

ALASKA LEGISLATURE COMMITTEES 1901-1902 00/2

1733 SJ HB 640 - CORRESPONDENCE - HB 848

Alaska Native Brotherhood

CAMP NO. 5
HAINES, ALASKA 99827

4-26-82

The Honorable Patrick Rodey
Alaska State Senate
State Capital
Pouch V
Juneau, Alaska 99811

Dear Senator:

The Haines Alaska Native Brotherhood and Sisterhood, Camp #5 support HB 640.

Without these funds, which comprise 60 o/o of our income, we will have to curtail all our donations to scholarships, the use of our A.N.B. Hall to non profit organizations, such as Boy Scouts, Girl Scouts, Church Groups, and Schools.

These funds also support Native Cultural activities, School activities, and Sports.

General Relief of sickness, fire disasters, families in need of food.

A.N.B. Haines Camp #5

David Light

President

A.N.S. Haines Camp #5

Marjorie R. Wilson

President

I agree with the Haines A.N.B. and A.N.S. in there support of HB 640.

Cecilia David

Alaska Native Brotherhood

CAMP NO. 5
HAINES, ALASKA 99827

4-26-82

The Honorable Patrick Rodey
Alaska State Senate
State Capital
Pouch V
Juneau, Alaska 99811

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A.N.B. Haines Camp #5

David Light

President

A.N.S. Haines Camp #5

Mark R. Wilson

President'

I agree with the Haines A.N.B. and A.N.S. in there support of HB 640.

Roy C. Clayton

Alaska Native Brotherhood

CAMP NO. 5
HAINES, ALASKA 99827

4-26-82

The Honorable Patrick Redey--
Alaska State Senate
State Capital
Pouch V
Juneau, Alaska 99811

Dear Senator:

The Haines Alaska Native Brotherhood and Sisterhood, Camp #5 support BR 640.

Without these funds, which comprise 60 o/o of our income, we will have to curtail all our donations to scholarships, the use of our A.N.B. Hall to non profit organizations, such as Boy Scouts, Girl Scouts, Church Groups, and Schools.

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A.N.B. Haines Camp #5

David Light
President

A.N.S. Haines Camp #5

Markey R Wilson
President

I agree with the Haines A.N.B. and A.N.S. in there support of BR 640.

Walter E. Clayton

Alaska Native Brotherhood

CAMP NO. 5
HAINES, ALASKA 99827

4-26-82

The Honorable Patrick Rodey...
Alaska State Senate
State Capital
Pouch V
Juneau, Alaska 99811

Dear Senator:

The Haines Alaska Native Brotherhood and Sisterhood, Camp #5 support
FB 640.

Without these funds, which comprise 60 o/o of our income, we will have
to curtail all our donations to scholarships, the use of our A.N.B. Hall
to non profit organizations, such as Boy Scouts, Girl Scouts, Church
Groups, and Schools.

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A.N.B. Haines Camp #5

Davis Light
President

A.N.S. Haines Camp #5

Marlyn R. Wilson
President

I agree with the Haines A.N.B. and A.N.S. in there support of
FB 640.

Martha J. Willard

Alaska Native Brotherhood

CAMP NO. 5
HAINES, ALASKA 99827

4-26-82

The Honorable Patrick Rodey
Alaska State Senate
State Capital
Fouch V
Juneau, Alaska 99811

Dear Senator:

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David Light

President

A.N.S. Haines Camp #5

Marlyn R. Wilson

President

I agree with the Haines A.N.B. and A.N.S. in there support of HB 640.

Betty Ewing

Alaska Native Brotherhood

CAMP NO. 5
HAINES, ALASKA 99827

4-26-82

The Honorable Patrick Rodex--
Alaska State Senate
State Capital
Pouch V
Juneau, Alaska 99811

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HB 640.

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A.N.B. Haines Camp #5

David Light
President

A.N.S. Haines Camp #5

Marky R. Wilson
President

I agree with the Haines A.N.B. and A.N.S. in there support of
HB 640.

Reep Johnson

Alaska Native Brotherhood

CAMP NO. 5
HAINES, ALASKA 99827

4-26-82

The Honorable Patrick Rodey--
Alaska State Senate
State Capital
Pouch V
Juneau, Alaska 99811

Dear Senator:

The Haines Alaska Native Brotherhood and Sisterhood, Camp #5 support
NR 640.

Without these funds, which comprise 60 o/o of our income, we will have
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A.N.B. Haines Camp #5

David Light
President,

A.N.S. Haines Camp#5

Mark R. Wilson
President'

I agree with the Haines A.N.B. and A.N.S. in there support of
NR 640.

Jean R. Watson

Alaska Native Brotherhood

CAMP NO. 5
HAINES, ALASKA 99827

4-26-82

The Honorable Patrick Rodex--
Alaska State Senate
State Capital
Pouch V
Juneau, Alaska 99811

Dear Senator:

The Haines Alaska Native Brotherhood and Sisterhood, Camp #5 support HB 640.

Without these funds, which comprise 50 o/o of our income, we will have to curtail all our donations to scholarships, the use of our A.N.B. Hall to non profit organizations, such as Boy Scouts, Girl Scouts, Church Groups, and Schools.

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A.N.B. Haines Camp #5

David Light

President

A.N.S. Haines Camp #5

Marlyn R. Wilson

President'

I agree with the Haines A.N.B. and A.N.S. in there support of HB 640.

Clara K. Matson

Alaska Native Brotherhood

CAMP NO. 5

HAINES, ALASKA 99827

4-26-82

The Honorable Patrick Rodey...
Alaska State Senate
State Capital
Pouch V
Juneau, Alaska 99811

Dear Senator:

The Haines Alaska Native Brotherhood and Sisterhood, Camp #5 support
SB 640.

Without these funds, which comprise 60 o/o of our income, we will have
to curtail all our donations to scholarships, the use of our A.N.B. Hall
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Groups, and Schools.

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A.N.B. Haines Camp #5

David Light

President

A.N.S. Haines Camp #5

Marlyn R. Wilson

President

I agree with the Haines A.N.B. and A.N.S. in there support of
SB 640.

Leo Jacobson

Alaska Native Brotherhood

CAMP NO. 5
HAINES, ALASKA 99827

4-26-82

The Honorable Patrick Rodey
Alaska State Senate
State Capital
Pouch V
Juneau, Alaska 99811

Dear Senator:

The Haines Alaska Native Brotherhood and Sisterhood, Camp #5 support
#3 640.

Without these funds, which comprise 60 o/o of our income, we will have
to curtail all our donations to scholarships, the use of our A.N.B. Hall
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A.N.B. Haines Camp #5

David Light

President

A.N.S. Haines Camp #5

Marjorie R. Wilson

President

I agree with the Haines A.N.B. and A.N.S. in there support of
#3 640.

Phoebe Varren

Alaska Native Brotherhood

CAMP NO. 5

HAINES, ALASKA 99827

4-26-82

The Honorable Patrick Rodey
Alaska State Senate
State Capital
Pouch V
Juneau, Alaska 99811

Dear Senator:

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A.N.B. Haines Camp #5

David Light

President

A.N.S. Haines Camp #5

Marilyn R. Wilson

President

I agree with the Haines A.N.B. and A.N.S. in there support of HB 640.

Emma Smith

POUCH
JUNEAU, ALASKA 99811
(907) 465-3717

May 3, 1982

Ms. Bonnie Kitchen
3806 Carolina Drive
Anchorage, Alaska 99503

Dear Ms. Kitchen:

Thank you for sending the message expressing your support for House Bill 640.

I appreciate knowing your views on this legislation and want you to know that if the Governor vetos the bill, I will vote to override it if the question is a close one.

Thanks again for taking the time to share your thoughts with me on this legislation. I hope you will continue to inform me of your concerns in matters facing the Legislature.

Warmest regards,

Patrick M. Rodey

M3G 82-00024249 PRTY 1 04/30/82 13:40:45 ORIG: LA01 IN= 0005 OUT= 0056
FROM: CINDY, ANCH TO: JNU INFO
TARGET: LHM2 SUBJ: POM PAGE 0002

TO: SENATORS RODEY AND KELLY
REPRESENTATIVES HAYES AND FULLER

FROM: BONNIE KITCHEN, 3806 CAROLINA DR., ANCH. 99503 243-2624 HM

GOVERNOR HAMMOND'S STATEMENT SAYING WORTHY ORGANIZATIONS RECEIVED ONLY
12% OF SALES FROM PULL TABS HAS TO BE AN ERROR. TO MY KNOWLEDGE, NO SURVEY
WAS EVER TAKEN TO REACH THIS FIGURE. I WILL APPRECIATE YOU AGAIN REVIEWING
HB 840 FOR PASSAGE. I APPRECIATE YOUR HARD WORK.

1987
MAY 1 1986
MAY 1 1986
MAY 1 1986

BANKING

POUCH V
JUNEAU, ALASKA 99811
(907) 465-3717

May 3, 1982

Wally Hopkins
2600 Denali, Suite 704
Anchorage, Alaska 99503

Dear Wally:

Thank you for sending the message expressing your support for House Bill 640.

I appreciate knowing your views on this legislation and want you to know that if the Governor vetos the bill, I will vote to override it if the question is a close one.

Thanks again for taking the time to share your thoughts with me on this legislation. I hope you will continue to inform me of your concerns in matters facing the Legislature.

Warmest regards,

Patrick M. Rodey

FROM: WALLY HOPKINS, 2600 DENALI BLVD SUITE 704, ANCH. 99503 274-1573 WK
DIRECTOR OF GOVERNMENTAL AFFAIRS
ANCHORAGE FUR RENDEVOUS

WE IMPLORER YOUR SUPPORT IN OVERRIDING THE GOVERNOR'S VETO ON
SCSCHR 640 (JUD) AM S. THE FUNDS DERIVED FROM BINGO AND RELATED ACTIVITIES
GENERATE A SIGNIFICANT PERCENTAGE OF OUR REVENUE.

POUCH
JUNEAU, ALASKA 99811
(907) 465-3717

April 29, 1982

Mr. James Wilson
2631 Lake Otis
Anchorage, Alaska 99504

Dear Mr. Wilson:

Thank you for sending the message expressing your support for House Bill 640.

I appreciate knowing your view on this legislation, and want you to know that if the Governor vetoes the bill, I will vote to override it if the question is a close one.

Thanks again for taking the time to share your thoughts with me on this legislative proposal. I hope you will continue to inform me of your concerns in matters facing the Legislature.

Sincerely,

Patrick M. Rodey

MSE 82-00023750 PRTY 1 04/28/82 11:19:15 ORIG: LA01 IN= 0002 DS.= 0042
FROM: CINDY, ANCH TO: JRM INFO
TARGET: LJM2 SUBJ: POM

PAGE 0001

TO SENATORS KERTTULA AND RODEY
REPRESENTATIVE HAYES

FROM JAMES WILSON, 2631 LAKE OTIS, ANCH. 99504 279-4678

I SUPPORT CS HB 640 AND WOULD LIKE YOU TO DO THE SAME.

ANKING

FOUR V
JUNEAU, ALASKA 99811
(907) 465-3717

April 29, 1982

Vi Blackburn
PO Box 4-2511
Anchorage, Alaska 99509

Dear Ms. Blackburn:

Thank you for sending the message expressing your support for House Bill 640.

I appreciate knowing your views on this legislation, and want you to know that if the Governor vetoes the bill, I will vote to override it if the question is a close one.

Thanks again for taking the time to share your thoughts with me on this legislative proposal. I hope you will continue to inform me of your concerns in matters facing the Legislature.

Sincerely,

Patrick M. Rodey

MSG 92-00023659 PRTY 1 04/27/92 18:11:16 ORIG: LA01 IN= 0013 OUT= 0102
FROM: CINDY, ANCH TO: JNU INFO
TARGET: LSH2 SUBJ: POM PAGE 0001

TO: SENATOR KERTTULA, RODEY, FISCHER
REPRESENTATIVE HAYES

FROM: VI BLACKBURN, PO BOX 4-2511, ANCH. 99509 276-8211 WK

IF THE GOVERNOR VETOES HB 640, PLEASE OVERRIDE FOR THE SAKE OF CHILDREN
AND YOUTH ACTIVITIES.

POUCH v
JUNEAU, ALASKA 99811
(907) 465-3717

March 23, 1982

Mr. Herbert Hope
Alaska Native Brotherhood
PO Box 3739
Anchorage, Alaska 99510

Dear Mr. Hope:

Thank you for the message expressing your interest in House Bill 640, legislation relating to pull tabs and punchboard games.

I believe you will be pleased to know that the Senate Judiciary Committee, of which I am Chairman, passed out House Bill 640 yesterday and it has been referred to Senate Rules for placement on the Senate calendar. I anticipate the bill will come before the full Senate within the next few days.

Thanks again for taking the time to inform me of your interest in this legislation. I support the proposal and am glad you share my concern.

Sincerely,

Patrick M. Rodey

MSG 82-00015745 PRTY 1 03/22/82 17:35:21 ORIG: LA00 IN= 0011 OUT= 0091
FROM: CINDY, ANCH TO: JNU INFO
TARGET: LJH2 SUBJ: POM PAGE 000

TO: SENATOR RODEY

FROM: HERBERT HOPI, ALASKA NATIVE BROTHERHOOD
P.O. BOX 3739
ANCH., 99510 271-1084

RE: PULL TABS AND PUNCHBOARDS

ANY ADDITIONAL REPORTING REQUIREMENTS WOULD BE O.K. MAIN SOURCE OF
INCOME FOR OUR YOUTH SPORT ACTIVITIES AND I'VE GLASS PROGRAM.

SENATOR
PATRICK M. RODEY
3271 MONTECLAIRE COURT
ANCHORAGE, AK 99503



SENATE MAJORITY LEADER
CHAIRMAN
SENATE JUDICIARY COMMITTEE
CHAIRMAN
SENATE SPECIAL COMMITTEE
ON BANKING

ALASKA STATE LEGISLATURE
POUCH V
JUNEAU, ALASKA 99811
(907) 465-3717

March 2, 1982

Ms. Laura Schroeder
City Manager
City of Dillingham
P.O. Box 191
Dillingham, AK 99576

Dear Ms. Schroeder:

Thank you for your letter of February 22, regarding CSHB 640. It is apparent from your letter that these games provide funding for many social services for the citizens of Dillingham.

HB 640 is scheduled to be heard by the Senate Judiciary Committee on Friday, March 5. I can assure you that I will support this legislation and vote for its passage.

Again, thank you for informing me of your concerns.

Kindest regards,

A handwritten signature in cursive script that reads "Pat".

Patrick M. Rodey
Senator

PMR/ds



CITY OF DILLINGHAM

P.O. BOX 191

DILLINGHAM, ALASKA 99576

TELEPHONE (907) 842-5211 or 842-5212

February 22, 1982

Senator Patrick Rodey
Chairman
Judiciary Committee
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Rodey:

This is a letter of support for **CS** for House Bill 640, relating to the sale of pull tabs.

We have a Senior Citizens Program in Dillingham which offers transportation, meals, and information services. Without the revenue from Bingo and pull tabs, we will be hard pressed to continue offering services, especially in light of recent Federal budget cuts,

We urge you to think about the importance of such revenue generating programs. Volunteers work long hours because they know the money is going for the Senior Citizens. We are trying to be as self-supporting as possible.

The faster this bill can be moved out of committee and passed by the Senate, as it was passed by the House, the better it will be.

We will appreciate your committee's attention to the importance of this bill.

Thank you.

Sincerely,

Laura Schroeder
City Manager



CITY OF DILLINGHAM

P.O. BOX 191

DILLINGHAM ALASKA 99576

TELEPHONE (907) 842-5211 or 842-5212

January 29, 1982

Senator Charles H. Parr
Pouch V
Juneau, Alaska 99811

Dear Senator Parr:

Re: Senate Bill 632

The City Council of the City of Dillingham supports continuation of pull tabs. The revenues derived from this source in Dillingham are used for Senior Citizen Program and school projects.

I feel as City Manager that when the council approves an application for a permit it has voter approval.

Our new Senior Citizen opens early March and monies derived from pull tabs are even more necessary.

Sincerely,

Laura M. Schroeder
City Manager

H

B

6

6

8

COMMITTEE REPORT

SENATE

4/27/82

FURTHER: None

Date: May 10, 1982

Mr. President:

The Committee on JUDICIARY has had HB 668

providing the division of fish and wildlife protection, Dept. of Public Safety, access to confidential reports and records of the Dept. of Fish & Game

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 668 same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]
[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

Original sponsors: Sutcliffe and
Fanning

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 SENATE CS FOR HOUSE BILL NO. 668 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act providing the division of fish and wildlife
7 protection, Department of Public Safety, access to
8 confidential reports and records of the Department of
9 Fish and Game related to commercial fishing; and provid-
10 ing for an effective date."

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

12 * Section 1. AS 16.05.815(a)(2) is amended to read:

13 (2) any of its records and reports to the Department of
14 Revenue, to the division of fish and wildlife protection, Department of
15 Public Safety, and to the Commercial Fisheries Entry Commission to
16 assist them in carrying out their statutory responsibilities;

17 * Sec. 2. AS 16.05.815(a)(2) is amended to read:

18 (2) any of its records and reports to the Department of
19 Revenue [, TO THE DIVISION OF FISH AND WILDLIFE PROTECTION, DEPARTMENT
20 OF PUBLIC SAFETY,] and to the Commercial Fisheries Entry Commission to
21 assist them in carrying out their statutory responsibilities;

22 * Sec. 3. Section 1 of this Act takes effect immediately in accordance
23 with AS 01.10.070(c).

24 * Sec. 4. Section 2 of this Act takes effect January 1, 1984.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 5, 1982

The Honorable Eric Sutcliffe
The Honorable Ken Fanning
Chairmen, House Resources Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Eric & Ken
~~Dear Chairmen:~~

House Bill 668, an act providing the division of fish and wildlife protection, Department of Public Safety, access to confidential reports and records of the Department of Fish and Game related to commercial fishing; and providing for an effective date, was introduced and referred to your committee.

It was brought to my attention that the Department of Labor could better enforce the bonding provision of AS 16.10.270-296, art. VI, purchase of fish, if they had access to certain Fish and Game Department records. The Department of Labor suggests amending Section 1 to read as follows:

Section 1. AS 16.05.815(a)(2) is amended to read: any of its records and reports to the Department of Revenue, to the Department of Labor, to the Division of Fish and Wildlife Protection in the Department of Public Safety, and to the Commercial Fisheries Entry Commission to assist them in carrying out their statutory responsibilities.

Thank you for your consideration of this amendment.

Sincerely,

A handwritten signature in cursive script that reads "Keith".

Keith W. Specking
Legislative Assistant
to the Governor



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department Fish and Game	Sponsor (Principal) Sutcliffe & Fanning	Bill Number HB 668
Department Position Support		
Division Director <i>L. C. Chasley</i> for <i>Staver Parrover</i>	Date 1/25/82	Commissioner <i>Ronald O. Skogg</i> Date 1-26-82

GOVERNOR'S OFFICE USE

Comments:

<input type="checkbox"/> Position Noted	By	Date
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SUMMARY

1. a) Related Bills (Similar or Conflicting) None	1. b) Other Agencies Affected by Bill CFEC
2. a) Organizational Support for Bill	2. b) Organizational Opposition to Bill

3. Program Effects of Bill

Would enhance Department of Fish and Game fishery management program.

4. Fiscal Impact: None Fiscal Note Attached

5. Amendments Proposed:

None

6. Comments:

The Department of Fish and Game strongly supports legislation that would allow the Department to release its confidential records to the Department of Public Safety, Division of Fish and Wildlife Protection. Because the Division of Fish and Wildlife Protection is responsible for enforcement of ADF&G regulations, the current statute makes it difficult for them to proceed efficiently with the prosecution of violations. As a result both Departments are burdened with unnecessary costs and delays in handling the information. The Division of Fish and Wildlife Protection was once a part of the Department of Fish and Game and had access to those records. When the Division was formally transferred to the Department of Public Safety the significance of AS 16.05.815 was not taken into account. Now the Division cannot adequately enforce our regulations when evidence for prosecution of violations is based on confidential records of the Department of Fish and Game.

From a management standpoint catch reporting is critical to the prevention of overharvest. Consequently, complete and effective enforcement of reporting requirements is especially important to the fishery manager. The Division of Fish and Wildlife Protection must be allowed to participate in this activity to ensure good compliance with reporting requirements. In addition to allowing the Division access to perform searches for evidence of violations that have been reported to them, the confidential records are also required as evidence for prosecution of other fishery violations.

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

BOARD OF FISHERIES

JAY S. HAMMOND, GOVERNOR

P.O. BOX 3-2000
JUNEAU, ALASKA 99802
PHONE:

January 7, 1982

The Honorable Eric G. Sutcliffe
Representative
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Sutcliffe:

The Alaska board of Fisheries encourages your support of S.B. 47 "An Act relating to reports and records of fishermen, fish, buyers and fish processors; and providing for an effective date."

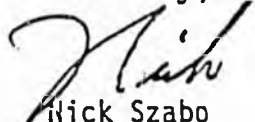
Commercial fisheries laws and their enforcement are an essential element in the management of Alaska's fisheries. The Department of Public Safety enforces fisheries regulations over large and remote areas with attendant logistic problems in patrol coverage, investigation and access to courts.

Surprisingly, the legal authority for State handling of fish ticket records fails to include the Department of Public Safety. In the years since the Division of Fish and Wildlife Protection became a Division of Public Safety, enforcement officials have not had access to fish tickets in the course of routine fisheries investigations. This information is considered confidential and access requires the lengthy process of obtaining a court order.

Currently, this information is routinely available to the Department of Fish and Game, the Commercial Fisheries Entry Commission, and the Department of Revenue. This situation significantly handicaps a State agency in the performance of its statutory responsibility and ultimately impacts the Alaskan public paying for resource management. The proposed legislation would allow the Division of Fish and Wildlife Protection, Department of Public Safety, access to these records.

The Alaska Board of Fisheries urges your support of S. B. 47. Thank you for your consideration.

Sincerely,



Nick Szabo
Chairman
Board of Fisheries



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU.

March 9, 1981

The Honorable Bettye Fahrenkamp
Chairperson
Senate Resources Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Bettye:

Senate Bill 47, An act relating to reports and records of fishermen, fish buyers and fish processors; and providing for an effective date, was introduced at the request of the Governor and referred to your Committee.

After the bill was introduced, it was brought to my attention that the Department of Labor could better enforce the bonding provision of AS 16.10.270-296, art. VI, purchase of fish, if they had access to certain Fish and Game Department records. The Department of Labor suggests amending Section 1 to read as follows:

Section 1. AS 26.05.815(a)(2) is amended to read:
any of its records and reports to the Department of Revenue, to the Department of Labor, to the Division of Fish and Wildlife Protection in the Department of Public Safety, and to the Commercial Fisheries Entry Commission to assist them in carrying out their statutory responsibilities.

Thank you for your consideration of this amendment.

Sincerely,

A handwritten signature in cursive script that reads "Keith".

Keith W. Specking
Legislative Assistant
to the Governor



Official Business

Alaska State Legislature

Senate

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

MINUTES OF THE SENATE JUDICIARY COMMITTEE

OF

MAY 10, 1982

Butrovich Committee Room, State Capitol Juneau, Alaska

Legislation Before Committee:

- HB 678 - "An Act relating to membership in electric and telephone cooperatives."
- HB 668 - "An Act relating to the release of records by the Department of Fish and Game to the Department of Public Safety; and providing for an effective date."
- HJR 77 - Proposing an amendment to the Constitution of the State of Alaska relating to annulment of regulations by the legislature.
- HB 210 - "An Act relating to child custody."
- HB 577 - "An Act repealing provisions relating to justification of the use of force in resisting or interfering with arrest."
- HB 575 - "An Act relating to culpable mental states prescribed as elements of criminal assaults."
- HB 2 - "An Act relating to land; and providing for an effective date."

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:10 P.M. Committee members present were: Senators Rodey, Parr, and Anderson. Senators Bennett and Ray were absent.

010 - Call to order.

023 - Chairman Rodey brought HB 678 before the committee.

043 - *Anderson* moved to pass from committee with individual recommendations. There was no objection.

057 - HB 668 was brought before the committee.

077 - Senator Anderson moved to adopt the Senate committee substitute. There was no objection.

088 - Senator Parr moved to pass out of committee with individual recommendations. There was no objection.

109 - HJR 77 was brought before the committee.

131 - Senator Parr moved to adopt the committee substitute. There was no objection.

138 - Senator Anderson moved to pass out of committee with individual recommendations. There was no objection.

208 - Chairman Rodey announced that the committee will be hearing HB 2 in specific sections, dividing the bill up between University lands, homesteading, and seismographic material.

212 - Teresa Hebert, Exxon attorney, testified giving a language suggestion. She asked that the committee not adopt Sec. 11 & 12 of HB 2 which deal with seismographic material.

445 - Chairman Rodey returned HB 2 to the file.

453 - Chairman Rodey brought HB 210 before the committee.

465 - Representative Rogers testified, stating he would rather have mandatory mediation, but he also wished to avoid a fiscal note on the bill.

679 - Senator Parr moved to adopt the committee substitute. There was no objection.

685 - Senator Anderson moved to pass the bill from committee with individual recommendations. There was no objection.

689 - The next item of business was HB 577.

691 - Representative Anderson testified in favor of this bill.

786 - For the record, Senator Ray entered the meeting.

097 - Senator Parr asked the committee to hold the bill over until the next meeting. There was no objection and the bill was laid on the table.

140 - The last item of business was HB 575.

277 - After discussion, Senator Ray moved to pass HB 575 with individual recommendations.

285 - After a brief discussion, Senator Ray withdrew his motion.

298 - Senator Ray moved to add the provisions in SB 535 on to HB 575 as a committee substitute. There was no objection, and the committee substitute was adopted.

306 - Senator Ray moved to pass the committee substitute with individual recommendations. There was no objection.

314 - The meeting was adjourned at 2:20 P.M.



Official Business

Alaska State Legislature

Senate

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

MINUTES OF THE SENATE JUDICIARY COMMITTEE

OF

MAY 3, 1982

Butrovich Committee Room, State Capitol Juneau, Alaska

Legislation Before Committee:

HB 668 - "An Act relating to the release of records by the Department of Fish and Game to the Department of Public Safety; and providing for an effective date."

HB 47 - "An Act relating to the prohibition against waste of the meat of wild food animals."

HB 74 - "An Act relating to the rights of debtors and creditors."

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:35 P.M. Committee members present were: Senators Rodey, Ray, Anderson, and Parr. Senator Bennett was absent.

003 - Call to order.

008 - Chairman Rodey brought HB 668 before the committee.

086 - Bob Stickles, Fish & Wildlife, testified in favor of HB 668.

191 - Roger Painter, representing United Fisherman of Alaska, testified in favor of this legislation also. He stated that the January 1, 1984 effective date does not leave time for positive action by the legislature.

240 - Senator Rodey suggested changing the effective date to July 1, 1984. There was no objection.

265 - Chairman Rodey laid HB 668 on the table.

276 - The next item of business was HB 47.

287 - Representative Grussendorf, representing himself, testified in favor of HB 47. He stated that something definitely has to be done to avoid the waste of game meat that is taking place.

501 - Representative Fanning, representing himself, testified in favor also.

- 762 - After discussion, Chairman Rodey directed Mr. Bruce to have language drafted to meet the committee's concerns.
- 856 - Bob Hinman, Department of Fish & Game, testified in favor of HB 47.
- 142 - Bob Stickles, Fish & Wildlife, testified in favor of this legislation also.
- 162 - Chairman Rodey laid HB 47 on the table.
- 170 - The last item on the agenda was HB 74.
- 195 - Dickerson Regan, Code Revision Commission, and Mr. Baldwin, Code Revision Commission, testified in favor of this bill.
- 457 - Marilla Gemmer, Department of Revenue, testified in favor of HB 74. She referred to the amendments in the memo which she distributed. See attached.
- 474 - Chris Miller, Department of Labor, testified in favor and referenced Judy Knights letter to Senator Mulcahy. See attached.
- 490 - After discussion, Chairman Rodey left HB 74 with committee members for their review.
- 503 - The meeting was adjourned at 2:55 P.M.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. HB 668
 Title Act providing FWP access to confidential reports/records of Dept. of F&G.
 Requested by House Resources Date 2-5-82

II. FISCAL DETAIL
 Agency Affected Department of Public Safety
 Program Category Affected NR MEC
 BRU, Program, Or Subprogram(s) Affected Fish & Wildlife Protection
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

No Fiscal Impact

IV. DATE 2-5-82 PREPARED BY LIC Don Tetzlaff
 AGENCY Department of Public Safety
 PHONE 269-5534
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named) Mika
 33-001 (Rev. 12/81)

SP11 2998 16.54 JPO5 0120 16.54 04/26/82

ATTN: LT. SEIBEL/FMP/JUNO 4/26/82

FOR REPRESENTATIVE SUTCLIFFE RE: HB 686
SB 47

THE WORDING ON THE CURRENT VERSION OF SB 47 PROHIBITS THE DIVISION FROM VIEWING FISH TICKETS WITHOUT A COURT ORDER, ALTHOUGH THE PURPOSE OF THE BILL IS TO GIVE US ACCESS.

IT IS VIRTUALLY IMPOSSIBLE TO LOOK AT THE TOP HALF OF THE FISH TICKET AND NOT ALSO TAKE IN THE BOTTOM HALF, WHICH ACCORDING TO CSSB 47 IS NOT AVAILABLE TO US.

HAVING ACCESS TO THE COMPLETE FISH TICKET IS ABSOLUTELY ESSENTIAL IF THE DIVISION IS TO ENFORCE LIMITED ENTRY. ACCESS TO FISH TICKETS WOULD:
(1) ALLOW US TO IDENTIFY FISHERMEN WHO WERE NOT PERMIT HOLDERS, (2) ALLOW US TO DETERMINE WHO WAS PURCHASING FISH FROM NON-PERMIT HOLDERS, (3) INCREASE THE APPREHENSION OF ILLEGAL FISHERMEN SUBSTANTIALLY.

THIS YEARS LEGISLATIVE AUDIT ON CFEC STATES: "WE BELIEVE THAT THE MOST EFFICIENT MEANS OF ENFORCING A LIMITED FISHERY WOULD BE TO ALLOW F&WP ACCESS TO FISH TICKETS AND FISH TICKET INFORMATION." HB 686 WILL GIVE US THIS TIMELY ACCESS AND WE SUPPORT THIS VERSION OF THE BILL.

COLONEL STICKLES/FMP--DIRECTOR/ANCHORAGE

PLEASE ACKNOWLEDGE RECEIPT OF THIS MESSAGE A.S.A.P...RUTH/SP11

JPO5 0088 16.58 JPO5 0122 16.59 04/26/82

ALL INFORMATION



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department Public Safety	Sponsor (Principal) Sutcliffe	Bill Number HB 668
Department Position Support		
Division Director Colonel Robert J. Stickles <i>RJS</i>	Date 1/22/82	Commissioner's Signature <i>W. R. Nix</i> Commissioner William R. Nix
		Date 1-28-82

GOVERNOR'S OFFICE USE

Comments:

Position Noted By _____ Date _____

SUMMARY

1. a) Related Bills (Similar or Conflicting) SB 47	1. b) Other Agencies Affected by Bill Commercial Fisheries Entry Commission Alaska Department of Fish & Game
2. a) Organizational Support for Bill Board of Fisheries Alaska Department of Fish & Game Local Advisory Groups Legislative Audit (See audit on Commercial Fisheries Entry Commission)	2. b) Organizational Opposition to Bill Unknown

3. Program Effects of Bill

Would allow the Division of Fish & Wildlife Protection access to fish tickets and fish ticket data without a court order. If this bill passes the Division will have the ability to actively enforce limited entry.

4. Fiscal Impact: None Fiscal Note Attached

5. Amendments Proposed:

None

6. Comments:

Access to fish tickets would allow the Division to:

1. Identify fishermen who were not permit holders - **FAKE CARD**
2. Determine which processors were purchasing fish from non-permit holders - **FAKE CARD**
3. Use the fish ticket as evidence in court

MEMORANDUM

State of Alaska

TO: Legislative File
Paul Conger
Department of Public Safety
Juneau

DATE: February 10, 1982

FILE NO:

TELEPHONE NO:

FROM: Lt. Colonel Don Tetzlaff
Deputy Director
Fish & Wildlife Protection
Anchorage

SUBJECT: HB 668

On February 4, 1982, 1:00 p.m., an informal discussion was held with the House Resource Sub-Committee in reference to the revision of Title 16 (access to fish ticket).

Present were Sutcliffe, Grussendorf, Vaska, three legislative aides and myself.

Comments voiced were pretty much as stated on the Bill Analysis prepared by the Division as to why we wanted or needed access. Plus I did go into a little more detail as to how the Division currently obtains access. Show probable cause (pc), complete affidavit, obtain search warrant.

My response to how many times we had the need to obtain search warrants last year was approximately 15 to 20.

My response to Sutcliffe's question of whether or not receiving copies of all fish tickets would be beneficial to the Division, was yes, but only if receiving the copies were timely, legible and practical to do so. And stated if just access was approved copies would not be necessary.

Vaska stated that he felt allowing another agency access to fish tickets would increase the possibility of mis-use of the information on fish tickets. I assured him our responsibility as to the use of the information on the ticket being they are classified as confidential would be the same as ADF&G and LE. Officers that mis-used any information would be subject to reprimand, dismissal and/or possibly criminal charges filed against them.

My response was negative to the question of whether or not access to fish tickets would mean an increase in budget requests.

My final comment was that it seemed a little ridiculous, at least to me, that the agency primarily responsible to enforce the fish and game code and limited entry regulations was not allowed immediate access to information that would assist us in the enforcement of those regulations. And that if this committee wanted to assist this Division in doing a better job for the people and the resource we would urge the passing of HB 668.

DT, rt

cc: Colonel Stickle
Lt. Mills

H

B

6

7

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COMMITTEE REPORT

SENATE

4/12/82

FURTHER: None

Date: May 10, 1982

Mr. President:

The Committee on JUDICIARY has had HB 678 membership in electric and telephone cooperatives

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 678 same title
 new title
- and recommends to pass
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

Robt A. Anderson Jr.

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

CHAIRMAN



Official Business

Alaska State Legislature

Senate

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

MINUTES OF THE SENATE JUDICIARY COMMITTEE

OF

MAY 10, 1982

Butrovic: Committee Room, State Capitol Juneau, Alaska

Legislation Before Committee:

- HB 678 - "An Act relating to membership in electric and telephone cooperatives."
- HB 668 - "An Act relating to the release of records by the Department of Fish and Game to the Department of Public Safety; and providing for an effective date."
- HJR 77 - Proposing an amendment to the Constitution of the State of Alaska relating to annulment of regulations by the legislature.
- HB 210 - "An Act relating to child custody."
- HB 577 - "An Act repealing provisions relating to justification of the use of force in resisting or interfering with arrest."
- HB 575 - "An Act relating to culpable mental states prescribed as elements of criminal assaults."
- HB 2 - "An Act relating to land; and providing for an effective date."

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:10 P.M. Committee members present were: Senators Rodey, Parr, and Anderson. Senators Bennett and Ray were absent.

010 - Call to order.

023 - Chairman Rodey brought HB 678 before the committee.

043 - ^{Anderson} moved to pass from committee with individual recommendations. There was no objection.

057 - HB 668 was brought before the committee.

077 - Senator Anderson moved to adopt the Senate committee substitute. There was no objection.

088 - Senator Parr moved to pass out of committee with individual recommendations. There was no objection.

109 - HJR 77 was brought before the committee.

131 - Senator Parr moved to adopt the committee substitute. There was no objection.

138 - Senator Anderson moved to pass out of committee with individual recommendations. There was no objection.

208 - Chairman Rodey announced that the committee will be hearing HB 2 in specific sections, dividing the bill up between University lands, homesteading, and seismographic material.

212 - Teresa Hebert, Exxon attorney, testified giving a language suggestion. She asked that the committee not adopt Sec. 11 & 12 of HB 2 which deal with seismographic material.

445 - Chairman Rodey returned HB 2 to the file.

453 - Chairman Rodey brought HB 210 before the committee.

465 - Representative Rogers testified, stating he would rather have mandatory mediation, but he also wished to avoid a fiscal note on the bill.

679 - Senator Parr moved to adopt the committee substitute. There was no objection.

685 - Senator Anderson moved to pass the bill from committee with individual recommendations. There was no objection.

689 - The next item of business was HB 577.

691 - Representative Anderson testified in favor of this bill.

786 - For the record, Senator Ray entered the meeting.

097 - Senator Parr asked the committee to hold the bill over until the next meeting. There was no objection and the bill was laid on the table.

140 - The last item of business was HB 575.

277 - After discussion, Senator Ray moved to pass HB 575 with individual recommendations.

285 - After a brief discussion, Senator Ray withdrew his motion.

298 - Senator Ray moved to add the provisions in SB 535 on to HB 575 as a committee substitute. There was no objection, and the committee substitute was adopted.

306 - Senator Ray moved to pass the committee substitute with individual recommendations. There was no objection.

314 - The meeting was adjourned at 2:20 P.M.



Official Business

Alaska State Legislature

Senate

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

MINUTES OF THE SENATE JUDICIARY COMMITTEE

OF

APRIL 29, 1982

Butrovich Committee Room, State Capitol Juneau, Alaska

Legislation Before Committee:

HB 184 - "An Act authorizing convening special sessions of the legislature at any location in the state."

HB 621 - "An Act providing for the issuance of certificates of birth for persons born outside the United States and adopted by Alaska residents."

HB 678 - "An Act relating to membership in electric and telephone cooperatives."

HB 339 - "An Act relating to the judicial review of administrative regulations."

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 5:10 P.M. Committee members present were: Senators Anderson, Parr, and Rodey. Senators Bennett and Ray were absent.

003 - Call to order.

010 - Mr. Bruce distributed HB 184, Rep. Martin's bill.

019 - Senator Anderson moved to pass HB 184. There was no objection.

053 - Chairman Rodey brought HB 621 before the committee.

060 - Joan Brooks, Vital Statistics, testified in favor of HB 621.

192 - Jan Ivey, Juneau Adoptive Parents Group, testified in favor of this legislation also.

267 - Chairman Rodey laid HB 621 on the table.

276 - The next item on the agenda was HB 678.

290 - After brief discussion, Chairman Rodey laid HB 678 on the table.

293 - The last item of business was HB 339.

297 - Mr. Art Peterson, Department of Law, testified, stating that if the burden of proof agreement were taken out of , then the Department of Law would be in agreement with this bill.

348 - Diane Colvin, Department of Law, testified, explaining the committee substitute.

709 - After brief discussion, Chairman Rodey laid HB 339 on the table.

712 - Chairman Rodey adjourned the meeting at 5:50 P.M.



Alaska State Legislature

Senate

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

MINUTES OF THE SENATE JUDICIARY COMMITTEE

OF

APRIL 26, 1981

Butrovich Committee Room, State Capitol Juneau, Alaska

Legislation Before Committee:

- SJR 68 - Proposing an amendment to the Constitution of the State of Alaska providing that a legislator who is convicted of a felony forfeits legislative office.
- HB 678 - "An Act relating to membership in electric and telephone cooperatives."
- HB 849 - "An Act relating to electric and telephone cooperatives."
- HB 339 - "An Act relating to the judicial review of administrative regulations."

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:05 P.M. Committee members present were: Senators Rodey, Parr, and Anderson. Senators Bennett and Ray were absent.

003 - Call to order.

010 - Chairman Rodey brought HB 678 before the committee.

025 - Mr. Hutchins testified in support of the bill.

135 - SENATOR RAY ENTERED THE ROOM

147 - After brief discussion, Chairman Rodey laid HB 678 on the table.

157 - Chairman Rodey next brought HB 849 before the committee.

160 - Mr. Hutchins again testified in support of this legislation and offered the following amendments: On page 2, Line 5, add "or special" between "regular" and "meeting". On Page 2, Line 24, add "and for a valid corporate purpose" between "time" and ",". Mr. Hutchins also suggested adding a new subparagraph (3) under Sec. 10.25.175., Paragraph (c), to protect the attorney, client privilege.

166 - Senator Ray offered the following amendments: On Page 2, Line 10 add "formal" between the words "No" and "action". On Page 2, Line 11,

169 - Senator Parr offered the following amendment: On Page 2, Line 25 delete [except the names, addresses and accounts of the members].

771 - After discussion of the amendments, Chairman Rodey laid HB 849 on the table and directed staff to prepare a committee substitute.

779 - The next item on the calendar was HB 339.

780 - Representative Metcalfe testifies, giving the intent of his bill.

SIDE TWO

989 - Mr. Art Peterson, Assistant Attorney General, testified against HB 339, stating that this legislation would only give more power to the court system instead of the Legislature. Mr. Peterson offered a committee substitute for committee consideration.

244 - Chairman directed Senator Anderson to work as a subcommittee with Mr. Bruce to draft a committee substitute.

340 - Phil Holsforth, testified in favor of HB 339.

410 - Chairman Rodey put HB 339 in subcommittee.

412 - Next Chairman Rodey brought SJR 68 before committee.

518 - After brief discussion, Chairman Rodey laid SJR 68 on the table.

520 - The committee directed Chairman Rodey to return SB 861 and SB 175 to the State Affairs Committee for further work.

525 - Chairman Rodey adjourned the meeting at 2:45 P.M.

February 10, 1982

ALASKA PUBLIC UTILITIES COMMISSION

Comments on Senate Bill No. 701 and House Bill No. 678.

The Commission has been informed by ARECA that the purpose of this legislation is to allow fewer than five members to form a generation and transmission cooperative. The Commission is supportive of this intent.



Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

SB 701:

A generation and transmission cooperative (G&T) is a cooperative which is owned by and supplies wholesale power to other cooperatives which in turn distribute electricity to retail consumers. A G&T could be formed under AS 10.25 as it is except that it would have to be organized by at least 5 member cooperatives as incorporators. The effect of SB 701 is to permit a G&T cooperative to be organized by any number of distribution cooperatives. Even one distribution coop would be able to form a G&T which would then own the generation and transmission facilities to serve that one coop.

Background: In the lower 48, electric cooperatives joined together in groups many years ago to organize G&T's. The G&T's either buy or generate electricity which is then sold to the distribution coops at wholesale. This has not happened in Alaska because most of the coops here are physically separated from each other, and each isolated utility has to generate its own electricity.

Regulations by the Federal Rural Electrification Administration (REA) make it desirable in many cases for generation and transmission facilities to be owned by a G&T even if the G&T only serves one distribution coop. REA requires a distribution coop to maintain a Times Interest Earnings Ratio (TIER) of 1.5. This means that the net earning operating margin has to be at least half as much as the coop pays for interest on its long term debt. A G&T is only required to have a TIER of 1.0, or in other words is only required to break even.

The effect of these REA regulations is to permit lower electric rates to consumers if the distribution coop buys its wholesale power from a G&T instead of generating its own electricity. This really becomes important when the G&T facilities are capital intensive— as in a coal fired or hydroelectric generating plant or a long transmission line.

Conclusion: SB 701 is needed by the electric coops to help keep their electric rates as low as possible.

H B

726

SENATE AMENDMENT

By Judiciary Committee

To: _____ SENATE BILL No. _____
To: Committee Substitute HOUSE BILL No. 726(L & C)

PAGE: 1 LINE: 18

Delete the word "employee" and insert "executive officer" in its place.

COMMITTEE REPORT

SENATE

5/11/82

FURTHER: None

Date:

May 18, 1982

Mr. President:

The Committee on JUDICIARY has had CSHB 726(L&C)

providing an exemption from the Alaska Employment Security Act for certain employees of certain corporations

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation *WITH ATTACHED AMENDMENT*
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Robert A. Anderson, V. Rep.

CHAIRMAN

Original sponsors: Barnes, Hayes
and Clocksin

Offered: 3/8/82
Referred: Rules

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

2

CS FOR HOUSE BILL NO. 726 (L&C)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

TWELFTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act providing an exemption from the Alaska Employ-
ment Security Act for certain employees of certain
corporations."

7

8

9

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

10

* Section 1. AS 23.20.526 is amended by adding a new paragraph to read:

11

(21) service performed for a corporation by an employee of the

12

corporation if

13

(A) the corporation is incorporated under AS 10.05;

14

(B) the corporation is not a government corporation;

15

(C) the employee is an executive officer of the corpora-

16

tion who directly or indirectly owns 25 percent or more of the

17

voting securities of the corporation; and

18

(D) [the employee] agrees that the services ~~not be~~ ^{ARE NOT} "employ-
ment" under this paragraph.

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AUTHORIZES THAT

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23

THE EXECUTIVE OFFICER. IF

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Official Business

Alaska State Legislature

Senate

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

MINUTES OF THE SENATE JUDICIARY COMMITTEE

OF

MAY 17, 1982

Butrovich Committee Room, State Capitol Juneau, Alaska

Legislation Before Committee:

CSHB 726 - "An Act providing an exemption from the Alaska Employment Security Act for certain employees of certain corporations."

HJR 41 - Proposing an amendment to the Constitution of the State of Alaska defining the term "appropriation".

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:30 P.M. Committee members present were: Senators Rodey, Parr, Ray, and Anderson. Senator Bennett was absent.

002 - Call to order.

008 - Chairman Rodey brought CSHB 726 before the committee.

012 - Judy Knight, Department of Labor, testified stating the Department did not have a problem with the bill as written.

019 - Senator Ray states his opposition to the bill.

442 - Bill Cook, of Representative Barnes' office, testified in favor of CSHB 726.

495 - Judy Knight suggested adding "executive officer" on Page 1, Line 18, instead of "the employee".

518 - Senator Ray moved to adopt this amendment. There was no objection.

584 - Senator Ray moved to pass CSHB 726 with individual recommendations. There was no objection.

590 - Chairman Rodey brought HJR 41 before the committee.

594 - Representative Beirne testified in favor of this bill.

696 - After brief discussion, Senator Parr moved to pass HJR 41 with individual recommendations. There was no objection.

700 - Senator Rodey brought the Comparative Fault Act before the committee for possible introduction.

710 - Senator Ray moved to introduce the Comparative Fault Act and to put it into subcommittee. There was no objection.

725 - Chairman Rodey adjourned the meeting at 2:20 P.M.

Limited Entry Permit Broker



Services for Commercial Fishermen

THE ALASKA EXCHANGE

P.O. BOX 2593

JUNEAU, ALASKA 99803

Phone: (907) 789-2779

April 20, 1982

Senator Mulcahy, Chairman
Senate Labor and Commerce Committee
Pouch V
Juneau, AK 99811

Re: CSHB 726

Dear Senator Mulcahy:

In regard to the above-referenced bill, I am submitting the following:

I began my business, The Alaska Exchange, in January of 1979. In 1980, I became incorporated, mainly for liability purposes.

In incorporating, I became the major stockholder and the principal officer with an ownership of seventy percent of the corporation. Each of my five children became owners of six percent each of the corporation.

With incorporation came a set of rules and regulations with which to adhere.

Upon becoming incorporated, the corporation paid to me, when possible, a salary, and withheld and paid Federal income taxes, FICA and an unemployment contribution to the State of Alaska on my wages, as well as on any other employee's wages of the corporation.

Although I don't particularly appreciate paying the Federal income taxes and FICA taxes, I resent even more having to pay the State unemployment contribution tax. I really feel it is an unjust and unfair tax in my particular situation, for the following reasons:

1. I am the only employee of The Alaska Exchange, Inc., with the exception that, on rare occasions, the corporation hires and pays one of my children to work for the company.
2. Being the sole employee of the corporation, I am in between "a rock and a hard spot," so to speak, regarding having to pay State unemployment taxes on my wages. To put it more adequately, I'm in a "darned-if-you-do-and-darned-if-you-don't" type of situation.

April 20, 1982

For instance: In 1980, when I became incorporated, the corporation made a fairly good amount of money, and contributed, as per regulations, to the State unemployment taxes on wages. In 1981, the corporation did very poorly, and paid to me only two pay checks--one in January, and one in October. In 1982, the corporation is doing better financially than it did in 1981, but not nearly as well as it did in 1980.

The problem is, that during the lean months, when the corporation was not able to pay me a salary, I could not apply for unemployment wages to which I and the corporation had contributed. Even though I was working, but not paid, I was still considered an employee. If I had filed for unemployment wages, I would have had to accept a position of hire if it was offered, and would have been unable to collect any unemployment wages.

My complaint is that I am a sole employee of my own corporation in which I hold the majority of the stock, and I must contribute to the State unemployment system out of any wages paid to myself, but I can never, as long as I work for my own corporation, even if unsalaried, collect unemployment wages. I am, basically, paying hard-earned dollars into something that will never benefit me.

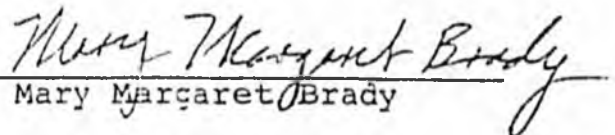
I feel that I am being taxed unfairly by the State unemployment contribution system. I think there must be others in a situation similar to mine that are also being unfairly taxed by the present law.

I would be happy to present additional testimony if it is needed.

Very truly yours,

THE ALASKA EXCHANGE, INC.

By


Mary Margaret Brady

GARY JENKINS PROPOSED
AMENDMENT;

PROPOSED

SCS FOR CS FOR HOUSE BILL NO. 726 (L&C)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE - SECOND SESSION
A BILL

For an Act entitled: "An Act providing an exemption from the Alaska Employment Security Act for certain employees of certain corporations."

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

* Section 1. AS 23.20.526 is amended by adding a new paragraph to read:

- (21) service performed for a corporation by an employee of the corporation if
- (A) the corporation is incorporated under AS 10.05;
 - (B) the corporation is not a government corporation;
 - (C) the employee is an executive officer of the corporation; and
 - (D) the employee agrees that the services not be "employment" under this paragraph.

Bill No. Committee Substitute for House Bill 725 (L & C) Date April 7, 1982

Title "An Act providing an exemption from the Alaska Employment Security Act for certain employees of certain corporations."

Contact: A. G. Zillis
465-2712
Judy Knight
465-2700

AZ
J Knight

Committee substitute for House Bill 726 exempts certain employees of Alaskan corporations from the Alaska Employment Security Act (unemployment insurance). For this exemption, the employee must be an executive officer of the corporation who directly or indirectly owns 25 percent or more of the voting securities of the corporation, and further requires the agreement of the employee.

Although the department cannot ascertain how many corporations and employees may elect exemption under this provision, we feel it will be minimal. The provisions of this bill would not have a measurable effect on the administration of the unemployment insurance program nor employer rates for purposes of the Unemployment Insurance Trust Fund.

The Department of Labor has no objection to this exemption.

The employer covered is determined by the number of days or weeks a worker is employed or the amount of the employer's quarterly or yearly payroll. Originally, most State laws covered only the employers who, within a year, had eight or more workers in each of 20 weeks. This was due largely to the coverage provisions of the FUTA. As the States gained experience in administering unemployment insurance and as a result of the 1954 and 1970 amendments to the FUTA smaller firms have been brought under the acts in all States.

Thirty-one States have adopted the Federal definition of employer; i.e., a quarterly payroll of \$1,500 in the calendar year or preceding calendar year or one worker in 20 weeks. Eight States provide the broadest possible coverage by including all employers who have any covered service in their employ. The other States have requirements of less than 20 weeks or payrolls other than \$1,500 in a calendar quarter (Table 100).

110 COVERAGE BY REASON OF A FEDERAL REQUIREMENT

The 1970 and 1976 amendments to the FUTA added to the types of services which, as a condition for approval of the State law, must be covered under the State law. ~~This Federal requirement for the extension of coverage differs from an extension of coverage by reason of Federal coverage. If a State law fails to cover services that are covered under the FUTA, the employer must pay the full Federal tax and the employee may get no benefits based on such services, but certification of the State law is unaffected.~~ If, however, a State law fails to cover services which the Federal law requires the State to cover, or excludes services from coverage, the State law would not be approved for purposes of tax credits against the Federal tax and no employer in the State would receive a tax credit for State contributions.

110.01 Coverage of nonprofit organizations.--Service for nonprofit organizations continues to be excluded from coverage under the FUTA, but some service is required to be covered under the State laws. Coverage under State laws is required for service for nonprofit organizations which employ four or more workers in 20 weeks, are organizations which are described in section 501 (c) (3) of the Federal Internal Revenue Code of 1954, and which are exempt from Federal income tax under section 501 (a) of the code. However, a number of States have covered nonprofit organizations under the regular coverage provisions. The State law is required to give each nonprofit organization that must be covered an option on financing benefits. Such nonprofit organizations must be given the right either to reimburse the State for benefits paid or pay contributions under the State law's regular tax provisions.

110.02 Coverage of governmental entities.--The Federal law requires that States cover most services for the State and its political subdivisions. When service is performed for an instrumentality owned by more than one State or political subdivision, coverage is determined based on the location of the work. See section 120. States are required to pay compensation based on service with a governmental entity or a nonprofit organization under the same terms and conditions as for other covered services. There are, however, special provisions applicable to school personnel between school terms. See section 450.03 for a discussion of these special provisions. The States are required to provide local governmental entities a choice of financing benefits either through reimbursement, contributions, or any other method deemed feasible by the State (Table 209).

Since the Federal law includes no size-of-firm restrictions for governmental entities as it does for nonprofit organizations, all governmental entities, regardless of size, must be covered. There are, however, certain types of services which the

*Comparison of State Unemployment Insurance Laws
U.S. Dept of Labor, Manpower Adm.*

in the employ of a hospital by an individual who has completed a 4 years' course in a medical school chartered or approved pursuant to State law;

(14) service performed by an individual for a person as an insurance agent or as an insurance solicitor, if all such service performed by such individual for such person is performed for remuneration solely by way of commission;

(15)(A) service performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(B) service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back;

(16) service performed in the employ of an international organization;

(17) service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life (including service performed by any such individual as an ordinary incident to any such activity), except—

(A) service performed in connection with the catching or taking of salmon or halibut, for commercial purposes, and

(B) service performed on or in connection with a vessel of more than 10 net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States); or

(18) service which is performed by a nonresident alien individual for the period he is temporarily present in the United States as a nonimmigrant under subparagraph (F) or (J) of section 101(a)(15) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101(a)(15)(F) or (J)), and which is performed to carry out the purpose specified in subparagraph (F) or (J), as the case may be.

(d) Included and excluded service

For purposes of this chapter, if the services performed during one-half or more of any pay period by an employee for the person employing him constitute employment, all the services of such employee for such period shall be deemed to be employment; but if the services performed during more than one-half of any such pay period by an employee for the person employing him do not constitute employment, then none of the services of such employee for such period shall be deemed to be employment. As used in this subsection, the term "pay period" means a period (of not more than 31

consecutive days) for which a payment of remuneration is ordinarily made to the employee by the person employing him. This subsection shall not be applicable with respect to services performed in a pay period by an employee for the person employing him, where any of such service is excepted by subsection (c)(9).

(e) State agency

For purposes of this chapter, the term "State agency" means any State officer, board, or other authority, designated under a State law to administer the unemployment fund in such State.

(f) Unemployment fund

For purposes of this chapter, the term "unemployment fund" means a special fund, established under a State law and administered by a State agency, for the payment of compensation. Any sums standing to the account of the State agency in the Unemployment Trust Fund established by section 904 of the Social Security Act, as amended (42 U.S.C. 1104), shall be deemed to be a part of the unemployment fund of the State, and no sums paid out of the Unemployment Trust Fund to such State agency shall cease to be a part of the unemployment fund of the State until expended by such State agency. An unemployment fund shall be deemed to be maintained during a taxable year only if throughout such year, or such portion of the year as the unemployment fund was in existence, no part of the moneys of such fund was expended for any purpose other than the payment of compensation (exclusive of expenses of administration) and for refunds of sums erroneously paid into such fund and refunds paid in accordance with the provisions of section 3305(d); except that—

(1) an amount equal to the amount of employee payments into the unemployment fund of a State may be used in the payment of cash benefits to individuals with respect to their disability, exclusive of expenses of administration; and

(2) the amounts specified by section 903(c)(2) of the Social Security Act may, subject to the conditions prescribed in such section, be used for expenses incurred by the State for administration of its unemployment compensation law and public employment offices.

(g) Contributions

For purposes of this chapter, the term "contributions" means payment required by a State law to be made into an unemployment fund by any person on account of having individuals in his employ, to the extent that such payments are made by him without being deducted or deductible from the remuneration of individuals in his employ.

(h) Compensation

For purposes of this chapter, the term "compensation" means cash benefits payable to individuals with respect to their unemployment.

(i) Employee

For purposes of this chapter, the term "employee" has the meaning assigned to such term by section 3121(d), except that subparagraphs (B) and (C) of paragraph (3) shall not apply.

*was
1103(c)(2)*

*see
attached*

see next page

OVERVIEW OF HB 726

House bill 726 is very straight forward and is intended to allow those persons who are employed by a corporation and who also have the power to vote 25% or more of any class of voting securities of the corporation, to choose to exempt themselves from paying State Unemployment security ~~tax~~ *insurance*

Sole proprietors already enjoy such an exemption, and I believe that those individuals who fall within the criteria laid out in this bill should also enjoy such an exemption.

The total financial advantage for those persons who exercise this option in terms of total dollars is not substantial. (See page 2 House Research report).

The main advantage is that, under this bill, each eligible person may now choose to either use the money for inclusion in the state program or for other purposes better suited to their needs.

The 25% figure in this bill is based, as a matter of personal opinion, on that point at which a corporate shareholder should enjoy the same privileges as a sole proprietor. Similar legislation in other states (see page 1 House Research report) is based on different definitions with Colorado's law being very close in concept to this bill. By specifically calling out 25%, there would be no question as to who was or was not eligible for exemption.

Bill No. Committee Substitute for House Bill 726 (L & C) Date April 7, 1982

Title "An Act providing an exemption from the Alaska Employment Security Act for certain employees of certain corporations."

Contact: A. G. Zillig
465-2712
Judy Knight
465-2700

By Knight

Committee substitute for House Bill 726 exempts certain employees of Alaskan corporations from the Alaska Employment Security Act (unemployment insurance). For this exemption, the employee must be an executive officer of the corporation who directly or indirectly owns 25 percent or more of the voting securities of the corporation, and further requires the agreement of the employee.

Although the department cannot ascertain how many corporations and employees may elect exemption under this provision, we feel it will be minimal. The provisions of this bill would not have a measurable effect on the administration of the unemployment insurance program nor employer rates for purposes of the Unemployment Insurance Trust Fund.

The Department of Labor has no objection to this exemption.



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

January 22, 1982

MEMORANDUM

TO: Representative Rainona Barnes

FROM: David Teal
Research Staff

RE: Unemployment Insurance
Research Request Number 82-6

Dave Stancliffe requested this agency to examine the possibility of exempting shareholder/employees of a corporation from State unemployment insurance taxes. Provisions which currently accomplish this intent in several states are briefly described below.

California Sole stockholders of corporations are exempt from State unemployment insurance taxes.

Colorado Corporate officers with a majority or controlling interest in the corporation are exempt from State unemployment insurance taxes.

Iowa Shareholder/employees are exempt from State unemployment insurance taxes only if the employer is not subject to the Federal Unemployment Tax Act (FUTA). Attachments to this memorandum define employee for the purpose of FUTA coverage.

Minnesota Shareholder/employees of family agricultural corporations are exempt from State unemployment insurance taxes.

Delaware Officers of corporations performing civil or social functions are exempt from State unemployment insurance taxes if the officers work on a part-time basis and are paid no more than \$75 per week.

Washington Corporate officers may elect exemption from State unemployment insurance taxes if the corporation is not a non-profit or government corporation.

Representative Barnes
 January 22, 1982
 page 2

Primary differences among State laws concern the requirements for exemption and whether the exemption is mandatory or optional. Corporate officer status and/or controlling, majority, or sole interest in the corporation are minimum qualifications in most states. The degree of corporate control required for exemption was not specified for Iowa.

In all cases, the exemption is accompanied by loss of FUTA tax credits on services performed by those exempted from State taxes. That is, if the exemption were in effect, the federal unemployment insurance tax rate would increase from a rate of .7 percent to a rate of 3.4 percent on the first \$6,000 of earnings. Assuming annual earnings exceed Alaska's taxable wage base of \$14,600, exemption would provide a net gain to the shareholder/employee of \$118 to \$650 per year, depending on the State tax rate assigned. The table below describes the effects of exemption on employers with minimum and maximum tax rates assigned by the Alaska Department of Labor.

Effect of Exemption from State Unemployment Insurance Taxes
 Alaska 1982

	minimum tax rate (1.22%)		maximum tax rate (4.86%)	
	current law	with exemption	current law	with exemption
FUTA tax	\$ 42	\$204	\$ 42	\$204
employer share	178	0	710	0
employee share	<u>102</u>	<u>0</u>	<u>102</u>	<u>0</u>
TOTAL	\$322	\$204	\$854	\$204
net change		\$118		\$650

As you are aware, unemployment insurance is an extremely complex subject. If the terminology or law require further explanation, I will be happy to offer my assistance.

Attachments

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS for House Bill No. 726 (L & C)

Title "An Act providing for an exemption from the Alaska Employment Security . . ."

Requested by Senate Labor & Commerce Date 4/5/82

II. FISCAL DETAIL

Agency Affected Labor

Program Category Affected Social Services

BRU, Program, or Subprogram(s) Affected Employment Security

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

No fiscal impact.

IV. DATE 4/5/82

PREPARED BY Nice Bus, Finance Officer

AGENCY Labor

PHONE 465-2720

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

H B

8 4 8

COMMITTEE REPORT

SENATE

4/19/82

FURTHER: Finance

Date: May 12, 1982

Mr. President:

The Committee on JUDICIARY has had HB 848

reenacting the law relating to the marital deduction in testamentary transfers

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass INDIVIDUALS do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Mr. A. Anderson / No Rec

CHAIRMAN

ED 11550

For minutes of Senate Judiciary Committee,
April 12, 1982

See Sen. Jud. '82 file on HB2.

JH 4/82



Alaska State Legislature

Senate

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

MINUTES OF THE SENATE JUDICIARY COMMITTEE

OF

APRIL 28, 1982

Butrovich Committee Room, State Capitol Juneau, Alaska

Legislation Before Committee:

- HJR 77 - Proposing an amendment to the Constitution of the State of Alaska relating to annulment of regulations by the legislature.
- HB 848 - "An Act reenacting the law relating to the marital deduction in testamentary transfers; and providing for an effective date."
- SJR 61 - Proposing amendments to the Constitution of the State of Alaska relating to appropriations and the retention, investment and expenditure of certain state revenues; and superseding the amendments proposed by Legislative Resolve No. 1, First Special Session of the Twelfth Legislature (FSS FCCS SJR 4).

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:40 P.M. Committee members present were: Senators Rodey, Ray, Parr, and Anderson. Senator Bennett was absent.

003 - Call to order.

008 - Chairman Rodey brought HJR 77 before the committee.

019 - Phil Holdsforth, representing Miners Assoc., & Coal Operators, testified in favor of HJR 77.

045 - Art Peterson, Assistant Attorney General, testified in opposition of HJR 77.

415 - Mr. Peterson proposed the following amendments: On Page 1, Line 15 delete "on" and insert "30 days after". On Page 1, Line 16, after the word "by" insert "a 2/3 vote of each house". On Page 1, Line 17 after "." add the following sentences: Every such resolution must be restricted to a single subject. The vote on such resolutions shall be recorded.

565 - Representative Malone testified in favor of HJR 77.

600 - Senator Ray moved to adopt 30 day clause offered by Mr. Peterson. There was no objection.

649 - HJR 77 laid on the table.

654 - HB 848 was brought before the committee.

665 - Steve Levi, of Speaker Hayes office, testified in favor of HB 848.

754 - HB 848 was laid on the table.

805 - Senator Ray distributed an amendment to SJR 61 for committee member's consideration. There was no objection to the amendment and it was adopted.

991 - Ron Lorenson, Deputy Attorney General, offered an amendment to Page 1, Line 9, after ";" insert "providing for effective date for those amendments". There was no objection to the amendment.

048 - Senator Rodey offered an amendment to Page 2, Line 10, to insert a "." after the word "investment".

085 - After discussion, Senator Rodey reconsidered his amendment.

243 - The meeting was adjourned at 2:50 P.M.

March 15, 1982

The Honorable Joseph L. Hayes
Speaker
House of Representatives
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

RE: HB 848, Estate Tax Marital
Deductions

Dear Speaker Hayes:

Mr. Levi of your staff has asked this office to review the February 1, 1982 memorandum to you on this subject by legislative counsel Thomas Sofo. We have also reviewed HB 848, which you introduced in response to that memorandum.

As we have discussed with Mr. Levi by telephone several times, we agree generally with the conclusions drawn by Mr. Sofo. We agree that, to be conservative and to ensure that Alaskans can rely on the new "unlimited marital deduction" from estate taxes. AS 13.11.277 should be amended as § 403(e)(3)(D) of the Economic Recovery Act of 1981 apparently requires. We also agree that the only way to be sure that such an amendment is not necessary is to obtain a ruling from the Internal Revenue Service. It is very unlikely that such a ruling could be obtained in time to enact a bill this session if that were made clearly necessary by the ruling.

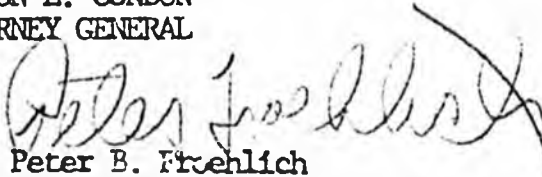
The approach chosen by the drafter of HB 848 appears to satisfy the language of § 403(e)(3)(D), even though it does not refer specifically to the amendments made by the 1981 Act. Regardless of whether the repeal and reenact method is used in a version of HB 848, its efficacy could be assured by a letter of intent which clearly states that it is intended to satisfy § 403(e)(3)(D).

Please let me know if I can provide further assistance on this matter.

Sincerely,

WILSON L. CONDON
ATTORNEY GENERAL

By:


Peter B. Froehlich
Assistant Attorney General

PEF/ph

LETTER OF INTENT
HB 848

Dear Mr. Speaker:


Your Judiciary Committee has under consideration HB 848, "An Act reenacting the law relating to the marital deduction in testamentary transfers; and providing for an effective date."

At the present time there is a potential gap between the Federal Economic Recovery Act of 1981 and the Alaska Statutes. Specifically, Section 403(a) of the Economic Recovery Act allows for an unlimited marital deduction for estate tax purposes. However, AS 13.11.277 provides that wills which refer to the federal marital deduction are construed to mean the maximum deduction allowed by federal law.

Section 403 (e) (3) of the Economic Recovery Act of 1981 provides that the new unlimited marital deduction does not apply to wills executed before September 12, 1981, unless the State enacts a statute referring to the new unlimited marital deduction allowable under Section 403(a) of the Act. This bill will enact such a statute as required by section 403(e) (3) (D) of the Economic Recovery Act of 1981.

Legislative Counsel and the Attorney General's office agree that the enactment of HB 848 will remedy any gap between Federal and State Statutes.

Sincerely,


Ramona Barnes, Chairperson
House Judiciary Committee

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution Number: HB 848

Title: An Act reenacting the law relating to the marital deduction in
testimentary transfers; and

providing for an effective date.

Requested by: Haves

Date: April 1, 1982

II. FISCAL DETAIL

Agency Affected: Department of Revenue

Program Category Affected: Revenue Collection and Management

SR, Program, or Subprogram(s) Affected: Audit Division

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LAND & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	-	-	-	-	-	-
PART TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

See attached memo to Denna Cline dated April 1, 1982.

IV. DATE: April 1, 1982

PREPARED BY: Robert R. Kessel

AGENCY: Audit Division

PHONE: 465-2320

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

M E M O R A N D U M

TO: Denna Cline
FROM: Robert R. Kessel
Director, Audit Division
DATE: April 1, 1982
RE: HB 848

The State of Alaska collects less than 1/2 million dollars a year from estate taxes. That, in itself, implies a limited fiscal impact.

Secondly, our estate taxes (Chapter 31) are based upon the amount of the credit allowed per the Federal Reserve Code. HB 848 should not impact that credit.

Thirdly, I believe the bill relates only to distribution of property and does not impact taxation.

I have briefly researched Chapter 31 Alaska Estate Taxes and Title 13 Decedents Estates, Guardianships and Trusts. Therefore, this memo is subject to that qualification.

RRK/gb

MEMORANDUM

February 1, 1982

SUBJECT: Marital deduction under Economic Recovery Act of 1981 (Work Order No. 12-2240)

TO: Representative Joe L. Hayes
Attn: Seven Levi

FROM: Thomas A. Sofc *AS*
Legislative Counsel

You have asked whether the State of Alaska needs to enact a statute construing the existing formula clause under the Economic Recovery Act of 1981 as applying to the unlimited marital deduction rule even though the will is executed prior to September 12, 1981. The short answer to your question appears to be no. However, in order to understand the basis for that answer and the possible need for a different type of amendment, it will be necessary to briefly summarize the applicable law.

The term "marital deduction" refers to the deduction allowed under the federal gift and estate tax laws for transfers of property between spouses. As it applies to testamentary transfers, the federal law used to allow a minimum marital deduction of \$250,000 or 50 percent of the deceased spouse's adjusted gross estate whichever was greater See, Internal Revenue Code, Sec. 2056 (26 U.S.C.A. 2056). This means that at least \$250,000 would escape estate taxation if bequeathed to your spouse. Since the amount allowed for this deduction was foreseen as changing with time (and in fact has changed), it became an accepted practice to merely refer to the maximum deduction allowed rather than a precise figure. The purpose behind that drafting mechanism was to insure that the estate of the deceased received maximum protection from estate taxes for transfers to the surviving spouse.

The Alaska law regarding the interpretation of such a clause in a will is contained in AS 13.11.277 (copy attached). AS 13.11.277 states:

February 1, 1992

MARITAL DEDUCTION. A provision or reference in any testamentary gift relating to the marital deduction provided for in the federal Internal Revenue Code and regulations under it is construed to contemplate the maximum marital deduction allowable under the Internal Revenue Code and regulations on the date of the death of the decedent making the gift.

Under Alaska law, reference in a will to the marital deduction allowed under the Internal Revenue Code refers to the amount allowed at the time of the testator's death, even though the will is of course, often prepared months or years in advance of that time.

The Economic Recovery Tax Act of 1981 (P.L. 93-34) had the broad goal of reducing taxes and one of the means used was to eliminate the payment of gift and estate taxes on transfers between spouses. In other words, the act provides for an unlimited marital deduction. See Sec. 403, Economic Recovery Tax Act of 1981, (26 U.S.C.A. 2056) (copy attached). As a general proposition the act applies to the estates of decedents who die after December 31, 1981. There is however, a special provision which more narrowly addresses the marital deduction in a case such as the one raised by this request. The act provides that the unlimited marital deduction does not apply if (a) the will was executed before September 12, 1981; (b) the will has a formula referring to the maximum marital deduction allowed under the Internal Revenue Code; (c) the will was not amended after September 12, 1981 to specifically refer to an unlimited marital deduction; and (d) the state does not enact a statute which construes the formula contained in the will as referring to the unlimited marital deduction, i.e., the new law.

More straightforwardly, the general statement in a will that a transfer to a surviving spouse be equal to the maximum marital deduction allowed under the IRC, does not qualify the transfer for the unlimited marital deduction allowed by the new law if the clause is contained in a will executed before September 12, 1981 unless (1) the will is amended after that date to specifically refer to the unlimited marital deduction; or (2) the state enacts a statute which construes that general statement as referring to the unlimited marital deduction. Thus in the absence of an

amendment to a pre-September 12, 1981 will, there seems to be a requirement for the state to enact legislation. The caveat to this conclusion is that AS 13.11.277 (supra) already provides that the general statement, or formula, as it is often called, will be taken to refer to the maximum deduction allowed under the IRC on the date of death. The interesting question is whether the federal statute requires yet another amendment to our state law in order to specifically refer to the unlimited marital deduction now available. The general rule, even in the absence of AS 13.11.277, is that the time of death is the relevant point for determining the nature of the marital deduction. Jackson v. U.S., 376 U.S. 503, 11 L.Ed.2d 871 (1964). Nevertheless the relevant language in Sec. 403(e)(3)(D) of the Economic Recovery Act of 1981 (copy attached) states that the unlimited marital deduction does not apply to existing wills if "the State does not enact a statute" which refers to the "marital deduction allowable by Federal law as amended by subsection (a)" (emphasis added). The use of the word "enact" seems to indicate a requirement for legislation since it does not refer to whether the state "has" an existing statute which is construed as accomplishing this. The conservative conclusion seems to be that an amendment should be pursued since it is at least arguable that the federal statute contemplates such an amendment.

Our own AS 13.11.277 appears to have been a response to a very similar situation concerning an increased marital deduction provided by Sec. 2002 of the Tax Reform Act of 1976 (P.L. 94-455, 90 Stat. 1956) [copy attached]. Whether the 1978 enactment of AS 13.11.277 in response to amendments made in the 1976 Tax Reform Act has continuing vitality is difficult to say with certainty. Technically speaking, the state has not enacted a statute constraining the formula as referring to the marital deduction as amended by the Economic Recovery Act of 1981. On the other hand, the statute which was enacted in 1978 seems to have prospectively taken care of the need to constantly reenact or revise our statutes on this point. Since it is difficult to believe that the federal law contemplates such a repetitive legislative effort on the occasion of the enactment of each federal tax law and our own statute is clear on its face, my conclusion would be that an amendment to the Alaska Statutes is unnecessary.

Page 4

February 1, 1982

Since it is the interpretation given AS 13.11.277 by the IRS which is of primary significance, it would be useful to get an informal opinion from that agency concerning the question you have raised. I would be happy to discuss this matter further at your convenience.

TAS:ljb

Sec. 13.11.225. Choice of law as to meaning and effect of wills. The meaning and legal effect of a disposition in a will shall be determined by the local law of a particular state selected by the testator in his instrument unless the application of that law is contrary to the provisions relating to the elective share described in AS 13.11.070 — 13.11.100, the provisions relating to exempt property and allowances described in AS 13.11.125 — 13.11.140, or any other public policy of this state otherwise applicable to the disposition. (§ 1 ch 78 SLA 1972; am § 9 ch 56 SLA 1973)

Effect of amendments. — The 1973 amendment inserted the language beginning "provisions relating" and ending "or any other."

Legislative history reports. — For report on ch. 56, SLA 1973 (HCS SB 140), see 1973 Senate Journal Supplement No. 9; 1973 House Journal, p. 819.

Sec. 13.11.255. Nonademption of specific devises in certain cases; sale by conservator; unpaid proceeds of sale, condemnation or insurance.

Legislative history reports. — For 1976 Senate Journal Supplement No. 9 and 1976 House Journal, p. 1569.

Sec. 13.11.277. Marital deduction. A provision or reference in any testamentary gift relating to the marital deduction provided for in the federal Internal Revenue Code and regulations under it is construed to contemplate the maximum marital deduction allowable under the Internal Revenue Code and regulations on the date of the death of the decedent making the gift. (§ 1 ch 47 SLA 1978)

Article 8. General Provisions.

Section

- 295. Renunciation of succession
- 300. Effect of divorce, annulment, and decree of separation
- 305. Effect of homicide on intestate suc-

cession, wills, joint assets, life insurance and beneficiary designations

Sec. 13.11.295. Renunciation of succession. (a) A person or the representative of an incapacitated or protected person, who is an heir, devisee, person succeeding to a renounced interest, beneficiary under a testamentary instrument, or appointee under a power of appointment exercised by a testamentary instrument, may renounce in whole or in part the right of succession to any property or interest in it, including a future interest, by filing a written renunciation under this section. The right to renounce does not survive the death of the person having it. The instrument shall

- (1) describe the property or interest renounced;

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to estates of decedents dying after, and gifts made after, December 31, 1981.

SEC. 403. UNLIMITED MARITAL DEDUCTION.

(a) **ESTATE TAX DEDUCTION.**—

(1) **IN GENERAL.**—Section 2056 (relating to bequests, etc., to surviving spouses) is amended

(A) by striking out subsection (c) and redesignating subsection (d) as subsection (c); and

(B) by striking out "subsections (b) and (c)" in subsection (a) and inserting in lieu thereof "subsection (b)".

(2) **CONFORMING AMENDMENTS.**—

(A) Paragraph (2) of section 2012(b) (relating to credit for gift tax) is amended to read as follows:

"(2) if a deduction with respect to such gift is allowed under section 2056(a) (relating to marital deduction), then by the amount of such value, reduced as provided in paragraph (1); and".

(B) Paragraph (5) of section 2602(c) (relating to coordination with estate tax) is amended by striking out subparagraph (A) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(C) Subparagraph (A) of section 691(c)(3) (relating to special rules for generation-skipping transfers) is amended by striking out "section 2602(c)(5)(C)" and inserting in lieu thereof "section 2602(c)(5)(B)".

(b) **GIFT TAX DEDUCTION.**—

(1) **IN GENERAL.**—Subsection (a) of section 2523 (relating to gift to spouse) is amended to read as follows:

"(a) **ALLOWANCE OF DEDUCTION.**—Where a donor who is a citizen or resident transfers during the calendar year by gift an interest in property to a donee who at the time of the gift is the donor's spouse, there shall be allowed as a deduction in computing taxable gifts for the calendar year an amount with respect to such interest equal to its value."

(2) **TECHNICAL AMENDMENT.**—Section 2523 is amended by striking out subsection (f).

(3) **CONFORMING AMENDMENTS.**—

(A) So much of section 6019 (relating to gift tax returns) as follows the heading and precedes subsection (b) is amended to read as follows:

"Any individual who in any calendar year makes any transfer by gift other than—

"(1) a transfer which under subsection (b) or (e) of section 2503 is not to be included in the total amount of gifts for such year, or

"(2) a transfer of an interest with respect to which a deduction is allowed under section 2523,

shall make a return for such year with respect to the gift tax imposed by subtitle B."

(B) Paragraph (2) of section 2035(b) is amended by inserting "(other than by reason of section 6019(a)(2))" after "section 6019".

(c) **ESTATE TAX ON PROPERTY HELD JOINTLY BY HUSBAND AND WIFE.**

(1) **IN GENERAL.**—Paragraph (2) of section 2040(b) (defining qualified joint interest) is amended to read as follows:

made by this section shall
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ating to bequests, etc., to

and redesignating subsec-

(b) and (c)" in subsection
subsection (b)".

2(b) (relating to credit for
ws:

uch gift is allowed under
deduction), then by the
provided in paragraph (1);

2(c) (relating to coordina-
by striking out subpara-
aragraphs (B) and (C) as
vely.

691(c)(3) (relating to spe-
transfers) is amended by
" and inserting in lieu

tion 2523 (relating to gift

donor who is a citizen or
ar by gift an interest in
gift is the donor's spouse,
nputing taxable gifts for
such interest equal to its

2523 is amended by strik-

ng to gift tax returns) as
subsection (b) is amended

r makes any transfer by

(b) or (e) of section 2503
of gifts for such year, or
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t to the gift tax imposed

o) is amended by insert-
ction 6019(a)(2))" after

BY HUSBAND AND WIFE.
ection 2040(b) (defining
d as follows:

"(2) QUALIFIED JOINT INTEREST DEFINED.—For purposes of para-
graph (1), the term 'qualified joint interest' means any interest in
property held by the decedent and the decedent's spouse as—

"(A) tenants by the entirety, or

"(B) joint tenants with right of survivorship, but only if the
decedent and the spouse of the decedent are the only joint
tenants."

(2) TECHNICAL AMENDMENT.—Subsection (a) of section 2040 is
amended by striking out "joint tenants" each place it appears
and inserting in lieu thereof "joint tenants with right of
survivorship".

(3) CONFORMING AMENDMENTS.—

(A) Subsections (c), (d), and (e) of section 2040 are hereby
repealed.

(B) Section 2515 (relating to tenancies by the entirety in
real property), section 2515A (relating to tenancies by the
entirety in personal property), and subsection (c) of section
6019 (relating to gift tax return) are hereby repealed.

(C) The table of sections for subchapter B of chapter 12
(relating to transfers) is amended by striking out the items
relating to sections 2515 and 2515A.

(d) ELECTION TO HAVE CERTAIN LIFE INTERESTS QUALIFY FOR MARI-
TAL DEDUCTION.—

(1) ESTATE TAX.—Subsection (b) of section 2056 is amended by
adding at the end thereof the following new paragraphs:

"(7) ELECTION WITH RESPECT TO LIFE ESTATE FOR SURVIVING
SPOUSE.—

"(A) IN GENERAL.—In the case of qualified terminable
interest property—

"(i) for purposes of subsection (a), such property shall
be treated as passing to the surviving spouse, and

"(ii) for purposes of paragraph (1)(A), no part of such
property shall be treated as passing to any person other
than the surviving spouse.

"(B) QUALIFIED TERMINABLE INTEREST PROPERTY DEFINED.—
For purposes of this paragraph—

"(i) IN GENERAL.—The term 'qualified terminable
interest property' means property—

"(I) which passes from the decedent,

"(II) in which the surviving spouse has a qualify-
ing income interest for life, and

"(III) to which an election under this paragraph
applies.

"(ii) QUALIFYING INCOME INTEREST FOR LIFE.—The sur-
viving spouse has a qualifying income interest for life
if—

"(I) the surviving spouse is entitled to all the
income from the property, payable annually or at
more frequent intervals, and

"(II) no person has a power to appoint any part of
the property to any person other than the surviving
spouse.

Subclause (II) shall not apply to a power exercisable only
at or after the death of the surviving spouse.

"(iii) PROPERTY INCLUDES INTEREST THEREIN.—The
term 'property' includes an interest in property.