacher or computer-related • Uses discretion and independent judgment • Work is predominately intellectual and varied in character • Salary at least 2.0 times the minimum wage in first forty hours a week 	<ul style="list-style-type: none"> • Primary duty requires knowledge from prolonged course of specialized intellectual instruction • Or invention, imagination, originality or talent in artistic or creative endeavor • Salary at least 2.0 times the minimum wage in first forty hours a week

State by State Overtime Comparision

Completed Spring, 2004

By: John M. Sedor

Single Definitional Standard – 32 Jurisdictions

(These jurisdictions either do not have applicable wage/hour regulations or directly reference the overtime exemption definitions found in the Fair Labor Standards Act to define their own exemption from overtime requirements. In these jurisdictions, employers will only need to comply with one definitional standard – the federal standard – regarding overtime exemption issues.)

Alabama	Arizona	Delaware	District of Columbia
Florida	Georgia	Idaho	Indiana
Iowa	Kansas	Louisiana	Maine
Massachusetts	Michigan	Mississippi	Missouri
Nebraska	Nevada	New Hampshire	New Mexico
New York	North Carolina	Ohio	Oklahoma
South Carolina	South Dakota	Tennessee	Texas
Utah	Vermont	Virginia	Wyoming

“Old” Short Test – 8 Jurisdictions

(The “old” short test is similar to the new federal regulations with regard to the “time performing exempt functions” factor)

Connecticut	Illinois	Kentucky	Maryland
Montana	North Dakota ¹	Rhode Island ¹	West Virginia

¹ Definitional language contains minor variations from old federal test.

Unique Standards – 4 Jurisdictions

(Four states have a unique standard for determining overtime exemption definitions)

California	Colorado	Hawaii	Oregon	
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“Old” Long Test – 7 Jurisdictions

Alaska	Arkansas	Minnesota	New Jersey	Pennsylvania
Washington	Wisconsin ²			

² Definitional language contains minor variations from old federal test

EMPLOYERS BEWARE:

NEW WAGE AND HOUR REQUIREMENTS MAY SIGNIFICANTLY IMPACT ALASKA EMPLOYERS



Article by Bill Evans, partner,
Dorsey and Whitney LLP,
vice-chair, Anchorage Chamber
of Commerce

Both the federal and state wage and hour laws recently underwent significant revisions. It is very important

that Alaska employers understand these new requirements and ensure that their exempt employees are still in compliance with the new regulations and statutes. Even inadvertent departure from the new requirements can result in substantial liability.

Major Federal Revisions. On April 23, 2004, the United States Department of Labor published its long-anticipated revisions concerning the so-called white-collar exemptions (i.e., executive, administrative, professional, computer professional and outside salesperson). A key change to the federal system is that all employees who now earn less than \$455 per week—or \$23,660 per year—must receive overtime. Previously, employees had to earn only \$155 per week in order to qualify as exempt. The U.S. government estimates that more than 1.3 million workers nationwide will benefit from this mandated salary increase. A much fewer number of employees, estimated to be approximately 107,000 nationwide, may lose their current entitlement to overtime due to other changes.

By wholly eliminating the antiquated "long test" for determining exemptions, the Department of Labor did away with the last vestiges of the beleaguered 80/20 requirement that mandated that exempt employees could spend no more than 20 percent of their time engaged in nonexempt duties. The difficulty in objectively documenting compliance with this requirement made it a particularly vexing issue for many employers.

The Department of Labor also significantly revised the test used for determining whether an employee qualifies for an exemption based on his or her job duties. For example, administrative employees, who have always been required to exercise discretion and independent judgment in performing their duties, must now exercise such discretion and independent judgment with respect to "matters of significance." See 29 C.F.R. § 541.260.

Another notable change involves the definition of an "executive" employee. In addition to managing a

department or customarily recognized subdivision of the employer and regularly directing the work of at least two other employees, the new definition of an "executive" employee requires:

"The employee must have authority to hire or fire other employees or his/her suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees are given particular weight."

29 C.F.R. § 541.100.

Alaska Fails to Adopt Similar Changes. Choosing not to follow the lead of the federal government, the Alaska Legislature maintained its historic definitions for the white-collar exemptions. Accordingly, Alaska employers now must ensure that their exemptions comply with two significantly different systems. For instance, the problematic 80/20 requirement is still very much alive under Alaska law. It is, therefore, increasingly possible that many employees may be exempt under one system but not under the other.

Alaska Establishes Minimum Salary for Exempt Employees. Although the Alaska Legislature did not adopt any changes to the existing definitions for exempt employees, it did substantially increase the minimum salary that an exempt employee must earn. Moreover, it tied this minimum salary to the state's minimum wage, thereby guaranteeing that future increases in the minimum wage will also increase the minimum salary for exempt employees.

House Bill 255, which was submitted for Gov. Murkowski's signature on June 10, 2004, requires that any employee falling under the "administrative," "executive" or "professional" exemptions must earn a minimum salary of at least two times the state minimum wage for the first 40 hours of employment each week.

The current Alaska minimum wage is \$7.25 per hour. Accordingly, this new law will require that any exempt employee be paid a salary of \$580 per week—or \$30,160 per year. There is no evidence of any study being conducted to determine how many employees or employers in Alaska this new requirement will affect. This law will automatically go into effect 90 days after it is signed by the governor.



COASTAL HELICOPTERS, INC.

LOCATED ON THE JUNEAU AIRPORT
8995 YANDUKIN DRIVE JUNEAU AK 99801
(907) 789-5600 FAX (907) 789-7076

e-mail: coastal@gci.net

March 16, 2005

Representative Norm Rokeberg
House Labor & Commerce Committee
465-2040

Dear Representative Rokeberg

Re HB 182

Thank you for sponsoring this important legislation. This is a request for your committee to approve HB 182. This bill recognizes the cumbersome, if not impossible, task of tracking an employee's time hour by hour. As you know, the Federal FSLA has relieved employers of that burden and most states have done so also.

It is unrealistic to require additional paperwork hour by hour for tracking professional or supervisory employees. As I am sure you are aware, a supervisor or professional may start a task but demands of the job may require a change in task before completion. To have an employee at that level be required to write down each task beginning to end to see if it meets the "80/20" rule would create an additional burden on jobs that are often by their nature "burdensome."

The reason for the higher compensation for employees at the professional, administrative or supervisory level is the understanding that they have a job that needs to be accomplished and have the ability to decide the means for accomplishing that job.

Please approve this important legislation.

Sincerely,
COASTAL HELICOPTERS, INC.

Dorothy S. Wilson, Vice President



March 16, 2005

Rep Norm Rokeberg
State Capital Building
Juneau, AK 99801
Sent via fax: (907) 465-2040

Dear Representative Rokeberg,

On behalf of the Alaska Hotel & Lodging Association and the Alaska Restaurant & Beverage Association I convey full support of HB 182. This is an important bill for our industry and for every employee of exempt workers because it provides for exempt status language that employers are easily able to understand and comply with. Currently, exempt status language requires that employers track and log how exempt workers spend their time by the hour to ensure appropriate compliance with the 80/20 or 60/40 provisions.

The definition of exempt status eligibility being based on primary job duty rather than the amount of time a worker spends on exempt vs. non exempt work mirrors the real life work roles of executive and professional salaried workers. The Federal definition of exempt worker was recently changed for the very same reason; it is burdensome to comply with and makes employers vulnerable to costly lawsuits.

A focus on primary job duties provides a clear definition of who is eligible to be exempt and who is not. Without this clear definition, many employers chose to make all employees hourly wage earners, denying the executive and professional management staff access to benefits that could otherwise be offered to them.

The provisions of HB 182 benefit both the employer and the employee. Thank you for your sponsorship of this bill.

My best regards,

Karen R. Rogina
President & CEO

adn.com

Anchorage Daily News

Print Page

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Labor costs kill downtown La Mex

RESTAURANT: Owner took over chain from parents in 1990; other two stay open.

By SARANA SCHELL
Anchorage Daily News

(Published: February 9, 2005)

Anchorage's downtown La Mex restaurant, home of Grande Ronde and the Jalapeno Eating Contest during Fur Rendezvous, not to mention a major annual Cinco de Mayo party, is closed.

Owner Trina Johnson said she closed the location last week, after 30 years in business, because of rising labor costs.

La Mex's two other locations in Anchorage, in Spenard and on King Street in South Anchorage, remain open. They absorbed some of the downtown restaurant's 35 to 40 employees. Johnson laid off 26. She already had cut 12 positions after Christmas, she said.

"I feel bad," Johnson said, "but you have to start cutting your highest cost items."

Labor costs at La Mex went up \$200,000 in 2003, the year the state increased its minimum wage from \$5.65 to \$7.15 an hour, Johnson said.

The cost of workers' compensation insurance is tied to a company's payroll, she said, and that went from \$22,000 to \$80,000 per year over the past two years.

A higher alcohol tax, a lowered legal breath-alcohol content limit and a smoking ban didn't help, Johnson said.

"People are drinking less," she said, and "your profit's in your alcohol."

La Mex raised prices by 5 percent two weeks ago, Johnson said, to offset rising food costs. She said she was reluctant to change menu prices.

"People are only going to pay so much for a taco," Johnson said.

To cut costs, the restaurants quit serving sizzle-making lemons with their fajitas, saving \$500 a month, Johnson said, and started outsourcing kitchen prep work.

Tourist seasons were busy, Johnson said, but not enough to keep the largest of the three locations open.

"That's bad," said Jeramie Ford when he heard the restaurant on Sixth Avenue and I Street was closed. Ford, 28, said he started eating there as a 5-year-old, when he used to have to wait for a table. That hasn't been the case for years, he said, but Ford kept coming for the chicken fajitas.

"It's kind of sad to see it go," he said.

Johnson said her parents started La Mex in 1969 in a Mountain View log cabin that seated 12. There, she said, her mother made guacamole from scratch at customers' tables.

Johnson took over the business in 1990 and opened the South Anchorage location in 1999.

That location will take on the American fare that only the downtown restaurant carried, such as prime rib.

The Grande Ronde will be held at La Mex in Spenard this year, Johnson said, while the King Street restaurant will host Fur Rondy events and the Cinco de Mayo party.

Daily News reporter Sarana Schell can be reached at sschell@adn.com.

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ALASKA STATE LEGISLATURE

House of Representatives

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Representative Norman Rokeberg

e-mail: Representative_Norman_Rokeberg@legis.state.ak.us

SECTIONAL ANALYSIS FOR CSIB 182()

24-LS0507\P

By: Representative Norman Rokeberg

Title: An act amending the Alaska Wage and Hour Act as it relates to the employment of a person acting in a supervisory capacity or in an administrative, executive or professional capacity; relating to definitions under the Alaska Wage and Hour act and providing definitions for persons employed in administrative, executive and professional capacities, for persons working in the capacity of an outside salesman, for persons working in the capacity of a salesman employed on a straight commission basis, and for persons that perform computer-related occupations; and providing for an effective date.

CHANGES FROM THE "Y" VERSION ARE NOTED IN BOLD

Section 1: Adds "computer systems analyst, computer programmer, software engineer or other similarly skilled workers" to the list of exemptions from the Wage & Hour Act.

The previous CS had "computer related occupations" within the definition of "professional capacity". We have now broken them out as a separate exemption.

Section 2: AS 23.10.055(b)
Requires individuals employed as executive, administrative and professionals be compensated on a salary of not less than two times the minimum wage for the first 40 hours of employment.

The CS has not changed this provision, but it has been moved within the statutes.

AS 23.10.055(c)(1)
Provides that "bona fide executive, administrative or professional capacity" be defined in accordance with the Fair Labor Standards Act.

The definitions for these terms in the previous CS mirrored the federal definitions, but were spelled out within the statute. Because there were questions as to the terms used within the definitions, we have reverted

to the federal definitions for the above terms, as provisions have been made for each word used within the federal definitions.

AS 23.10.055(c)(2)

Provides that "computer systems analyst, computer programmer, software engineer or other similarly skilled worker" be defined in accordance with the Fair Labor Standards Act.

This section provides the definition for this exemption found in Section 1 of the bill. Currently, Alaska's regulations defer to the Fair Labor Standards Act when defining computer related occupations. 8 AAC 15.910(a)(11)(iv).

AS 23.10.055(c)(3)

Provides a definition for "outside salesman."

This definition has not changed from the previous CS, but it has been moved within the statutes.

AS 23.10.055(c)(4)

Provides a definition for "salesman who is employed on a straight commission basis."

This definition has not changed from the previous CS, but it has been moved within the statutes.

Section 3: Removes the provision that a person acting in a "supervisory capacity" is exempt from overtime.

This provision has not changed from the previous CS, but it has moved to a different section within the bill.

Section 4: Deletes the minimum salary requirement when defining these terms in regulation. This salary requirement has been moved to AS 23.10.055(b) (see Section 2).

This provision has not changed from the previous CS, but it has moved to a different section within the bill.

Section 5: Inserts the United States code reference to the Fair Labor Standards Act of 1938.

This section is new. Where any reference to a federal law is found within our statutes, our drafters would like the correct United States Code references inserted.

Section 6: Provides for an effective date of July 1, 2005.

This CS has included an effective date.

24-LS0507P
Craver
4/6/05

CS FOR HOUSE BILL NO. 182()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE ROKEBERG

A BILL
FOR AN ACT ENTITLED

1 "An Act amending the Alaska Wage and Hour Act as it relates to the employment of a
2 person acting in a supervisory capacity or in an administrative, executive, or
3 professional capacity; relating to definitions under the Alaska Wage and Hour Act and
4 providing definitions for persons employed in administrative, executive, and
5 professional capacities, for persons working in the capacity of an outside salesman, for
6 persons working in the capacity of a salesman employed on a straight commission basis,
7 and for persons that perform computer-related occupations; and providing for an
8 effective date."

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

10 * Section 1. AS 23.10.055 is amended to read:

11 Sec. 23.10.055. Exemptions; compensation of executives, administrators,
12 and professionals. The provisions of AS 23.10.050 - 27 10.150 do not apply to

1 (1) an individual employed in agriculture, which includes farming in
2 all its branches and, among other things, includes the cultivation and tillage of the soil,
3 dairying, the production, cultivation, growing, and harvesting of any agricultural or
4 horticultural commodities, the raising of livestock, bees, fur-bearing animals, or
5 poultry, and any practices, including forestry and lumbering operations, performed by
6 a farmer or on a farm as an incident to or in conjunction with the farming operations,
7 including preparation for market, or delivery to storage or to market or to carriers for
8 transportation to market;

9 (2) an individual employed in the catching, trapping, cultivating or
10 farming, netting, or taking of any kind of fish, shellfish, or other aquatic forms of
11 animal and vegetable life;

12 (3) an individual employed in the hand picking of shrimp;

13 (4) an individual employed in domestic service, including a baby-
14 sitter, in or about a private home;

15 (5) an individual employed by the United States or by the state or a
16 political subdivision of the state, except as provided in AS 23.10.065(b), including
17 prisoners not on furlough detained or confined in prison facilities;

18 (6) an individual engaged in the nonprofit activities of a nonprofit
19 religious, charitable, cemetery, or educational organization or other nonprofit
20 organization where the employer-employee relationship does not, in fact, exist, and
21 where services rendered to the organization are on a voluntary basis and are related
22 only to the organization's nonprofit activities; for purposes of this paragraph,
23 "nonprofit activities" means activities for which the nonprofit organization does not
24 incur a liability for unrelated business income tax under 26 U.S.C. 513, as amended;

25 (7) an employee engaged in the delivery of newspapers to the
26 consumer;

27 (8) an individual employed solely as a watchman or caretaker of a
28 plant or property that is not in productive use for a period of four months or more;

29 (9) an individual employed

30 (A) in a bona fide executive, administrative, or professional
31 capacity;

- 1 (16) an individual who
2 (A) provides emergency medical services only on a voluntary
3 basis;
4 (B) serves with a full-time fire department only on a voluntary
5 basis; or
6 (C) provides ski patrol services on a voluntary basis; or
7 (17) a student participating in a University of Alaska practicum
8 described under AS 14.40.065.

9 * Sec. 2. AS 23.10.055 is amended by adding new subsections to read:

10 (b) Notwithstanding (c) of this section, an individual employed in a bona fide
11 executive, administrative, or professional capacity shall be compensated on a salary or
12 fee basis at a rate of not less than two times the state minimum wage for the first 40
13 hours of employment each week, exclusive of board or lodging that is furnished by the
14 individual's employer.

15 (c) In (a)(9) of this section,

16 (1) "bona fide executive, administrative, or professional capacity" has
17 the meaning and shall be interpreted in accordance with 29 U.S.C. 201 - 219 (Fair
18 Labor Standards Act of 1938), as amended, or the regulations adopted under those
19 sections;

20 (2) "computer systems analyst, computer programmer, software
21 engineer, or other similarly skilled worker" has the meaning and shall be interpreted in
22 accordance with 29 U.S.C. 201 - 219 (Fair Labor Standards Act of 1938), as amended,
23 or the regulations adopted under those sections;

24 (3) "outside salesman" means an employee

25 (A) who is customarily and regularly away from the employer's
26 place of business; and

27 (B) whose primary duty is making sales or contracts for sales,
28 consignments, or shipment, or obtaining orders for service or for use of
29 facilities for which consideration will be paid by the client or customer;

30 (4) "salesman who is employed on a straight commission basis" means
31 an employee

1 (B) [OR] in the capacity of an outside salesman or a salesman
2 who is employed on a straight commission basis; or

3 (C) as a computer systems analyst, computer programmer,
4 software engineer, or other similarly skilled worker;

5 (10) an individual employed in the search for placer or hard rock
6 minerals;

7 (11) an individual under 18 years of age employed on a part-time basis
8 not more than 30 hours in a week;

9 (12) employment by a nonprofit educational or child care facility to
10 serve as a parent of children while the children are in residence at the facility if the
11 employment requires residence at the facility and is compensated on a cash basis
12 exclusive of room and board at an annual rate of not less than

13 (A) \$10,000 for an unmarried person; or

14 (B) \$15,000 for a married couple;

15 (13) an individual who drives a taxicab, is compensated for taxicab
16 services exclusively by customers of the service, whose written contractual
17 arrangements with owners of taxicab vehicles, taxicab permits, or radio dispatch
18 services are based upon flat contractual rates and not based on a percentage share of
19 the individual's receipts from customers, and whose written contract with owners of
20 taxicab vehicles, taxicab permits, or radio dispatch services specifically provides that
21 the contract places no restrictions on hours worked by the individual or on areas in
22 which the individual may work except to comply with local ordinances;

23 (14) a person who holds a license under AS 08.54 and who is
24 employed by a registered guide or master guide licensed under AS 08.54, for the first
25 60 workdays [WORK DAYS] in which the person is employed by the registered
26 guide or master guide during a calendar year;

27 (15) an individual engaged in activities for a nonprofit religious,
28 charitable, civic, cemetery, recreational, or educational organization where the
29 employer-employee relationship does not, in fact, exist, and where services are
30 rendered to the organization under a work activity requirement of AS 47.27 (Alaska
31 temporary assistance program);

1 (A) who is customarily and regularly employed on the business
2 premises of the employer;

3 (B) who is compensated on a straight commission basis for the
4 purpose of making sales or contracts for sales, consignments, shipments, or
5 obtaining orders for services or the use of facilities for which a consideration
6 will be paid by the client or customer; and

7 (C) whose primary duty is making sales or contracts for sales,
8 consignments, shipments, or obtaining orders for service or the use of facilities
9 for which a consideration will be paid by the client or customer.

10 * Sec. 3. AS 23.10.060(a) is amended to read:

11 (a) An employer who employs employees engaged in commerce or other
12 business, or in the production of goods or materials in the state, may not employ an
13 employee for a workweek longer than 40 hours or for more than eight hours a day.
14 [THIS SECTION DOES NOT APPLY TO THE EMPLOYMENT OF A PERSON
15 ACTING IN A SUPERVISORY CAPACITY.]

16 * Sec. 4. AS 23.10.085(b) is amended to read:

17 (b) The regulations may, without limiting the generality of (a) of this section,
18 define terms used in AS 23.10.050 - 23.10.150, and restrict or prohibit industrial
19 homework or other acts or practices that the director finds appropriate to carry out the
20 purpose of AS 23.10.050 - 23.10.150, or to prevent the circumvention or evasion of
21 AS 23.10.050 - 23.10.150. [IF THE REGULATIONS DEFINING AN INDIVIDUAL
22 EMPLOYED IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE, OR
23 PROFESSIONAL CAPACITY FOR PURPOSES OF AS 23.10.055 REQUIRE THAT
24 THE INDIVIDUAL RECEIVE A MINIMUM SALARY, THE REQUIRED
25 MINIMUM SALARY MUST BE TWO TIMES THE STATE MINIMUM WAGE
26 FOR THE FIRST 40 HOURS OF EMPLOYMENT EACH WEEK.]

27 * Sec. 5. AS 23.10.145 is amended to read:

28 Sec. 23.10.145. Definitions. If not defined in this title or in regulations
29 adopted under this title, terms used in AS 23.10.050 - 23.10.150 shall be defined as
30 they are defined in 29 U.S.C. 201 - 219 ([THE FEDERAL] Fair Labor Standards Act
31 of 1938), as amended, or the regulations adopted under those sections [IT].

1 * Sec. 6. This Act takes effect July 1, 2005.

STATE OF ALASKA

Department Of Labor and Workforce Development

FRANK H. MURKOWSKI, GOVERNOR

P. O. Box 21149
Juneau, AK 99802-1149
Phone: (907)465-2700
Fax: (907)465-2784

OFFICE OF THE COMMISSIONER

April 14, 2005

The Honorable Norman Rokeberg
Alaska State Legislature
Capitol Building, Room 214
Juneau, Alaska 99801

Dear Representative Rokeberg:

I AM PLEASED TO INFORM YOU . . .

The Alaska Department of Labor and Workforce Development is in support of CSHB 182(FIN).

This bill will help to streamline the cumbersome process of determining whether an employee is exempt from Alaska's overtime pay requirements, while minimizing the potential for employee abuse by expanding the minimum salary provision. The minimum annual salary of \$29,744 will help to ensure that line workers are not artificially categorized in overtime exempt positions. I applaud your efforts to carefully balance industry needs for clearer overtime pay guidelines with the needs of Alaska's workforce.

We do not expect the proposed changes to have a significant impact on the department's operations. Less than five percent of wage claims filed with the department in FY 2004 involved issues associated with the overtime pay exemptions affected by this proposed legislation. Although the changes may initially produce more questions, the new standards are expected to be easier to explain.

If you need any additional assistance with this bill, please let me know.

Sincerely,


Greg O'Claray
Commissioner

cc: Grey Mitchell, Director LS&S

HB

182

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT

MAY 1 2005

SENATE FINANCE
COMMITTEE

DATE: 4/20/05

FURTHER:

DATE TURNED
IN TO OFFICE: 1 May 2005

Finance Committee considered CS FOR HOUSE BILL NO. 182(FIN)(efd fld)

HB 182 WAGE & HOUR ACT: EXEC/PROF/ADMIN/SALES/DP

"An Act amending the Alaska Wage and Hour Act as it relates to the employment of a person acting in a supervisory capacity or in an administrative, executive, or professional capacity; relating to definitions under the Alaska Wage and Hour Act and providing definitions for persons employed in administrative, executive, and professional capacities, for persons working in the capacity of an outside salesman, for persons working in the capacity of a salesman employed on a straight commission basis, and for persons that perform computer-related occupations; directing retrospective application of the provisions of this Act to work performed before the effective date of this Act for purposes of claims filed on or after the effective date of this Act, and disallowing retrospective application for purposes of claims for that work that are filed before the effective date of this Act."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

CS Senate Bill:

- Same Title
- New Title

SCS House Bill:

- Same Title
- Technical Title Change
- New Title w/
SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#
Labor	3/1/05			✓	#1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	NO REC	AMEND
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>				
COCHAIR: <i>[Signature]</i>				
COCHAIR: <i>[Signature]</i>				

FISCAL NOTE

REPORTED OUT

MAY 1 2005

SENATE FINANCE
COMMITTEE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 182(L&C)
 (H) Publish Date: 3/17/05

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
 Title: Wage & Hour Act: Exec/Prof/Admin/Sales RDU: Labor Standards and Safety
 Component: Wage and Hour
 Sponsor: Representative Rokeberg
 Requester: House L&C Component Number: 345

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: None
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

There is no anticipated financial impact to the department as a result of this legislation.

Prepared by: Grey Mitchell, Director Phone: 465-4855
 Division: Labor Standards and Safety Date/Time: 3/1/05 11:06 AM
 Approved by: Greg O'Clary, Commissioner Date: 3/1/2005
 Agency: Department of Labor and Workforce Development

COMMITTEE COPY

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS

RULES COMMITTEE, CHAIRMAN
LABOR & COMMERCE COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON OIL & GAS, MEMBER
SPECIAL COMMITTEE ON WAYS & MEANS, MEMBER

website: <http://www.akrepublicans.org/rokeberg/index.php>



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Representative Norman Rokeberg

e-mail: Representative_Norman_Rokeberg@legis.state.ak.us

SPONSOR STATEMENT FOR CSHB 182 (FIN)(efd fld)

By: Representative Norman Rokeberg

Title: An act amending the Alaska Wage and Hour Act as it relates to the employment of a person acting in a supervisory capacity; relating to definitions under the Alaska Wage and Hour Act and providing definitions for persons employed in administrative, executive and professional capacities, for persons working in the capacity of an outside salesman, and for persons working in the capacity of a salesman employed on a straight commission basis, and for persons that perform computer-related occupations; directing retrospective application of the provisions of this Act to work performed before the effective date of this Act for purposes of claims filed on or after the effective date of this Act, and disallowing retrospective application for purposes of claims for that work that are filed before the effective date of this Act; and providing for an effective date.

Alaska's Wage and Hour Act (AS 23.10.050-23.10.150) establishes the provisions for overtime compensation. AS 23.10.055 sets forth exemptions to the Wage and Hour Act. One of these exemptions is "an individual employed in a bona fide executive, administrative or professional capacity or in the capacity of an outside salesman or a salesman who is employed on a straight commission basis."

As currently defined in our administrative code, the definitions of "executive capacity," "administrative capacity," and "professional capacity" are confusing and difficult to interpret. In order to determine if someone is an executive, administrative or professional employee, you have to use what is known as the "long test." In addition to numerous other factors, the long test includes a calculation of the employee's time spent on "non-exempt work" (i.e. work that is not executive, administrative or professional). If an employee spends more than 20 percent (40 percent in retail or service establishments) of their time on non-exempt work, they become subject to the Wage and Hour Act and can qualify for overtime. The ambiguity within the definitions, including the implementation of the 80/20 test, has led to numerous wage and hour lawsuits, causing great expense to employers and employees.

In addition to the confusing state statutes and regulations, often employers must also comply with the Federal wage and hour laws as well. HB 182 provides that we look to the federal Fair Labor Standards Act for the definitions of these terms, with the exception of the salary requirement, which shall be 2 times the minimum wage (ch 76 SLA 04). This will eliminate the need for many employers to have to comply with the two systems (state and federal) when dealing with these exemptions. The simplicity provided by referencing the federal definitions will lead to greater compliance with the statutes. It is in the best interests of both the employer and employee that the statutes are straightforward, practical and easy to follow.

HB 182 also clarifies another area of confusion in the Wage and Hour provisions. The definition of "supervisory capacity" in the regulations is also ambiguous, difficult to interpret and therefore rarely used. HB 182 removes this exemption from the statute.

Lastly, HB 182 provides that the provisions found in this bill will be applied to any litigation that is filed on or after the effective date of this bill. This requirement does not apply, however, to any claims or proceedings filed before the effective date.

Enacting this bill will eliminate ambiguities, align Alaska more closely with other states and reduce the number of frivolous lawsuits, while protecting workers rights to receive overtime.

I urge your support of this legislation.

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS

RULES COMMITTEE, CHAIRMAN
LABOR & COMMERCE COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON OIL & GAS, MEMBER
SPECIAL COMMITTEE ON WAYS & MEANS, MEMBER

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Representative Norman Rokeberg

e-mail: Representative.Norman.Rokeberg@legis.state.ak.us

SECTIONAL ANALYSIS FOR CSIB 182(FIN)(efd fld)

By: Representative Norman Rokeberg

Title: An act amending the Alaska Wage and Hour Act as it relates to the employment of a person acting in a supervisory capacity; relating to definitions under the Alaska Wage and Hour Act and providing definitions for persons employed in administrative, executive and professional capacities, for persons working in the capacity of an outside salesman, and for persons working in the capacity of a salesman employed on a straight commission basis, and for persons that perform computer-related occupations; directing retrospective application of the provisions of this Act to work performed before the effective date of this Act for purposes of claims filed on or after the effective date of this Act, and disallowing retrospective application for purposes of claims for that work that are filed before the effective date of this Act; and providing for an effective date.

Section 1: Adds "computer systems analyst, computer programmer, software engineer or other similarly skilled workers" to the list of exemptions from the Wage & Hour Act.

Section 2: AS 23.10.055(b)
Requires individuals employed as executive, administrative and professionals be compensated on a salary of not less than two times the minimum wage for the first 40 hours of employment.

AS 23.10.055(c)(1)
Provides that "bona fide executive, administrative or professional capacity" be defined in accordance with the Fair Labor Standards Act.

AS 23.10.055(c)(2)
Provides that "computer systems analyst, computer programmer, software engineer or other similarly skilled worker" be defined in accordance with the Fair Labor Standards Act.

AS 23.10.055(c)(3)
Provides a definition for "outside salesman."

AS 23.10.055(c)(4)
Provides a definition for "salesman who is employed on a straight commission basis."

- Section 3:** Removes the provision that a person acting in a "supervisory capacity" is exempt from overtime.
- Section 4:** Deletes the minimum salary requirement when defining these terms in regulation. This salary requirement has been moved to AS 23.10.055(b) (see Section 2).
- Section 5:** Inserts the United States code reference to the Fair Labor Standards Act of 1938.
- Section 6:** Provides that the provisions found in this bill will be applied to any litigation that is filed on or after the effective date of this bill. This requirement does not apply, however, to any claims or proceedings filed before the effective date.

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS

RULES COMMITTEE, CHAIRMAN
LABOR & COMMERCE COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON OIL & GAS, MEMBER
SPECIAL COMMITTEE ON WAYS & MEANS, MEMBER

website: <http://www.akleg.state.ak.us/rokeberg/index.php>



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Representative Norman Rokeberg

e-mail: Representative_Norman_Rokeberg@legis.state.ak.us

SECTIONAL ANALYSIS FOR CSIB 182(FIN)(efd fld) with changes from the original version By: Representative Norman Rokeberg

Title: An act amending the Alaska Wage and Hour Act as it relates to the employment of a person acting in a supervisory capacity; relating to definitions under the Alaska Wage and Hour Act and providing definitions for persons employed in administrative, executive and professional capacities, for persons working in the capacity of an outside salesman, and for persons working in the capacity of a salesman employed on a straight commission basis, and for persons that perform computer-related occupations; directing retrospective application of the provisions of this Act to work performed before the effective date of this Act for purposes of claims filed on or after the effective date of this Act, and disallowing retrospective application for purposes of claims for that work that are filed before the effective date of this Act; and providing for an effective date.

CHANGES FROM THE "G" VERSION ARE NOTED IN BOLD

Section 1: Adds "computer systems analyst, computer programmer, software engineer or other similarly skilled workers" to the list of exemptions from the Wage & Hour Act.

This section is new. "Computer related occupations" are currently found within the definition of "professional capacity" in our regulations. We have now broken them out as a separate exemption.

Section 2: AS 23.10.055(b)
Requires individuals employed as executive, administrative and professionals be compensated on a salary of not less than two times the minimum wage for the first 40 hours of employment.

This provision was in the original version, but moved within the statutes.

AS 23.10.055(c)(1)
Provides that "bona fide executive, administrative or professional capacity" be defined in accordance with the Fair Labor Standards Act.

The definitions for these terms in the original version mirrored the federal definitions, but were spelled out within the statute. Because there were questions as to the terms used within the definitions, we have reverted to the federal definitions for the above terms, as provisions have been made for each word used within the federal definitions.

AS 23.10.055(c)(2)

Provides that "computer systems analyst, computer programmer, software engineer or other similarly skilled worker" be defined in accordance with the Fair Labor Standards Act.

This section provides the definition for this exemption found in Section 1 of the bill. Currently, Alaska's regulations defer to the Fair Labor Standards Act when defining computer related occupations. 8 AAC 15.910(a)(11)(iv).

AS 23.10.055(c)(3)

Provides a definition for "outside salesman."

This definition was refined from the original version, and was moved within the statutes.

AS 23.10.055(c)(4)

Provides a definition for "salesman who is employed on a straight commission basis."

This definition was refined from the original version, and was moved within the statutes.

Section 3: Removes the provision that a person acting in a "supervisory capacity" is exempt from overtime.

This provision has not changed from the original version, but it moved to a different section within the bill.

Section 4: Deletes the minimum salary requirement when defining these terms in regulation. This salary requirement has been moved to AS 23.10.055(b) (see Section 2).

This provision has not changed from the original version, but it moved to a different section within the bill.

Section 5: Inserts the United States code reference to the Fair Labor Standards Act of 1938.

This section is new. Where any reference to a federal law is found within our statutes, our drafters would like the correct United States Code references inserted.

Section 6: Provides that the provisions found in this bill will be applied to any litigation that is filed on or after the effective date of this bill. This requirement does not apply, however, to any claims or proceedings filed before the effective date.

This section is new.

THE
FOLLOWING
DOCUMENT(S)
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STATE OF ALASKA

Department Of Labor and Workforce Development

FRANK H. MURKOWSKI, GOVERNOR

P. O. Box 21149
Juneau, AK 99802-1149
Phone: (907)465-2700
Fax: (907)465-2784

OFFICE OF THE COMMISSIONER

April 14, 2005

The Honorable Norman Rokeberg
Alaska State Legislature
Capitol Building, Room 214
Juneau, Alaska 99801

Dear Representative Rokeberg:

I AM PLEASED TO INFORM YOU...

The Alaska Department of Labor and Workforce Development is in support of CSHB 182(FIN).

This bill will help to streamline the cumbersome process of determining whether an employee is exempt from Alaska's overtime pay requirements, while minimizing the potential for employee abuse by expanding the minimum salary provision. The minimum annual salary of \$29,744 will help to ensure that line workers are not artificially categorized in overtime exempt positions. I applaud your efforts to carefully balance industry needs for clearer overtime pay guidelines with the needs of Alaska's workforce.

We do not expect the proposed changes to have a significant impact on the department's operations. Less than five percent of wage claims filed with the department in FY 2004 involved issues associated with the overtime pay exemptions affected by this proposed legislation. Although the changes may initially produce more questions, the new standards are expected to be easier to explain.

If you need any additional assistance with this bill, please let me know.

Sincerely,


Greg O'Claray
Commissioner

cc: Grey Mitchell, Director LS&S

Current Definitions vs. New Definitions

By: Representative Norman Rokeberg

Employees exempt from Wage and Hour Act	Current Definition	House Bill 182
Administrative	<ul style="list-style-type: none"> • Primary duties are management, supervising • Uses discretion and independent judgment • Performs work under only general supervision • Regularly and directly assists a proprietor or an exempt executive employee of the employer • Performs work along specialized or technical lines requiring special training • Salary at least 2.0 times minimum wage in first forty hours a week • 80/20 rule 	<ul style="list-style-type: none"> • Primary duty is performance of office or nonmanual work directly related to management or general business operations ▪ Uses discretion and independent judgment • Salary is at least 2.0 times the minimum wage in first forty hours a week
Executive	<ul style="list-style-type: none"> • Primary duty is management of the business • Directs two or more employees • May hire and fire • Customarily and regularly exercises discretionary authority • Salary at least 2.0 times the minimum wage in first forty hours a week • 80/20 rule 	<ul style="list-style-type: none"> • Primary duty is management of the business • Directs two or more employees • May hire and fire • Salary at least 2.0 times the minimum wage in first forty hours a week
Professional	<ul style="list-style-type: none"> • Primary duty requires an advanced degree ▪ Or, is creative in nature, teacher or computer-related • Uses discretion and independent judgment ▪ Work is predominately intellectual and varied in character • Salary at least 2.0 times the minimum wage in first forty hours a week 	<ul style="list-style-type: none"> • Primary duty requires knowledge from prolonged course of specialized intellectual instruction • Or invention, imagination, originality or talent in artistic or creative endeavor • Salary at least 2.0 times the minimum wage in first forty hours a week

State by State Overtime Comparison

Completed Spring, 2004

By: John M. Sedor

Single Definitional Standard – 32 Jurisdictions

(These jurisdictions either do not have applicable wage/hour regulations or directly reference the overtime exemption definitions found in the Fair Labor Standards Act to define their own exemption from overtime requirements. In these jurisdictions, employers will only need to comply with one definitional standard – the federal standard – regarding overtime exemption issues.)

Alabama	Arizona	Delaware	District of Columbia
Florida	Georgia	Idaho	Indiana
Iowa	Kansas	Louisiana	Maine
Massachusetts	Michigan	Mississippi	Missouri
Nebraska	Nevada	New Hampshire	New Mexico
New York	North Carolina	Ohio	Oklahoma
South Carolina	South Dakota	Tennessee	Texas
Utah	Vermont	Virginia	Wyoming

“Old” Short Test – 8 Jurisdictions

(The “old” short test is similar to the new federal regulations with regard to the “time performing exempt functions” factor)

Connecticut	Illinois	Kentucky	Maryland
Montana	North Dakota ¹	Rhode Island ¹	West Virginia

¹ Definitional language contains minor variations from old federal test.

Unique Standards – 4 Jurisdictions

(Four states have a unique standard for determining overtime exemption definitions)

California	Colorado	Hawaii	Oregon	
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“Old” Long Test – 7 Jurisdictions

Alaska	Arkansas	Minnesota	New Jersey	Pennsylvania
Washington	Wisconsin ²			

² Definitional language contains minor variations from old federal test

EMPLOYERS BEWARE:

NEW WAGE AND HOUR REQUIREMENTS MAY SIGNIFICANTLY IMPACT ALASKA EMPLOYERS



Article by Bill Evans, partner,
Dorsey and Whitney LLP,
vice-chair, Anchorage Chamber
of Commerce

Both the federal and state wage and hour laws recently underwent significant revisions. It is very important

that Alaska employers understand these new requirements and ensure that their exempt employees are still in compliance with the new regulations and statutes. Even inadvertent departure from the new requirements can result in substantial liability.

Major Federal Revisions. On April 27, 2004, the United States Department of Labor published its long-anticipated revisions concerning the so-called white-collar exemptions (i.e., executive, administrative, professional, computer professional and outside salesperson). A key change to the federal system is that all employees who now earn less than \$455 per week—or \$23,660 per year—must receive overtime. Previously, employees had to earn only \$155 per week in order to qualify as exempt. The U.S. government estimates that more than 1.3 million workers nationwide will benefit from this mandated salary increase. A much fewer number of employees, estimated to be approximately 107,000 nationwide, may lose their current entitlement to overtime due to other changes.

By wholly eliminating the antiquated "long test" for determining exemptions, the Department of Labor did away with the last vestiges of the beleaguered 80/20 requirement that mandated that exempt employees could spend no more than 20 percent of their time engaged in nonexempt duties. The difficulty in objectively documenting compliance with this requirement made it a particularly vexing issue for many employers.

The Department of Labor also significantly revised the test used for determining whether an employee qualifies for an exemption based on his or her job duties. For example, administrative employees, who have always been required to exercise discretion and independent judgment in performing their duties, must now exercise such discretion and independent judgment with respect to "matters of significance." See 29 C.F.R. § 541.200.

Another notable change involves the definition of an "executive" employee. In addition to managing a

department or customarily recognized subdivision of the employer and regularly directing the work of at least two other employees, the new definition of an "executive" employee requires:

"The employee must have authority to hire or fire other employees or his/her suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees are given particular weight."

29 C.F.R. § 541.100.

Alaska Fails to Adopt Similar Changes. Choosing not to follow the lead of the federal government, the Alaska Legislature maintained its historic definitions for the white-collar exemptions. Accordingly, Alaska employers now must ensure that their exemptions comply with two significantly different systems. For instance, the problematic 80/20 requirement is still very much alive under Alaska law. It is, therefore, increasingly possible that many employees may be exempt under one system but not under the other.

Alaska Establishes Minimum Salary for Exempt Employees. Although the Alaska Legislature did not adopt any changes to the existing definitions for exempt employees, it did substantially increase the minimum salary that an exempt employee must earn. Moreover, it tied this minimum salary to the state's minimum wage, thereby guaranteeing that future increases in the minimum wage will also increase the minimum salary for exempt employees.

House Bill 255, which was submitted for Gov. Murkowski's signature on June 10, 2004, requires that any employee falling under the "administrative," "executive" or "professional" exemptions must earn a minimum salary of at least two times the state minimum wage for the first 80 hours of employment each week.

The current Alaska minimum wage is \$7.25 per hour. Accordingly, this new law will require that any exempt employee be paid a salary of \$580 per week—or \$30,160 per year. There is no evidence of any study being conducted to determine how many employees or employers in Alaska this new requirement will affect. This law will automatically go into effect 90 days after it is signed by the governor.

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Anchorage Daily News

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Labor costs kill downtown La Mex**RESTAURANT: Owner took over chain from parents in 1990; other two stay open.**By SARANA SCHELL
Anchorage Daily News*(Published: February 9, 2005)*

Anchorage's downtown La Mex restaurant, home of Grande Ronde and the Jalapeno Eating Contest during Fur Rendezvous, not to mention a major annual Cinco de Mayo party, is closed.

Owner Trina Johnson said she closed the location last week, after 30 years in business, because of rising labor costs.

La Mex's two other locations in Anchorage, in Spenard and on King Street in South Anchorage, remain open. They absorbed some of the downtown restaurant's 35 to 40 employees. Johnson laid off 26. She already had cut 12 positions after Christmas, she said.

"I feel bad," Johnson said, "but you have to start cutting your highest cost items."

Labor costs at La Mex went up \$200,000 in 2003, the year the state increased its minimum wage from \$5.65 to \$7.15 an hour, Johnson said.

The cost of workers' compensation insurance is tied to a company's payroll, she said, and that went from \$22,000 to \$80,000 per year over the past two years.

A higher alcohol tax, a lowered legal breath-alcohol content limit and a smoking ban didn't help, Johnson said.

"People are drinking less," she said, and "your profit's in your alcohol."

La Mex raised prices by 5 percent two weeks ago, Johnson said, to offset rising food costs. She said she was reluctant to change menu prices.

"People are only going to pay so much for a taco," Johnson said.

To cut costs, the restaurants quit serving sizzle-making lemons with their fajitas, saving \$500 a month, Johnson said, and started outsourcing kitchen prep work.

Tourist seasons were busy, Johnson said, but not enough to keep the largest of the three locations open.

"That's bad," said Jeramie Ford when he heard the restaurant on Sixth Avenue and I Street was closed. Ford, 28, said he started eating there as a 5-year-old, when he used to have to wait for a table. That hasn't been the case for years, he said, but Ford kept coming for the chicken fajitas.

"It's kind of sad to see it go," he said.

Johnson said her parents started La Mex in 1969 in a Mountain View log cabin that seated 12. There, she said, her mother made guacamole from scratch at customers' tables.

Johnson took over the business in 1990 and opened the South Anchorage location in 1999.

That location will take on the American fare that only the downtown restaurant carried, such as prime rib.

The Grande Ronde will be held at La Mex in Spenard this year, Johnson said, while the King Street restaurant will host Fur Rondy events and the Cinco de Mayo party.

Daily News reporter Sarana Schell can be reached at sschell@adn.com.

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March 16, 2005

Representative Norm Rokeberg
House Labor & Commerce Committee
465-2040

Dear Representative Rokeberg

Re HB 182

Thank you for sponsoring this important legislation. This is a request for your committee to approve HB 182. This bill recognizes the cumbersome, if not impossible, task of tracking an employee's time hour by hour. As you know, the Federal FSLA has relieved employers of that burden and most states have done so also.

It is unrealistic to require additional paperwork hour by hour for tracking professional or supervisory employees. As I am sure you are aware, a supervisor or professional may start a task but demands of the job may require a change in task before completion. To have an employee at that level be required to write down each task beginning to end to see if it meets the "80/20" rule would create an additional burden on jobs that are often by their nature "burdensome."

The reason for the higher compensation for employees at the professional, administrative or supervisory level is the understanding that they have a job that needs to be accomplished and have the ability to decide the means for accomplishing that job.

Please approve this important legislation.

Sincerely,
COASTAL HELICOPTERS, INC.

Dorothy S. Wilson, Vice President



March 16, 2005

Rep Norm Rokeberg
State Capital Building
Juneau, AK 99801
Sent via fax: (907) 465-2040

Dear Representative Rokeberg,

On behalf of the Alaska Hotel & Lodging Association and the Alaska Restaurant & Beverage Association I convey full support of HB 182. This is an important bill for our industry and for every employee of exempt workers because it provides for exempt status language that employers are easily able to understand and comply with. Currently, exempt status language requires that employers track and log how exempt workers spend their time by the hour to ensure appropriate compliance with the 80/20 or 60/40 provisions.

The definition of exempt status eligibility being based on primary job duty rather than the amount of time a worker spends on exempt vs. non exempt work mirrors the real life work roles of executive and professional salaried workers. The Federal definition of exempt worker was recently changed for the very same reason; it is burdensome to comply with and makes employers vulnerable to costly lawsuits.

A focus on primary job duties provides a clear definition of who is eligible to be exempt and who is not. Without this clear definition, many employers chose to make all employees hourly wage earners, denying the executive and professional management staff access to benefits that could otherwise be offered to them.

The provisions of HB 182 benefit both the employer and the employee. Thank you for your sponsorship of this bill.

My best regards,

Karen R. Rogina
President & CEO

HB

185

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 185
(H) Publish Date: 3/18/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Education
Title: An Act relating to immunization of postsecondary RDU: ACPE
students for meningitis; and providing for an effective date. Component: Program Administration & Operations
Sponsor: Rep. Mike Chenault
Requester: (H)HES Component No.: 2738

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill proposes that any Alaska postsecondary institution that provides residential housing for students will be required to: 1) deliver written advisories regarding meningococcal disease; and 2) collect and maintain student certification that such written notice has been provided, or, alternatively, certification that the student has been immunized for the disease.

The Commission would implement by providing due notice to Alaska institutions and including this requirement within its institutional authorization compliance review program.

Prepared by: Diane Barrans, Executive Director
Division: Executive Office, ACPE
Approved by: Diane Barrans, Executive Director
Agency: Alaska Commission on Postsecondary Education

Phone: 465-6757
Date/Time: 3/14/05 11:17 AM
Date: 3/14/2005

detention on Pg 3

HOUSE BILL NO. 185

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE CHENAULT

Introduced: 2/28/05

Referred: Health, Education and Social Services, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to immunization of postsecondary students for meningitis; and
2 providing for an effective date."

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

4 * Section 1. AS 14.48.030(b) is amended to read:

5 (b) Except as provided under AS 14.48.165, the [THE] commission may
6 exempt the following educational programs, and educational institutions only
7 providing programs exempt under (a) of this section and this subsection, from some or
8 all of the provisions of this chapter.

9 (1) a program operated by a state or a political subdivision of a state;

10 (2) instruction sponsored by a bona fide trade, business, labor,
11 professional, or fraternal association or organization, recognized by the commission,
12 and conducted only for that association's or organization's membership;

13 (3) nonprofit postsecondary educational institutions offering
14 undergraduate or graduate educational programs, from a facility in this state, that are

1 acceptable for credit toward an associate, bachelor's, or graduate degree;

2 (4) a program that is provided without a fee, other than the actual cost
3 of materials, to students;

4 (5) a program that does not offer education credentials;

5 (6) a short course of study that is not [NO] more than 10 days or 80
6 hours in duration;

7 (7) a program offered within the state by an out-of-state institution that
8 is authorized to operate by the state in which it is located and is nationally or
9 regionally accredited;

10 (8) a program or institution that is regulated by another agency or
11 political subdivision of the state regarding the quality of course contents, facilities, and
12 operation.

13 * **Sec. 2.** AS 14.48 is amended by adding a new section to read:

14 **Sec. 14.48.165. Immunization of postsecondary students.** (a) A
15 postsecondary educational institution in this state shall provide written notice to each
16 student who intends to reside in campus housing before the student's initial period of
17 residence, that includes the following information:

18 (1) meningococcal disease

19 (A) is a serious illness that can cause death within a few hours
20 of onset; one in 10 cases is fatal, and one in seven survivors of the illness is left
21 with severe disability;

22 (B) is a contagious but also largely preventable infection of the
23 spinal cord fluid and the fluid surrounding the brain;

24 (2) scientific evidence suggests that college students living in campus
25 housing are at a moderately increased risk of contracting meningococcal disease; and

26 (3) immunization against meningococcal disease decreases the risk of
27 contracting the illness.

28 (b) A student attending a postsecondary educational institution shall sign a
29 document provided by the institution indicating that the student has received

30 (1) an immunization against meningococcal disease; or

31 (2) the notice described under (a) of this section.

1 (c) Nothing in this section may be construed to require a postsecondary
2 educational institution to provide or pay for immunizations against meningococcal
3 disease.

4 (d) A postsecondary educational institution that has made reasonable efforts to
5 comply with this section is not liable for civil damages suffered by a student who
6 attends the institution, who resides on campus, and who contracts meningococcal
7 disease.

Delete

8 * Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 APPLICABILITY. AS 14.48.165(d), added by sec. 2 of this Act, applies to a civil
11 action that accrues on or after the effective date of this Act.

12 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

February 17, 2005

SUBJECT: Immunization of Postsecondary Students
(Work Order No. 24-LS0642VA)

TO: Representative Mike Chenault
Attn: Sue Wright

FROM: Jean M. Misch
Legislative Counsel

You have requested a sectional summary of the above-described bill draft.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Current law allows the Postsecondary Education Commission to exempt postsecondary education institutions from the applicability of some or all of the provisions of AS 14.48. The amendment made by this bill section excludes the immunization requirement added by section 2 of the bill from that exemption.

Section 2. Requires postsecondary educational institutions to provide written information related to meningococcal disease to each student who intends to reside in campus housing. Requires all students who attend a postsecondary institution to sign a statement that the student has either received the required information from the institution or an immunization against meningococcal disease. Clarifies cost burden and civil liability issues pertaining to the notice and immunization.

Section 3. Adds an applicability provision related to civil cases.

Section 4. Adds an immediate effective date.

JMM:jad
05-102.jad

STATE OF ALASKA

REPRESENTATIVE
MIKE CHENAULT

Official Business

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HOUSE OF R VES

Sponsor Statement

HB 185 "An act relating to immunization of postsecondary students for meningitis"

The purpose of this bill is to remove postsecondary educational institutions from the applicability of the provisions of AS 14.48. This also requires postsecondary educational institutions to provide information, and receive a statement from the student having read the information on meningococcal disease prior to attending or living in student housing for said institution. The Center for Disease Control strongly recommends immunizations for all students. This recommendation has been taken seriously to the point that many educational facilities will not admit students without immunizations.

HB

186

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 186
 (H) Publish Date: 3/21/05
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title QUARTERLY PFD PAYMENTS AND PUBLIC ASSISTANCE ELIGIBILITY

RDU Public Assistance

Component PFD Hold Harmless

Sponsor RAMRAS

Requester HOUSE (STA)

Component No. 225

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 (0)						

FUND SOURCE (Thousands of Dollar)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
1050 PFD Fund						
Other(Specify Type-do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The PFD Hold Harmless program (PFD-III) replaces public assistance benefits for individuals who would otherwise be denied because federal rules require that their PFD be counted as income or resources. Currently, the PFD is disbursed once per year. Public assistance recipients are held harmless in the month it is received and up to three additional months, for a total of four months per distribution year.

This bill provides for an optional quarterly PFD payment. We assume that recipients of public assistance benefits will not choose the quarterly payment option. All public assistance recipients are low-income and historically use the PFD to cover emergent needs, to satisfy debts, or to purchase clothing or other items needed to support self-sufficiency. Moreover, DPA will offer recipients information and education advising against election of the quarterly PFD option as the bill limits access to benefit replacement with hold harmless funding to only one four-month period per fiscal year.

Prepared by: Janet Clarke, Assistant Commissioner
 Division: Finance and Management Services
 Approved by: Jon S. Gilbertson, Commissioner
 Agency: Department of Health and Social Services

Phone: 465-1630
 Date/Time: 03/08/2005
 Date: 03/08/2005

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: HB 186
(H) Publish Date: 3/21/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title Permanent Fund: Quarterly Payments RDU Revenue Programs & Support
Component Permanent Fund Dividend
Sponsor Ramras
Requester _____ Component No. 981

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	25.0	25.0	25.0	25.0	25.0	25.0
Travel						
Contractual	335.3	35.3	35.3	35.3	35.3	35.3
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	360.3	60.3	60.3	60.3	60.3	60.3

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	0.0	67.5	86.2	105.0	112.5	111.2
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1950 Permanent Fund Dividend Fund	360.3	60.3	60.3	60.3	60.3	60.3
TOTAL	360.3	60.3	60.3	60.3	60.3	60.3

Estimate of any current year (FY2005) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time	1	1	1	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill authorizes optional quarterly payments beginning with the 2006 dividend for Permanent Fund Dividend recipients who also select direct deposit.

This fiscal note assumes that the department will have the authority to deny participation to any applicant whose dividend has been garnisheed before the first payment in October. Garnishors will file against each quarterly payment and anyone garnisheed subsequent to the October payment would be paid the total remainder of their dividend less the amount of the garnishment at the time of the next quarterly payment. Costs are summarized on page 2.

The major cost of quarterly payments is a one-time cost to design and write a new payment system that accommodates quarterly payments and synchronizes transactions with our mainframe database. This work will need to be done by contract. (Continued on page 2)

Prepared by: Sharon Barton
Division: Permanent Fund Dividend
Approved by: _____
Agency: _____

Phone 907-465-4785
Date/Time 3/16/05 11:10 AM
Date 3/16/2005

FISCAL NOTE #2

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. HB 186

ANALYSIS CONTINUATION

The department estimates that it will take 17 person months to design and write a payment system for quarterly payments. An estimate of months and costs is difficult to calculate because PFD IT staff has no previous experience with the design and development of a somewhat complex payment system.

Ongoing operations costs assume approximately 5,000 participants and include direct deposit transaction costs, print and mail costs, and computer processing costs for three additional direct deposit payments; new forms development and printing; and staff months to handle the quarterly garnishments that will be filed, and increased public contacts for information and direct deposit changes. Additional participants would result in higher costs.

Costs include:

Expand and re-write PFD computer system to handle quarterly payments (by contract)	\$300.0
Print and mail costs for three additional payments	15.5
Computer processing costs for three additional payments	18.0
Direct Deposit transaction fees	1.8
6 month PPT position or six additional months for existing staff	<u>25.0</u>
Total	<u><u>\$360.3</u></u>

Revenue is based on a 2% rate of return of funds held until distribution for 5,000 applicants. Dividend amounts for each year are based estimates from the Alaska Permanent Fund Corporation.

Representative Jay Ramras
Co-Chair, House Resources
V-Chair, Economic Develop.
Tourism & Trade

House State Affairs
119 N. Cushman St. Suite 207
Fairbanks, Alaska 99701
Phone: (907) 452-1088
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Alaska State Legislature



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State Capitol, Room 104
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House District 10

House of Representatives

Sponsor Statement

House Bill 186

The Permanent Fund Dividend has been and continues to be a boon to the Alaskan economy for 22 years. The program allows our citizens to enjoy part of the state's oil revenue. Since the time of the permanent fund dividend's inception, many Alaskan businesses have profited from running sales near the time the dividend is distributed. Often, citizens will use their dividends to make down payments on high-end consumer products. Effectively ending up with more debt than they would have incurred had they not received a permanent fund dividend in the first place.

HB 186 allows those residents that are eligible to electronically receive a permanent fund dividend the ability to elect to receive their payments in either in one lump sum, as the current system allows, or to divide their permanent fund dividend income into four equal, quarterly payments, throughout the year. Under HB 186's language, this program would take effect the year beginning January 2006.

HB 186 will provide citizens with an opportunity to financially help themselves and their families throughout the year. However, this quarterly payment plan is not recommended for those receiving public assistance, due to the fact that payouts, especially for multiple family members, may interfere with the availability of federal public assistance.

Representative Jay Ramras
Co-Chair, House Resources
V-Chair, Economic Develop.

Tourism & Trade

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House District 10

House of Representatives

Sectional Summary House Bill 186, PFD Quarterly Payments Work Order 24-LS0629

Section 1. Removes the word annually to account for the new quarterly payment program.

Section 2. Explains the Permanent Fund Dividend optional quarterly payment program.

Section 3. Warns a Federal Public Assistance recipient of the possible effects of receiving the Permanent Fund Dividend in quarterly payments.

STATE OF ALASKA

DEPARTMENT OF REVENUE

PERMANENT FUND DIVIDEND DIVISION

FRANK MURKOWSKI, GOVERNOR

State Office Building
PO Box 110460
Juneau, AK 99611-0460
Telephone : 907-465-2323
Fax : 907-465-2096

March 23, 2005

The Honorable Paul Seaton
Chairman, House State Affairs Committee
Alaska House of Representatives
State Capitol, Room 102
Juneau, AK 99801

Dear Representative Seaton,

I am following up on our testimony on HB 186 (Quarterly Dividend Payments) at Saturday's House State Affairs meeting in which you requested an analysis of the effects of changing dividend payments from a quarterly to monthly basis. The effects of this change on our operations and costs are outlined below.

As in our fiscal note, our analysis assumes that the department will have the authority to deny participation to any applicant whose dividend has been garnisheed when the dividend is in paid in October or at the time of a subsequent periodic payment if the applicant had not previously been garnisheed. We assume that 5,000 applicants will opt for periodic dividend payments. We also assume that applicants would not be allowed to change their bank account information once the initial direct deposit is made.

We do not anticipate any additional costs for designing and re-writing the dividend payment program. We believe that the change from quarterly to monthly payments would require adding a full-time permanent clerical position because garnishments would be received and require processing throughout the year, and there would be an increased impact on our dividend information offices. Other costs identified in our fiscal note would increase proportionately to reflect the change from quarterly to monthly payments.

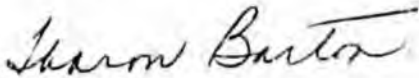
Following are costs for a monthly payment in contrast to costs identified in our fiscal note.

	Quarterly	Monthly
Expand and re-write PFD computer system to handle periodic payments	\$300.0	\$300.0
Print and mail costs for additional payments	15.5	56.8
Computer processing costs for additional payments	18.0	66.0
Direct Deposit transaction fees	1.8	6.6
Clerical position to process garnishments and answer questions from public		
Six additional months for existing staff	25.0	25.0
One PFT position to process garnishments and associated costs	N/A	50.0
Total	\$360.3	\$504.4

Representative Paul Seaton
Monthly Dividend Payment Analysis
March 23, 2005

The expansion and re-write costs are a one-time cost item in FY 06. Annual operation costs are projected to be \$60.3 under quarterly payments and \$204.4 under monthly payments. If you have any questions or need further information, please feel free to contact me at 465-4785.

Sincerely,



Sharon Barton
Director

cc: Representative Jay Ramras, Sponsor HB 186
Paul Dick, PFD Chief of Operations
Tom Boutin, Revenue Deputy Commissioner
Jerry Burnett, Revenue Legislative Liaison

House Bill 186

What is the possible effect of quarterly Permanent Fund Dividend payments on an individual's or family's public assistance?

Due to the fact that receiving a Permanent Fund Dividend may put an individual's or family's income over the quarterly amount allowable by federal public assistance, Alaska has established a state general relief assistance program, under AS 47.25.120 – 47.25.300, to cover its citizens' public assistance benefits when they are ineligible for federal assistance. Benefits under this program may be received for only one four-month period during a fiscal year. Therefore, an individual or family receiving public assistance should not apply for the quarterly payment program since the quarterly payments may make them ineligible for any public assistance for three quarters of the year.

Use of Funds as a Result of Quarterly Payment					
Chart 1: 5,000 People @ 2%	FY 07	FY 08	FY 09	FY 10	FY11
Estimated Amount of Dividend (APFC)	1,080.00	1,380.00	1,680.00	1,800.00	1,780.00
Estimated Quarterly Payment Participants	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00
Total	5,400,000.00	6,900,000.00	8,400,000.00	9,000,000.00	8,900,000.00
Multiplier	0.625	0.625	0.625	0.625	0.625
Total times multiplier	3,375,000.00	4,312,500.00	5,250,000.00	5,625,000.00	5,562,500.00
Rate of Return	0.02	0.02	0.02	0.02	0.02
Earnings from funds held	67,500.00	86,250.00	105,000.00	112,500.00	111,250.00
Chart 2: 5,000 people @ 3%	FY 07	FY 08	FY 09	FY 10	FY11
Estimated Amount of Dividend (APFC)	1,080.00	1,380.00	1,680.00	1,800.00	1,780.00
Estimated Quarterly Payment Participants	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00
Total	5,400,000.00	6,900,000.00	8,400,000.00	9,000,000.00	8,900,000.00
Multiplier	0.625	0.625	0.625	0.625	0.625
Total times multiplier	3,375,000.00	4,312,500.00	5,250,000.00	5,625,000.00	5,562,500.00
Rate of Return	0.03	0.03	0.03	0.03	0.03
Earnings from funds held	101,250.00	129,375.00	157,500.00	168,750.00	166,875.00
DIFFERENCE BETWEEN CHART 2 AND 1	33,750.00	43,125.00	52,500.00	56,250.00	55,625.00
Chart 3: 10,000 people @ 2%	FY 07	FY 08	FY 09	FY 10	FY 11
Estimated Amount of Dividend (APFC)	1,080.00	1,380.00	1,680.00	1,800.00	1,780.00
Estimated Quarterly Payment Participants	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00
Total	10,800,000.00	13,800,000.00	16,800,000.00	18,000,000.00	17,800,000.00
Multiplier	0.625	0.625	0.625	0.625	0.625
Total times multiplier	6,750,000.00	8,625,000.00	10,500,000.00	11,250,000.00	11,125,000.00
Rate of Return	0.02	0.02	0.02	0.02	0.02
Earnings from funds held	135,000.00	172,500.00	210,000.00	225,000.00	222,500.00
DIFFERENCE BETWEEN CHARTS 3 AND 1	67,500.00	86,250.00	105,000.00	112,500.00	111,250.00