

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

5570 SSTA HB 217 - HB 261

CSHB 217(Fin)

CSHB 217(FIN)

Yess: 34 Adams, Barnes, Boucher, Boyer,
Brown, Cato, Cotten, Davidson,
Davis, Donley, Ellis, Frank, Goll,
Gruenberg, Grussendorf, Hanley,
Herrmann, Hudson, Koponen, Larson,
Martin, Miller, Navarre, Pearce,
Pettyjohn, Pourchot, Rieger,
Shultz, Springer, Sund,
Swackhammer, Ulmer, Wallis,
Zawacki

Nays: 5 Furnace, Hoffman, Menard,
Phillips, Taylor

Excused: 1 Collins

Absent: 0

And so, CSHB 217(Fin) passed the House and was referred to the Chief Clerk for engrossment.

HB 386

The following was read the second time:

HOUSE BILL NO. 386

"An Act relating to rewards to promote the apprehension and conviction of certain offenders; and providing for an effective date."

with the:

Judiciary Committee report	p. 2333
Zero fiscal note published 2/24/88	p. 2333
Finance Committee report	p. 2556
Zero fiscal note with analysis published 3/14/88	p. 2557

Representative Gruenberg moved and asked unanimous consent that the following committee substitute be adopted in lieu of the original bill:

CS FOR HOUSE BILL NO. 386 (Judiciary)

"An Act relating to enforcement of alcoholic beverage control laws; and providing for an effective date."

There being no objection, it was so ordered.



ALASKA STATE CHAMBER OF COMMERCE

310 Second Street
Juneau, Alaska 99801
(907) 586-2323

April 7, 1988

The Honorable Mitchell Abood, Chairman
Senate State Affairs Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Abood:

On Friday, April 8 you will be considering HB 217 relating to foreign investment by the Alaska Permanent Fund.

We have reviewed the Bill and strongly support the legislation as set forth in the version adopted by the House.

The Alaska State Chamber favors passage for the following reasons:

1. The Fund has developed (and earned) a reputation for conservative, careful, and deliberate investment. It clearly has the professional competence to utilize the additional proposed investment tools for the betterment of the State and its citizens.
2. The expansion of investments to the international arena provides further diversification of the Fund's stock and bond portfolios. This blending and diversifying permits the Fund to continue its investment mission at lower risk than that currently being experienced.
3. Generally, foreign investments generate higher earnings than domestic investments. This is evidenced by the performance of such investments in State PERS and TRS. While this should not be a compelling argument for foreign investment, it is clearly indicative that expected returns, over time, will be at least equal to domestic investments.
4. Finally, and perhaps most important from our viewpoint, is the by-product benefit of foreign investment. The contacts made by the Fund will be extremely valuable. As it researches foreign corporations; confers, meets, and enters into business arrangements with major nondomestic bankers and financiers; and creates dialogue with business leaders throughout the world, the Fund will bring business visitors and potential investors to our state. As these visitors

establish relationships with the Fund, they will gain firsthand exposure to Alaska and its business and economic opportunities.

The global outreach which will be facilitated by international investment is most timely in these difficult economic times for Alaska. We must do everything possible to expand our horizons and develop increased economic activity. Enactment and implementation of House Bill 217 will help us accomplish this.

We recommend its adoption.

Cordially,


George Krusz
President

cc: Senator Uehling
Senator Hensley
Senator Josephson
Senator Fanning

H B

2 2 3

SENATE COMMITTEE REPORT

FURTHER FINANCE

DATE TURNED INTO OFFICE 4-19-88

2/16/88

Mr. President:

State Affairs Committee considered CSHB 223 (FIN) am

remedies for the collection of debt owed to state agencies and courts involving permanent fund dividends, to assignments of dividends, and to the exemption for dividends; amending Alaska Rule of Civil Procedure and recommended 69; and providing for an effective date

replace with _____ CS _____) same title
 or adopt _____ CS _____) new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted _____

Committee attached or adopted fiscal note(s)

new updated or previous

zero fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Handwritten signature]

W. King - No Rec.
Joe Joseph - No Rec.

[Handwritten signature]

Chairman signature and recommendation

Committee Backup attached

COMMITTEE SUBSTITUTE FOR HOUSE BILL 223 (FINANCE) AMENDED

INDEX

1. SECTIONAL ANALYSIS
2. FISCAL NOTES
3. HOUSE RESEARCH ON COURT FINES
4. LOAN PROGRAMS IN DEFAULT

COMMITTEE SUBSTITUTE FOR HOUSE BILL 223 (FINANCE) AM

THE STATE CURRENTLY HAS \$237.5 MILLION IN DIRECT LOANS IN DEFAULT. THIS IS ONLY IN THE LOAN PROGRAMS. THIS TOTAL DOES NOT INCLUDE OVERDUE COURT FINES, OVERPAID UNEMPLOYMENT BENEFITS, UNPAID CHILD SUPPORT, RESTITUTION FEES NOR PROBATION FEES.

THE COURT SYSTEM HAS APPROXIMATELY \$6 MILLION OUTSTANDING IN COURT FINES. THE ORIGINAL INTENT OF HOUSE BILL 223 WAS TO ADDRESS THIS ISSUE AND INCLUDE STATUTORY LANGUAGE THAT WOULD ALLOW THE COURTS TO COLLECT THOSE MONIES VIA THE PERMANENT FUND DIVIDEND PROGRAM. THE PROBLEM OF COLLECTING OVERDUE FINES IS NOT UNIQUE TO THIS STATE. ACCORDING TO THE HOUSE RESEARCH AGENCY, OTHER STATES HAVE HAD LITTLE SUCCESS IN COLLECTIONS. WITH OUR PERMANENT FUND DIVIDEND PROGRAM, ALASKA HAS A MECHANISM IN PLACE TO ALLEVIATE THE COLLECTION PROBLEM. THERE IS A PROVISION IN CURRENT STATUTES THAT ALLOWS A STATE AGENCY THE RIGHT TO COLLECT A PERSON'S PERMANENT FUND DIVIDEND CHECK IF THAT PERSON OWES MONEY TO THAT PARTICULAR STATE AGENCY. HOWEVER, IT WAS UNCLEAR WHETHER THE COURT SYSTEM WAS INCLUDED AS A STATE AGENCY.

HERE IS A SECTIONAL ANALYSIS OF CSHE 223 (FINANCE) AM:

SECTION ONE-AMENDS THE STATUTES THAT SET OUT TYPES OF PROPERTY THAT MAY NOT BE TAKEN TO SATISFY A DEBT BY INCLUDING A REFERENCE TO THE STATUTE EXEMPTING A PORTION OF A PERMANENT FUND DIVIDEND.

SECTION TWO-ADDS A CROSS REFERENCE IN THE PROVISION CONTAINING THE LIQUID ASSETS EXEMPTION TO THE PERMANENT FUND DIVIDEND EXEMPTION. UNDER SECTION 4 OF THIS BILL, THE EXEMPTION FOR A DIVIDEND IS LIMITED TO \$100, REGARDLESS OF WHETHER ADDITIONAL AMOUNTS MIGHT OTHERWISE QUALIFY FOR EXEMPTION UNDER THE \$700 LIQUID ASSETS PROVISION.

SECTION THREE-ADDS A CROSS REFERENCE IN THE PROVISION PERMITTING CREDITORS IN CERTAIN CASES TO LEVY AGAINST EXEMPTED PROPERTY, SO THAT IT IS CLEAR THAT EVEN IN THESE SPECIAL CASES, THE EXEMPTION PROVIDED FOR UNDER SECTION FOUR OF THIS BILL REMAINS VALID.

SECTION FOUR-CHANGES THE PERMANENT FUND DIVIDEND EXEMPTION FROM FIFTY PER CENT TO ONE HUNDRED DOLLARS. PROVIDES THAT NO OTHER EXEMPTION APPLIES. REQUIRES THE COMMISSIONER OF REVENUE TO PROVIDE THE CASE NAME AND NUMBER WITH A DIVIDEND DELIVERED TO THE COURT BY THE DEPARTMENT. THE BILL ALLOWS THE CHILD SUPPORT ENFORCEMENT DIVISION TO CLAIM AN ENTIRE DIVIDEND CHECK RATHER THAN EXEMPTING ONE HUNDRED DOLLARS FOR THIS AGENCY. IT IS ESTIMATED THAT C.S.E.D. WOULD LOSE APPROXIMATELY \$600,000 IN REVENUE AND OVER \$70,000 IN FEDERAL FUNDS IF THE ONE HUNDRED DOLLAR EXEMPTION WAS IN EFFECT FOR THAT AGENCY.

SECTION FIVE-ADDS A COURT ORDERED FINE AND A DEBT OWED TO THE STATE COURT TO THE LIST OF CLAIMS THAT HAVE PRIORITY OVER THE OTHER CLAIMS ON A DIVIDEND. DELETES THE PROVISION THAT AN EXEMPTION IS NOT AVAILABLE FOR CERTAIN CLAIMS.

SECTION SIX-AMENDS THE PROVISION PROVIDING FOR SIMPLIFIED EXECUTION PROCEDURES FOR CLAIMS ON DEFAULTED SCHOLARSHIP LOANS TO INCLUDE OTHER

PRIORITY CLAIMS. REQUIRES THE DEBT TO BE AT LEAST 90 DAYS OVERDUE BEFORE THE SIMPLIFIED PROCEDURE APPLIES. REQUIRES A STATEMENT OF THE BASIS FOR THE CLAIM AND THE DATE THE CLAIM BECAME DUE AS PART OF THE EXECUTION PROCEDURE. IF REQUESTED, REQUIRES THE AGENCY OR COURT MAKING THE CLAIM TO AFFORD THE INDIVIDUAL A HEARING ON THE VALIDITY OF THE CLAIM AND NOTICE OF APPEAL RIGHTS. THIS ENSURES THAT AN INDIVIDUAL HAS BEEN PROVIDED AN OPPORTUNITY FOR A HEARING ON THE VALIDITY OF THE CLAIM.

SECTION SEVEN-THIS APPLIES TO THE DEPARTMENT'S COSTS OF PROCESSING THE CLAIMS. RATHER THAN HAVING THE PERMANENT FUND DIVIDEND FUND BEAR THE COSTS OF CLAIMS MADE BY OTHER AGENCIES, THE COSTS WOULD BE ASSESSED TO THE CLAIMANTS. THUS, THE GENERAL PUBLIC DOES NOT HAVE TO BEAR THE COST OF DEBT COLLECTION THROUGH REDUCED DIVIDENDS. FEES WOULD BE ESTABLISHED BY THE DEPARTMENT OF REVENUE THAT COVER THE ADMINISTRATIVE COSTS OF PROCESSING ALL CLAIMS AND ASSIGNMENTS.

SECTION EIGHT-PROVIDES NOTICE OF A COURT RULE CHANGE.

SECTION NINE-REPEALS A SUBSECTION, THE CONTENTS OF WHICH HAVE BEEN INCLUDED IN THE REORGANIZED SUBSECTION SET OUT IN SECTION FIVE OF THE BILL.

SECTION TEN-THE EFFECTIVE DATE WOULD BE APRIL 1, 1989, RATHER THAN IMMEDIATELY. THIS WOULD ALLOW THE DEPARTMENT OF REVENUE ADEQUATE TIME TO PROCESS ALL PERMANENT FUND DIVIDEND CHECKS FOR 1988.

HOUSE BILL 223 IS SPECIFICALLY DESIGNED TO RECOUP THOSE FUNDS OWED TO STATE AGENCIES AND THE COURT SYSTEM THROUGH A LESS INVOLVED, MORE COST EFFICIENT METHOD AS COMPARED TO THE PROCESS THAT IS CURRENTLY IN USE.

FISCAL NOTE

REQUEST:

Revision Date: 1/27/88
Title: An act relating to collection of debt involving permanent fund dividends
Sponsor: Judiciary
Requestor: House Judiciary Committee

Agency Affected: Revenue
BRU: Permanent Fund Dividend
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
OPERATING						
PERSONAL SERVICES	-	56.7	56.7	56.7	56.7	56.7
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	83.1	63.1	63.1	63.1	63.1
SUPPLIES	-	1.8	1.8	1.8	1.8	1.8
EQUIPMENT	-	15.6	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	157.2	121.6	121.6	121.6	121.6
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (PFD)	-	157.2	121.6	121.6	121.6	121.6
TOTAL	-	157.2	121.6	121.6	121.6	121.6

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	5	5	5	5	5
TEMPORARY	-	-	-	-	-	-

ANALYSIS: See attached.

Prepared By: Ervin B. Jones
Division: Permanent Fund Dividend

Phone: 465-2323
Date: 1/27/88

Approved by Commissioner: [Signature]
Agency: Revenue

Date: 1/27/88

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Department of Revenue
Permanent Fund Dividend Division
Fiscal Note Analysis
CSHB 223
1/27/88

Assumptions:

- 1) Since a claim under the proposed section 3 would be infinitely easier for state agencies and the courts to use, those entities would use this mechanism exclusively. It is impossible to estimate the number of such claims the Department of Revenue might receive. However, the following will give some idea of the volume.
 - a) In 1986, the Postsecondary Education Commission was able to get only 800 of their 2,000 attachments through the courts and served on the Department of Revenue. In 1987, under provisions similar to the proposal in this bill, the Commission was able to serve 5,038 certified claims on the Department of Revenue, a 500% increase.
 - b) The Child Support Enforcement Division currently serves approximately 6,012 attachments. This is an almost 50% increase over 1986.
 - c) The court system of Alaska processes approximately 25,000 criminal cases, alone, a percentage of which result in fines.
 - d) Under the present system, private parties account for 8,820 claims each year. Given that the cost of service will stay the same and that the amount of recovery has gone from a potential \$400 to a potential \$700, the number of private party services will increase dramatically.
 - e) In 1987, the department experienced 37,393 claims on Permanent Fund Dividends, almost twice as many as in 1986 and four times as many as in 1985. Even without the passage of this bill, we expect at least 50,000 claims in 1988. With the passage of this bill, the total numbers could easily reach 100,000.
- 2) I would assume and hope that this bill would not effect the 1988 dividend distribution. Assuming that the bill became law in mid-May it would be impossible to get everything in place, and complete the printing, programming, staff recruitment and training necessary to implement the bill before the filing deadline of June 30. By that time, the department has already received thousands of claims and assignments, made under the expectation that they will be processed under the current law. It is arguably not fair to take an applicant's dividend (except \$100) when the applicant filed under a law which provided for a 50% exclusion.

If the provisions of this bill are intended to take effect in mid-stream, a new analysis of costs will have to be done to include the cost of dealing with a very irate public.

Program Summary:

The department's responsibilities under this bill would be as follows:

- a) Forms Printing: The Department of Revenue would print an auxiliary Permanent Fund Dividend "Claim by Government Agency" to be distributed to all agencies identified in the definition of agency. The "PFD Claim form" would require of the agency:
 - 1) The name and address of the agency.
 - 2) The full name, address and birthdate of the obligee.
 - 3) The amount of the claim.
 - 4) A statement of the basis of the claim. (Some consistent, short form of reasons would have to be worked out with the many "agencies." The data capture of a free form reason would be very expensive.)
 - 6) If applicable, a case name and number.
- b) Systems/Programming Changes: The bill will require many changes, including the recognition of a new category of "claim form."
- c) Individual, private claims will continue to be processed one at a time, with unique problems. Claims from state agencies will be automated to some extent. The court system is not be prepared to provide automated services of claims via tape matches, and so the claims will be served and processed the same as private claims.
- d) Agencies which are part of the Alaska State Accounting System will be paid through the system with supporting information provided. The court system will be paid by check.
- e) The department currently receives thousands of contacts from debtors whose dividends have been attached, despite our best efforts to steer their complaints, appeals, etc. to the creditor who served the attachment. At the point when 50,000 - 60,000 Alaskan families are being affected by this expedited process, the number of such contacts, and the number of contacts with the Legislature, the Governor's Office and the Ombudsman is definitely going to increase.

1. Positions:

2 PPT Accounting Clerk I, R8,
@ \$2,270.18/Mo each including
salary and benefits for
8 months = \$36.3

These positions will assist the existing Accounting Clerk II in the processing of the existing attachments and assignments. This also involves correspondence and telephone contact with the many competing garnishors.

3 PPT Data Processing Clerk I,
R8, @ \$2,270.18/Mo each including
salary and benefits for 3 months = 20.4

These positions will perform the
data capture necessary on the
claims to enable the department to
comply with the provisions of
the bill.

Total Personal Services \$56.7

2. Other Costs:

a) Travel: None.

b) Contractual:

Printing \$5.1

Includes printing costs associated
with 75,000 claim forms, 60,000
notices of appeal rights, and
60,000 notices of claim.

Postage 28.0

Includes postage for claim
notices and bulk shipment of
claim forms to agencies.

Data Processing Chargeback from 50.0
Department of Administration
estimated 50.0 in FY89, including
development; 30.0 in years
thereafter.

TOTAL Contractual \$83.1

c) Equipment

Purchase 2 Wang 4250 workstations
to provide access to the PFD
System for the accounting staff = \$4.8

Purchase 3 Wang 4230 workstations
for data capture = 7.2

Purchase 1 Wang VS-100 IOP = 3.6

TOTAL Equipment \$15.6

d) Supplies: \$1.8

TOTAL COST \$157.2

Suggested Amendments:

It is impractical for the Department of Revenue to be sending thousands of notices of claim and appeal rights to applicants, on behalf of other agencies. The notices and all further contact should be by the creditor agency, not Revenue. We will need to work with the concerned agencies and the committee staff to effect this change.

Attachments: None.

STATE OF ALASKA 1988 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Revision Date: 2-4-88
 Title: An act relating to permanent fund dividends
 Sponsor: Swackhammer, Larson
 Requestor: Finance

Bill Version: CS HB 223
 Publish Date: 2-1-88

Agency Affected: Alaska Court System
 BRU: Trial Courts

Components:

EXPENDITURES/REVENUES:		(Thousands of Dollars)					
	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93	
OPERATING							
Personal Services	
Travel	
Contractual	
Supplies	
Equipment	
Land & Structures	
Grants & Claims	
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	
CAPITAL	
REVENUE	

FUNDING:		(Thousands of Dollars)					
General Funds	0.0	0.0	0.0	0.0	0.0	0.0	
Federal Funds	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Other	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	

POSITIONS:		(Thousands of Dollars)					
Full-time	
Part-time	
Temporary	

ANALYSIS: (Attach a separate page if necessary)

See attached fiscal analysis.

Prepared by: *Jan Strandberg* General Counsel Phone: 264-8215
 Division: Alaska Court System Date: 2-4-88

Approved by: *Stephanie Cole, for -* Arthur H. Snowden, II, Administrative Director Date: 2-4-88
 Agency: Alaska Court System

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management & Budget
 Impacted Agency(ies)
 Senate Secretary

ALASKA COURT SYSTEM
CSHB 223 - FISCAL ANALYSIS

The court system anticipates that the Department of Law will use this bill's procedures to collect court-ordered fines and restitution and that the receipts will be returned to the general fund or to the affected victims after deducting the proposed administrative fee. The court system assumes that the fiscal impact of the fee will be offset by the decreased number of writs of execution that must be processed by the clerks of court for state agencies.

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Department of Law
 Title: "...relating to...the collection of BRU: Legal Services
debt involving permanend fund dividends..."
 Sponsor: House Judiciary Committee Components: Operations
 Requestor: House Judiciary Committee

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 38	FY 39	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see attached analysis.

Prepared by: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: January 11, 1988
Richard Grace/Berg Schnaible
 Approved by Commissioner: Attorney General Date: January 12, 1988
 Agency: Department of Law

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to remedies for the collection of debt..."
Sponsor: Swackhammer & Larson
Requestor: House Rules

Agency Affected: Labor
BRU: Employment Security
Components: Unemployment Insurance

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Joe Sinton, Director Phone: 465-2719
Division: Employment Security Date: 2/10/88

Approved by Commissioner: Jim Sampson Date: 2/10/88
Agency: Labor

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Analysis of Fiscal Note
For CSHB 223 (Fin)

This bill would require Departments making a claim against an individual's permanent fund dividend to pay the Department of Revenue the administrative costs associated with that claim. This would be an additional procedure the Department of Labor could use in order to collect Unemployment Insurance benefit overpayments and delinquent employer contributions. The Department anticipates no overall additional cost to the Unemployment Insurance program as a result of this new procedure. Savings associated with the new procedures would be used within the program to pay the Department of Revenue the approximately \$10 per claim in administrative costs. The collections from the attached dividends would be deposited in the Unemployment Insurance trust fund, which is used to pay the U.I. benefits. The estimated number of claims attached would be as follows:

	<u>1989</u>	<u>1990</u>	<u>1991</u>	<u>1992</u>	<u>1993</u>
Total Claims	3200	3700	4200	4500	4500

Assumptions:

1. An effective date of April 1, 1989.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to remedies for the collection of debt involving PFD's...
Sponsor: Reps. Swackhammer & Larson
Requestor: House Finance

Agency Affected: Commerce & Econ. Dev.
BRU: Occupational Licensing

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

(See attached)

7985
Prepared by: Jennifer Strickler, Mgnt. Analyst
Division: Occupational Licensing

Phone: 465-2144
Date: January 21, 1988

Approved by Commissioner: J. Anthony Smith
Agency: Commerce and Economic Development

Date: 1/22/88

Distribution (by preparer):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 223 (SA)

The Division of Occupational Licensing experienced approximately 3% of NSF checks submitted annually for licensing fees during FY 86 and FY 87. At that rate, 3% of the projected FY 88 revenue will total \$55,388.52.

CSHB 223 will allow the division to recover funds for NSF checks through filing a claim against an individual's permanent fund dividend check, after all other attempts to recover the funds are unsuccessful. The impact of the bill should discourage future non-compliance with attempts to recover funds.

FISCAL NOTE

REQUEST:

Revision Date: 2-4-88
Title: Re: Permanent Fund Dividend
Sponsor: Swackhammer and Larson
Requestor: House Finance

Agency Affected: Education
BRU: Postsecondary Education/
Student Loan Corporation
Components: Student Loan Fund

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL		43.0	44.1	45.1	46.8	48.2
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		43.0	44.1	45.1	46.8	48.2
CAPITAL	N.A.	(430.0)	(441.2)	(454.0)	(468.0)	(482.0)
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER	N.A.	(473.0)	(485.3)	(499.4)	(514.8)	(530.2)
TOTAL		(473.0)	(485.3)	(499.4)	(514.8)	(530.2)

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

See Attached

Prepared by: Kerry D. Romesburg, Executive Director Phone: 465-2854
Division: Alaska Commission on Postsecondary Education Date: 2-4-88

Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

ANALYSIS OF FISCAL IMPACTA. Assumptions

1. 1987-88 experience in attachment of permanent fund dividends for defaulted student loan accounts peaked, at least for the next few years. A number of the 5,038 individuals, whose PFD was attached, will simply not apply again in 1988-89.
2. The \$100 exemption from claim provided in HB 223 will not encourage those whose PFD's were attached in 1987-88 to apply in 1988-89. For the most part, individuals will not be aware of the new \$100 exemption.

B. Projections

1. The number of PFD attachments for FY89 - 93 are estimated to be:

<u>Year</u>	<u>Attachments</u>
FY88	5,038 (actual)
FY89	4,300
FY90	4,412
FY91	4,540
FY92	4,680
FY93	4,820

2. Since the Postsecondary Commission already has access to PFD attachment, there is no revenue gain to our agency. Rather, we collect \$100 less per successful attachment. Hence, the fiscal note is negative, i.e., lost revenue.

C. Comments

1. The "lost" revenue, that is, PFD funds not received assumes we would attach the entire PFD. This figure may be high, since a number of attachments are not in an amount equal to the entire dividend.
2. Contractual costs are to be paid through interagency transfer to the Department of Revenue for a processing and administration fee.



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

P.O. Box Y, State Capitol
Juneau, Alaska 99811-3100
Mail Stop 3100
(907) 465-3991

March 16, 1987

MEMORANDUM

TO: Representative Swack Swackhammer

ATTN: Tom Wright

FROM: Penelope Weyhrauch
Legislative Analyst

RE: Outstanding Court Fines: Attaching Permanent Fund Dividends
Research Request 87.187

You asked for information on the collection of fees and fines levied by the Alaska Court System, and the amount of fees and fines that are presently outstanding. You were interested in the Alaska Court System's collection efforts, particularly the procedures and problems in attaching a debtor's Permanent Fund Dividend (PFD) to pay fines levied by a judicial officer.

Fees and Fines

There are no outstanding filing fees owed to the Alaska Court System because fees are always paid at the time of filing a legal document. Fees are assessed of everyone and are standard--that is, everyone pays the same amount when filing a particular document. Attorney fees could be assessed against a party in a lawsuit, but these fees would generally be payable to the other party and not to the court. However, in a criminal case, a court will appoint an attorney for those who are financially unable to obtain one, but may require that a defendant pay a portion of the attorney's fees.

A fine is a penalty, the amount of which is set on an individual basis by a judicial officer. Karla Forsythe, Staff Counsel for the Alaska Court System, said that there are no centralized records on how much is owed to the State in outstanding fines. She said that each court in the state has its own records, only some of which are computerized. In April 1986, the Court System estimated that over \$6 million was owed for outstanding fines, court appointed attorney fees, and restitution to private parties (Attachment A). Ms. Forsythe said that specific amounts outstanding in each of these categories is not available. She also said that the total amount outstanding has probably increased during the past year.

Collection Efforts

According to Ms. Forsythe, very little is done by the Court System to collect outstanding fines and attorney fees owed to the State. There is no collection agency within the judicial branch, nor does the Alaska Court System believe that the collection of outstanding balances is a judicial function. The Court System believes that collection should be done by the executive branch and has emphasized that in letters to the Attorney General's office (Attachment B). In regard to collection efforts by the Court System, Arthur Snowden, Administrative Director of the Court System, wrote "The Supreme Court has indicated that it is unwise if not unconstitutional as a violation of the doctrine of separation of powers for the court to combine judicial and executive functions."¹ According to Ms. Forsythe, the Attorney General's office has not responded to the Court System's request for executive branch action. Patrick Conheady, Assistant Attorney General, agreed that the collection of fines is an executive branch function.

Bob Fisher, Fiscal Officer for the Court System, was not aware of the collection efforts that had been made by the courts, since that information is not centralized. He suggested that I contact the clerks of the larger Alaska courts. Susan Paterson, Clerk of the Court in Fairbanks, said that over \$8,000 was collected from the assignment of PFDs by defendants with outstanding court fines. (The assignment is the voluntary signing over of an individual's right to a PFD.) David Haas, Clerk of the Court in Juneau, said that no efforts for the collection of outstanding court fines have been made by the Juneau office. I was unable to reach the clerk of the Anchorage court.

Attaching Permanent Fund Dividends

The Department of Revenue is responsible for issuing PFDs. According to Mike McGee, Chief of PFD Operations in the department, State agencies can garnish 100 percent of an individual's PFD if the individual has a debt to the State.² Child support obligations have the highest priority for garnishment. Court-ordered restitution and probation fees are second in priority and all other attachments are applied on a "first come, first served basis."³

¹Letter to Hal Brown, Attorney General, from Arthur Snowden Administrative Director, Alaska Court System, July 17, 1985.

²Federal agencies may garnish 100 percent of an individual's PFD. All other creditors can garnish only 50 percent of an individual's PFD.

³Alaska Statutes 43.23.065 (Attachment C).

According to Mr. McGee, the garnishment of an individual's PFD is initiated by the Department of Revenue when a court order or an administrative levy is received from a State agency.⁴ An administrative levy occurs when an agency makes an administrative decision that a person has a monetary obligation to the agency. The agency presents a list of persons with obligations to the Department of Revenue and the department matches this with a list of persons receiving PFDs. The dividends of persons with obligations to State agencies are then garnished. For example, the Child Support Enforcement Division of the Department of Revenue routinely uses administrative levies to garnish PFDs of persons who are found to be delinquent in child support payments.

Individuals who do not apply for PFDs have no claim to a dividend and therefore, a State agency to which individuals owe money cannot garnish their PFDs. Mr. McGee said that for a garnishment to occur, a name must match **exactly** the name under which a person applied for a PFD. If the agency sends a name for garnishment that does not have a match in the PFD listing, the PFD will not be garnished.

Ms. Forsythe and Susan Miller, Manager of Special Projects at the Alaska Court System, said that there are several reasons that the Court System has not been more aggressive in garnishing PFDs for the payment of outstanding fines.⁵

- **Responsibility for Collection.** The Court System maintains that the collection of fines is a function of the executive branch and not the judicial system.

- **Court Authority for Garnishment.** According to Ms. Miller, because no statute gives a judicial officer specific authority to garnish an individual's PFD, some judges do not believe that they have the authority to do so. Each judge in the Court System makes his/her own decision regarding the limits of his/her authority if there is no specific legal guideline. Ms. Miller said that it was her opinion that under the common law, courts have the authority to use civil execution procedures to collect fines. Ms. Forsythe said that the legislature could set clear authority for the courts to attach PFDs.

⁴For the purposes of this memorandum, "attaching" and "garnishing" are used interchangeably.

⁵Conference Call, Karla Forsythe and Susan Miller of the Alaska Court System, March 11, 1987.

Attaching Property for the Collection of Criminal Fines. Several attorneys with the Court System with whom I spoke mentioned that they were not sure about the legality of attaching property for outstanding fines levied in a criminal case.⁶ Attaching property has always been associated with civil judgments and imprisonment has been associated with criminal judgments. Patrick Conheady, with the Department of Law, however, believes that AS 12.55.025 (f) establishes clear authority for the garnishing of a defendant's PFD for the payment of an outstanding fine. This statute states that "...a sentence that the defendant pay money, either as a fine or in restitution or both, constitutes a lien in the same manner as a judgment for money entered in a civil action." (Attachment E).

The Civil Execution Process is available for individuals and State agencies who have won a civil judgment against an individual and are attempting to attach property as payment. Alaska courts are required to adhere to the same process as individuals to attach a person's property.⁷ According to Ms. Forsythe, the civil execution process--AS 09.35 and AS 09.38--provides protection to debtors by providing notice and substantial time frame requirements so that debtors are assured notice and time to respond to attachment.

While protecting the debtor, this process would require paperwork, time and manpower of the courts. Many courts do not have the staff or the time to engage in the process. Ms. Forsythe said that the legislature could address this by allowing the court to pursue the attachment of an individual's PFD in an abbreviated process. She suggests that attachment could be as simple as notice to the debtor in the form of a letter. Ms. Forsythe also said that the Court System has been looking into the possibility of using the relatively simple administrative levy process to garnish PFDs, rather than the complex civil execution process.

Exemptions to the Attachment of Property are included in the civil execution process and are available to debtors. According to Ms. Forsythe, there has been confusion over whether the exemption of liquid assets in AS 09.38.030(b) (Attachment F), applies to PFDs or not. This exemption allows an individual to retain cash and other liquid assets of at least \$700 per month. Thus, an individual's PFD could be exempt from attachment if this statute applies.

⁶Susan Patterson, Clerk of the Court in Fairbanks, said that some people believe that AS 12.55.051 limits the penalty for the nonpayment of outstanding court fines to imprisonment (Attachment D).

⁷This process is detailed in Attachment G, "Execution Procedure for Judgment Creditors", Alaska Court System Handbook, July 1986, pp. 10 - 16.

Ms. Forsythe said that some people argue that AS 09.38.030(b) does not apply to PFDs because AS 43.23.065 (Attachment C) provides the only statutory exemption for the attachment of PFDs.⁸ Alaska Statute 43.23.065 exempts one-half of a person's PFD from attachment except for child support, court-ordered restitution, and debts owed to State agencies. An outstanding fine is considered a debt to the State and, in that situation, an individual's PFD would not be included in the partial exemption provided by AS 43.23.065.⁹

* * *

I hope this information is useful to you. If you would like us to research the collection of court fines in other states, we would be happy to do so. If you have any questions or would like additional information, please contact our agency.

Attachment

⁸This statute is not a part of the civil execution process.

⁹Ms. Forsythe said that the legislature could aid the Court System in the collection of PFDs for outstanding fines by clarifying these statutes. She suggested legislation which states that the liquid assets exemption in AS 09.38.030(b) does not apply to PFDs, and a clarification as to whether or not AS 43.23.065 is the sole statutory exemption relating to PFDs.

ATTACHMENT A
Letter from Arthur Snowden to Attorney General Brown
April 3, 1986



Alaska Court System

State of Alaska

303 "K" STREET
ANCHORAGE ALASKA
99501

ARTHUR H. SNOWDEN II
ADMINISTRATIVE DIRECTOR

(907) 274 8611

April 3, 1986

Harold M. Brown, Attorney General
Department of Law
P. O. Box K
Juneau AK 99811

Dear Hal:

Although I have not yet received your response to my July 17, 1985 letter requesting that the Department of Law assume its statutory responsibility for collection of monies due to the state on court judgments, I have asked each judicial district to compile case history information about monies due.

Each judicial district was recently asked to provide my office with a statement of all outstanding amounts due to the state from court orders for fines and payment for court-appointed attorneys, and for restitution due to private parties. Preliminary figures for the total of these three categories are as follows:

First district - \$1.5 million
Second district - \$ 23,500
Third district - \$3.4 million
Fourth district - \$1.1 million

The accounting information received in my office must be checked against actual court records before we can assure accuracy in each individual case. We are prepared to pull files and verify amounts due in each case we will be turning over to your office for collection. Please let me know your plans in this regard, so that I can plan for an orderly reporting process.

Thank you for your help and cooperation. Please contact me if you have any questions.

Sincerely,

/s/

Arthur H. Snowden, II
Administrative Director

cc: Chief Justice Rabinowitz
Presiding Judges
Area Court Administrators
Stephanie Cole
Karla Forsythe
Bob Fisher

LOAN PROGRAM

INDIRECT LENDERS (BOND SALES)

AK HOUSING FINANCE CORP (ALL PROGRAMS)	129,345,072.00
AK INDUSTRIAL DEVELOPMENT AUTHORITY	
AIDA PURCHASED	23,769,309.00
APPROPRIATED TO AIDA	2,585,041.00
AK MEDICAL FACILITY AUTHORITY	.00
AK MUNICIPAL BOND BANK	.00

DIRECT LENDERS (APPROPRIATIONS)

AGRICULTURAL REVOLVING LOAN FUND	4,792,353.00
ALASKA POWER AUTHORITY	
POWER PROJECT FUND	.00
RURAL ELECT. REVOLVING LOAN FUND	.00
ALASKA RESOURCES CORPORATION	7,718,760.00
ALTERNATE TECH. REVOLVING LOAN FUND	474,000.00
BULK FUEL REVOLVING LOAN FUND	.000.00
CHILD CARE FACILITY REVOLVING LOAN FUND	,000.00
COMMERCIAL FISHING REVOLVING LOAN FUND	3,104,000.00
FISHERIES ENHANCEMENT REVOLV. LOAN FUND	1,553,900.00
GRAIN RESERVE LOAN FUND	33,802.00
HISTORICAL DISTRICT REVOLVING LOAN FUND	.00
HOUSING ASSISTANCE LOAN FUND	4,875,346.00
MED. MALPRACTICE LIABILITY LOAN FUND	.00
MINING LOAN FUND	3,877,000.00
POWER DEVELOPMENT REVOLVING LOAN FUND	.00
RESIDENTIAL ENERGY CONSERVATION FUND	118,000.00
SCHOLARSHIP REVOLVING LOAN FUND	49,275,864.00
SMALL BUSINESS REVOLVING LOAN FUND	4,343,000.00
TEACHER SCHOLARSHIP LOAN FUND	.00
TOURISM REVOLVING LOAN FUND	108,000.00
VETERANS REVOLVING LOAN FUND	1,353,000.00
WATER RESOURCES REVOLVING LOAN FUND	.00

TOTAL LOANS IN DEFAULT

237,514,447.00

H B

2 4 7

SENATE COMMITTEE REPORT

FURTHER: JUDICIARY
FINANCE

5/16/87

DATE TURNED INTO OFFICE 2/22/88

Mr. President:

STATE AFFAIRS Committee considered CSHB 247(Jud)

preparation of election propositions and materials

and recommended:

replace with SCS FOR CSHB 247(SA)) same title
 or adopt _____ CS FOR _____) new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted _____

Committee attached or adopted fiscal note(s)

new updated or previous

zero fiscal impact

MEMBERS SIGNING DO/PASS

OTHER RECOMMENDATIONS

[Handwritten signatures]

Ken Young Notes

[Handwritten signature]
Chairman signature and recommendation

Committee Backup Attached



Alaska State Legislature

Representative Mike Davis

District 19

P.O. Box V
Juneau, Alaska 99811
(907) 456-4930/4941

Interim Office:
P.O. Box 81435
Fairbanks, Alaska 99708
(907) 456-8161

TO: Senate State Affairs Committee
FROM: Rep. Mike Davis
DATE: February 18, 1988
RE: CSHB 247 (Jud)

The goal of HB 247 is to ensure that ballot propositions and election pamphlet summaries are clear, concise, and easily readable.

In the past, ballot propositions have frequently been written in college level English. In addition the wording of propositions has sometimes made it difficult to understand whether a "yes" vote supports or opposes the action under consideration.

HB 247 requires that each ballot proposition and election pamphlet neutral summary be scored under the reading level formula in section 4, subsection (c). The legislation states that it is the policy of the state to prepare propositions and summaries that score at approximately 65. HB 247 does not influence the content of the actual referendum, initiative, or constitutional amendment. It affects only the abbreviated form appearing on the ballot and the neutral summary in the election pamphlet.

The reading level formula contained in this bill is the Flesch test. This test is used by several states with insurance policy readability laws, and in Maine's election statute. A Flesch score of 65 approximately corresponds to an eighth grade reading level. As the Flesch score increases, the difficulty of the reading material decreases.

HB 247 further requires that each ballot proposition contain language stating that a "yes" vote is a vote in favor of the initiative, referendum, or constitutional amendment under consideration. This provision is intended to prevent a situation in which a "yes" vote would be required to maintain the status quo.

Finally, HB 247 states that a court may not enjoin the conduct or results of an election for failing to comply with the legislation. The bill would not increase the risk of suits against the state. It will, however, encourage participation in elections and assist informed decision making by voters.

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: CSHB 247
PUBLISH DATE: 4/30/87

FISCAL NOTE

REQUEST:

Revision Date: 1/29/88
Title: An Act relating to the readability of certain election materials.
Sponsor: DAVIS
Requestor: Senate State Affairs

Agency Affected: _____
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

[Empty box for analysis]

Prepared by: Linda Edgeworth Phone: 465-4611
Division: Division of Elections Date: _____

Approved by Commissioner: [Signature] Date: 2/1/88
Agency: Office of the Governor

Distribution (by preparer): 2/1/88
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

Bill Version: HB 247
Publish Date: HOUSE 4/6/87

REQUEST: _____

Revision Date: 4/13/87
Title: An Act relating to the readability
of certain election materials.
Sponsor: Davis and Koponen
Requestor: Representative Mike Davis

Agency Affected: Legislative Affairs Agency
BRU: Legislative Council
Components: Legal Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

No fiscal impact.

Prepared by: Pamela A. Stoops, Manager
Division: Administrative Services
Approved by: Warren W. Endicott
Agency: Legislative Affairs Agency

Phone: 465-3850
Date: 4/13/87
Date: 4/13/87

Distribution (by preparer):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)
Senate Secretary

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: HB 247
Publish Date: _____

Revision Date: _____
Title: "An Act relating to certain
election materials."
Sponsor: Representative Davis
Requestor: House State Affairs

Agency Affected: Department of Law
BRU: Legal Services
Components: Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see attached analysis.

Richard L. Pequeb

Prepared by: Richard J. Pequeb, Director
Division: Administrative Services

Phone: 465-3672
Date: April 13, 1987

Approved by Commissioner: Richard J. Pequeb / FOR /
Grace Bern Schaible, Atty. Gen.
Agency: Department of Law

Date: April 13, 1987

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 247

This bill amends AS 15.58 by adding a new section that provides a scoring methodology for the readability of the neutral summaries of ballot propositions that appear in the voter's pamphlet. Division of Elections and Department of Law staff responsible for preparing these summaries may have to hone their writing skills, but they will not require additional resources to implement this bill.

FLESCH FORMULA

The Flesch formula is based to compute scores for "reading ease" and "human interest". Although this method has been criticized, no better system seems to have been developed to this time for quick evaluation of adult reading materials. Flesch has a chart inside the cover of his book, The Art of Readable Writing, which is a short-cut to determining readability and will eliminate the need to compute the formula. This chart can be used in place of steps 6 and 7 in the procedure outlined below. For those who do not have access to his book, the procedure he follows to determine readability is:

1. Count the words in the article (mark each 50th word).
2. Count the sentences.
3. Count the syllables in the article.
4. Divide the number of words by the number of sentences to obtain the average sentence length.
5. Divide the number of syllables by the number of words and multiply by 100 to obtain the average number of syllables per 100 words.
6. Multiply the average sentence length in words by 1.015.
7. Multiply the average number of syllables per 100 words by .846, then add the totals of steps 6 and 7, then subtract the total from 206.835 to obtain the readability score for the article.
8. Convert the readability score to reading ability level given below to determine usability.

<i>Description of Style</i>	<i>Average Sentence Length</i>	<i>Average No. of Syll. per 100 Wds.</i>	<i>Reading Ease Score</i>	<i>Estimated Reading Grade</i>
Very Easy	8 or less	123 or less	90 to 100	5th grade
Easy	11	131	80 to 90	6th grade
Fairly Easy	14	139	70 to 80	7th grade
Standard	17	147	60 to 70	8th and 9th grade
Fairly Difficult	21	155	50 to 60	10th to 12th grade (high school)
Difficult	25	167	30 to 50	13th to 16th grade (college)
Very Difficult	29 or more	192 or more	0 to 30	college graduate

STATE OF ALASKA

P O BOX AA
JUNEAU 99811
(907) 465-3520

M E M O R A N D U M

OFFICE OF THE LIEUTENANT GOVERNOR

TO: Grace Schaible
Attorney General
Department of Law

FROM: Stephen McAlpine
Lieutenant Governor

DATE: March 4, 1987

SUBJECT: Attached Proposed Legislation

Attached please find information given to me by the League of Women Voters. I am in favor of legislation similar to this and would appreciate your review of their proposal. It is my understanding that this legislation will be introduced this session. However, if it is not introduced or does not pass the Legislature, I would like to see this become the policy for ballot propositions, etc. for the Division of Elections.

Attachment

cc: Sandi Stout, Division of Elections



April 1987

Representatives Mike Davis and Niilo Koponen have introduced House Bill 247 which would require ballot propositions and neutral summaries in voter's pamphlets to be worded on an eighth grade reading level or lower.

The Fairbanks League of Women Voters and the Literacy Council have been working for about three years on trying to ensure that these propositions and summaries are easier to read. Currently there are no standards for readability being used by the state, with the result that ballot propositions and neutral summaries are usually worded on a 12th grade through college graduate level.

According to the Literacy Council only 62% of the population can read at the 11th grade level. For many Alaskans English is a second language.

The standard proposed in HB 247 has been adopted in many states. It would require little extra staff time, and the result is that people would understand exactly what they were voting on.

The League of Women Voters of Alaska is pleased that the Fairbanks representatives have taken this step to ensure an informed voting population. We urge you to vote in favor of this bill which is so important to maintenance of a truly democratic process.



February 19, 1988
Senate State Affairs Committee
The Alaska Legislature

CSHB 247 An Act relating to the
preparation of election propositions
and materials.

Mister Chairman, Members of the Committee:

I am Eve Reckley. I represent the League of Women Voters of Alaska. The League supports passage of the Committee Substitute for House Bill 247 to ensure that ballot propositions and election pamphlet information can be easily read and understood. It establishes as policy within the election law, that ballot propositions be written in a way "that is clear, concise, and easily readable." The bill sets a standard for readable language. It establishes a formula for measuring readability by the average word and sentence length of an article. An unbiased test of readability would apply to all ballot propositions.

The bill also requires a "yes" vote for approval of a proposed law. This is a vital provision. It would avoid much of the confusion surrounding ballot propositions of the past. By requiring a yes vote, it would remove the question of whether obscure or negative language was intentionally drafted to mislead and thus defeat a ballot proposition. We believe this provision would greatly improve voter confidence in the integrity of the election system.

The League believes election laws should encourage maximum interest and participation in the electoral process. They should be simple and efficient to administer, and should aid in preventing fraudulent voting practices. The bill before you would strengthen the election process and bring better informed voters into the system.

CSHB 247 might well have far greater significance than its sponsors ever hoped. If enacted, it could help voters understand for the first time some of the ballot propositions put before them. This bill could be the "sleeper" of the session in terms of its importance to the election process. A friend I used to lobby with in Washington, D. C. would call this a "Mother-pie" issue, short for apple pie and Motherhood.

Page 2/ CSHB 247/ Ballot Readability

In this election year, we anticipate that there will be a number of important ballot propositions before voters, including an advisory vote on the proposed amendment to the Constitution of Alaska mandating that meetings of legislative bodies be open to the public; possibly another on tort reform. The League believes that these and all other issues must be placed on the ballot in clear language.

We urge your approval of this legislation. Thank you for this opportunity to present our views.

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: CSHB 247 (SA)
PUBLISH DATE: 4/30/87

REQUEST:

FISCAL NOTE

Revision Date: 1/29/88
Title: An Act relating to the readability of certain election materials.
Sponsor: DAVIS
Requestor: Senate State Affairs

Agency Affected: _____
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Linda Edgeworth
Division: Division of Elections
Approved by Commissioner: [Signature]
Agency: Office of the Governor

Phone: 465-4611
Date: _____
Date: 2/1/88

Distribution (by preparer): 2/1/88
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

HB

260

Kitty Lew
4831 Sportsman Drive
Anchorage, Alaska 99502

February 22, 1988.

Senator Mitch Abood
Chairman, State Affairs Committee
Juneau, Alaska 99811

HB 260
RECEIVED
MAR 1 1988

Dear Senator Abood,

During my literature research as a volunteer for the HEALTHY ALASKA COALITION, I was astounded in the damaging effects of smokeless tobacco use on the teenagers in our country. The fact that there are a lot of educational programmes in the school and community sectors on cigarette, alcohol, drug and substance abuses, but insignificantly few on smokeless tobacco usages.

As a concerned citizen in your legislative district and a mother of three growing children from age 5 to 14, I strongly urge you to act on HB260 and schedule a hearing as soon as possible.

Our children are helpless when pitted against the millions spent by the tobacco companies for the promotion of smokeless tobacco. They need our legislators to give them a better odds. Enclosed, I have a little fact sheet that may be of interest to you.

A young man, Marvin Sean Marsee, died in 1984 at the age of 19, in Oklahoma when oral cancer which was caused by prolonged snuff use, had destroyed his tongue, throat and jaw. This led to a new law in Oklahoma forbidding sales to minors and also an excise tax on all forms of smokeless tobacco. Please let us not wait till another similar tragic event before we mobilize to act. Please help us to show that the pioneering Alaskans also cares for the health of our teenagers.

Thank you for your attention!

Sincerely,

Kitty B. Lew

FACTS ON SMOKELESS TOBACCO

1. Today, smokeless tobacco is produced in 2 general forms, chewing tobacco and snuff. Loose-leaf chewing tobacco is made from air-cured, cigar-type leaves from tobacco that is grown mainly in PENNSYLVANIA & WISCONSIN. Dry snuff is made primarily from fire-cured dark tobacco that is grown mainly in KENTUCKY & TENNESSEE. (The Health Consequences of Using Smokeless Tobacco.- A Report of the Advisory committee to the Surgeon General, 1986)
2. Between 1970 and 1985, the production of chewing tobacco increased 36% from 63.9 million to 86.9 million pounds; snuff increased 56% from 31.3 to 48.7 million pounds. (U. S. D. A. Records)
3. Data from national survey (American Cancer Society) indicated that over 12 million persons used some form of smokeless tobacco in 1985 and that approximately 6 million used smokeless tobacco weekly or more often. Use is particular among young males. 3 million users are under the age 21.
4. State and local studies corroborate the national survey. In several parts of the country, as many as 25 to 35 percent of adolescent males have indicated current use of smokeless tobacco. (Report of the Advisory committee to Surgeon General, 1986).
5. Evidence link the use of smokeless tobacco with oral cancer, oral leukoplakis (cancer of cheek, gum, & oral cavities), gum disease, tooth loss, tooth abrasion, stained teeth & addiction to nicotine. Nicotine exposure also contribute to the increase in risks in heart disease, high blood pressure, peptic ulcer disease and fetal morbidity and mortality.
6. Factors that contribute to the increase of smokeless tobacco use are :
 - a) Increase restriction and prohibition of cigarette smoking in industries and schools.
 - b) Enhanced image of smokeless tobacco users through aggressive advertising, e.g. sports personalities. Among teenage boys, use of smokeless tobacco has become a status symbol.
 - c) Lower price compared to cigarettes.
 - d) Mistaken perception that smokeless tobacco products are less harmful than cigarettes.(Longitudinal patterns of cigarette smoking and smokeless tobacco use in youth, Feb. 86; Changing trends of tobacco use in a teenage population in Western Pennsylvania, Feb. 86)
7. Six month cessation rate among smokeless tobacco users (2.3%) is significantly lower to cessation rate of cigarette smokers (38%). (Intervention of tobacco chewing and smoking habits, AJPH June 86)
8. Use of smokeless tobacco have been consistently much lower for females than for males nationwide, (2 % of females in all ages in a 1985 NIH study). Among American Indian children, female and male usage rates are similar. In a 1986 survey in 8 rural regions of Alaska by the Indian Health Service, results indicated that 27.5% of all girls age 5 through 18 and 33.7% of all boys at the same age used smokeless tobacco products. Some started at the age of 5.
9. Similar studies with the Pacific Native Americans in both Washington and Oregon in 1986 showed similar results. (The New England Journal of Medicine, April 86, The International Journal of Addictions, Sept. 87.)
10. There are 27 States at present that levy excise taxes on smokeless tobacco products. Alaska is not yet one of them!!

FEB 29 1988

RECEIVED

2800 Aspen Dr.
Anchorage 99517

Jeff. Holly McMillan

Thank you

Go Sen. Abroad,
Please call hearing house
bill H-B 360 on regards to
smokeless tobacco.

2-22-88



HEALTH & LONGEVITY EDUCATORS

Carol

BOB WHEELER, M.P.H. 3605 Arctic Blvd., #2003, Anchorage, AK 99503 (907)344-8901

FEB 29 1988

Senator Mitch Abood
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

February 24, 1988

C
(M)

Dear Senator Abood: *EXCISE TAX ON SALE OF TOBACCO PRODUCTS*

I am writing to strongly urge, convince, persuade and enjoin you to schedule a hearing for HR 260, the bill that was passed by the house last year. As you are well aware from the plethora of studies, research and articles on the effects of tobacco on people, the whole of society pays the costs for the increased incidence of disease, illness and deaths engendered by those people who use these products. It is only fitting then, that a "user fee" be added to the cost of each product--smokeless tobacco, pipe tobacco and cigars--and the revenue therefrom used wisely. By wisely I mean, spending this money not for the cure of tobacco-related illnesses, but for anti-tobacco education, advertising and promotion. In a word, health promotion aimed at tobacco users.

Regardless of your feelings on this matter, as an elected representative of the people, should you not at the least, schedule a hearing for this bill? Thank you for reading my letter and I look forward to your response.

For High Level Health,

Bob Wheeler

Bob Wheeler, M.P.H.



Alaska Council on Smoking or Health, Inc.

Carol

**ALASKA COUNCIL ON SMOKING OR HEALTH
P.O. BOX 201028
ANCHORAGE, ALASKA 99520-1028
(907) 276-8889**

Officers

Anne Morris, M.D.
President
Susan Scott, M.S.
Vice President
Debra Eisen
Secretary
Mary Lee Cook, R.H., M.P.H.
Treasurer

February 11, 1988

RECEIVED
FEB 16 1988

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Nancy Babb
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Leo Kaye, Ed.M.
John Lee, M.D.
Hal Post, Ed.D.
Michael Price

Senator Mitch Abood
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Dear Senator Abood,

Regional

Representatives

Nils Annerud
Susan Glocke
Juneau
Grant Carlin, J.D.
Fairbanks

Speaking for the members and member organizations of the Alaska Council on Smoking OR Health, and as a member of the Healthy Alaska Coalition, we request that you schedule a hearing **for HB 260** as soon as possible. We consider it extremely important that smokeless tobacco especially be taxed to discourage it's use by youth and that monies be provided to promote good health practices in Alaska.

Sincerely,

Hal Post
Harry H. Post, Jr.
President

Legal Council

J.L. McCarrey III, J.D.

HHP/bb

Member Groups

Alaska Health Project
Alaska Heart Association
Alaska Lung Association
Alaska Native Health Board
Alaska Native Medical Center
Anchorage
Alaska Public Health Association
Alaska State Dental Society
Alaska State Parent-Teacher Association (PTA)
Alaska Thoracic Society
Alaska Psychological Association
Aleutian-Pribilof Health Department
American Academy of Pediatrics, Alaska Chapter
American Cancer Society, Alaska Division
Anchorage Home Economics Association
Anchorage Medical Society
Humana Hospital, Alaska
Municipality of Anchorage, Department of Health & Environmental Protection
Providence Hospital
Ruralcap
Sierra Club, Alaska Chapter
Southcentral Health Planning & Development
State of Alaska, Department of Health & Social Services



DEPARTMENT OF HEALTH & HUMAN SERVICES
PUBLIC HEALTH SERVICE
January 26, 1988

C
M

ALASKA AREA NATIVE HEALTH SERVICE
BOX 107741
ANCHORAGE, ALASKA 99510

Refer to: A-DES (DPS)

Senator Mitch Abood
Chairman, State Affairs Committee
Alaska Senate
Pouch V
Juneau, Alaska 99811

RECEIVED
JAN 29 1988

Dear Senator Abood:

~~I am writing to encourage you to schedule public hearings on H.B. 260, "An Act Establishing a Tax (User Fee) on Certain Tobacco Products".~~

I conducted a state-wide survey of 4,965 Alaska youth in 1986 on their use of smokeless tobacco products. We found that 27.5% of girls who responded used these products while 33.7% of the boys responded positively.

A frightening result was that 16.9% of five years old girls and 9.8% of five year old boys use smokeless tobacco.

We are working to develop methods to encourage these children to stop the usage of smokeless tobacco. However, I see H.B. 260 as a strong deterrent to their use by raising the cost of these products.

I strongly encourage you to schedule hearings on H.B. 260 as soon as possible.

Thank you.

Sincerely,

Candace M. Schlife
Candace M. Schlife
Dental Prevention Specialist
Alaska Area Native Health Services



DEPARTMENT OF HEALTH & HUMAN SERVICES
PUBLIC HEALTH SERVICE
January 26, 1988

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M

RECEIVED

ALASKA AREA NATIVE HEALTH SERVICE
BOX 107741
ANCHORAGE, ALASKA 99510

JAN 29 1988

Refer to: A-DES

Senator Mitch Abood
Chairman, State Affairs Committee
Alaska Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Abood:

I am writing to encourage you to schedule public hearings on H.B. 260, "An Act Establishing a Tax (User Fee) on Certain Tobacco Products", as soon as possible.

As the dental consultant to Regional Health Corporation managed dental programs throughout Alaska, I am very concerned with the high rate of use of smokeless tobacco products by Alaska Native youth. We are seeing children as young as five years old using smokeless tobacco on a regular basis. The potential result of a lifetime use of these smokeless tobacco products is a tremendous increase in the prevalence of cancers in these children at an older age.

I feel that increasing the costs of these smokeless tobacco products is one of several ways to deter their use. We are also very involved in encouraging these children to stop the use of the products through educational and other preventive mechanisms.

Again, I encourage you to hold hearings on H.B. 260 and to support its passage.

Thank you.

Sincerely,

David B. Jones, DDS

David B. Jones, D.D.S.
Chief,
Dental Service Section
Alaska Area Native Health Services

AMERICAN  LUNG ASSOCIATION of ALASKA
Dedicated to the prevention and control of lung disease

January 25, 1988

Senator Mitch Abood
P.O. Box V
Juneau, Alaska 99811

RECEIVED
JAN 29 1988

C. what? M

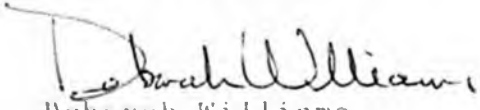
Dear Senator Abood:

On behalf of the 12,000 members of the American Lung Association of Alaska, we urge you to schedule HB 260 for hearing at the State Affairs Committee as soon as possible.

HB 260 is a very important health bill, and is one of the Lung Association's priorities for 1988.

Thank you for your prompt scheduling of this matter.

Sincerely,


Deborah Williams
Executive Director

C
A

Alaska Thoracic Society
605 Barrow Street, Suite 2
Anchorage, Alaska 99501

RECEIVED
JAN 29 1988

January 27, 1988

Senator Mitch Abood
P.O.Box V
Juneau, Alaska 99811

Dear Senator Abood:

During its annual meeting on January 16, 1988, the Alaska Thoracic Society (ATS) voted unanimously to support HB 260. As a professional group of pulmonary physicians and respiratory therapists, the ATS is dedicated to the lung health of Alaskans. We view HB 260 as a critical piece of legislation in this regard.

Please schedule HB 260 for a hearing in your State Affairs Committee as soon as possible. We hope that it will be heard by the second week of February.

Thank you in advance for scheduling HB 260. If we can be of further assistance, please let us know.

Beth Baker, MD
Beth Baker
Past President
Alaska Thoracic Society



Telegram

20350
T
POM 08033 ANCHORAGE ALASKA 12 01-26 914P AST

PMS

SENATOR MITCH ABDOO

POUCH V 050

JUNEAU AK 99911

PLEASE SCHEDULE EARLY HEARING ON HB 220 WHICH I FROM YOUR DISTRICT FAVOR.

RODMAN WILSON, M.D.

6234 TAMAINA DRIVE

ANCHORAGE, ALASKA 99502

RECEIVED
JAN 28 1988

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST _____

Bill Version: CSHB 260 (FIN)
Publish Date: HOUSE 5/13/87

Revision Date: 5/11/87
Title: An act establishing an excise tax on the sale of smokeless tobacco.
Sponsor: Ellis, Gruenberg, Pourchot, etc
Requestor: _____

Agency Affected: Department of Revenue
BRU: Division of Audit
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	15.0	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	15.0	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	Will range from 625.0 to 1 million each year				

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	15.0	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	15.0	-	-	-	-

POSITIONS:

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

ANALYSIS: See attached analysis.

Prepared By: Steven E. Kettel
Division: Division of Audit
Approved by Commissioner: _____
Agency: _____

Phone: 465-2320
Date: May 12, 1987
Date: 5/12/87

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

CSHB 260 (FIN)
Fiscal Note Analysis

Section 1

AS 43.50.300 imposes a 25% excise tax on tobacco products manufactured or transported into the state. The amount of the tax liability is measured by the wholesale price. The tax is intended to be levied against the person manufacturing, bringing or transporting the tobacco product into the state. It may be somewhat unclear, however, whether the incidence of the tax falls on the manufacturer, distributor, or retailer unless this section is read in conjunction with other sections. We recommend the second sentence read "The tax is levied on the distributor". The definition of distributor in AS 43.50.390 duplicates the language in AS 43.50.300 thereby rendering .300 unnecessary.

AS 43.50.310(a) exempts from the tax any "facility" operated by "uniformed services". While the incidence of tax may not necessarily directly fall upon the facility when the tobacco product is obtained from a distributor, it is our understanding that the intent of the provision is to effect a pass through of the exemption from the facility to prior distributors.

AS 43.50.310(b) provides that the tax does not apply if federal law otherwise precludes the tax. This provision effectively exempts tobacco products from the statute where the taxation would violate federal law, i.e. an unconstitutional or discriminatory tax on interstate commerce, for example.

AS 43.50.320 requires that a distributor must be licensed unless already licensed under the cigarette tax provisions. Thus, there is no duplicative licensing. The license is effective for one year and may be renewed each year at a cost of \$50. A license is not generally assignable or transferable except in certain specified circumstances.

The department can refuse to issue a license if it has "reasonable cause" to believe the application is false or misleading and is not made in good faith. The bill does not define reasonable cause nor establish a procedure for an applicant to attempt to refute the finding of the department. Therefore, an applicant is not entitled to a hearing on the refusal to grant a license. Further, a license may be suspended or revoked if there is any violation of statutory or regulatory provisions. There is no statutory right to protest a license revocation or suspension.

AS 43.50.330 requires that returns be filed each month by a licensee reporting the sales of tobacco products for the prior month. The tax, less one percent allowed to the licensee for administrative expense, is due with the filing of the return.

AS 43.50.340 provides that a licensee must keep and preserve for three years accurate records as required by the department.

HOUSE 5/13/87

AS 43.50.350 provides that the tax goes into the general fund and must be separately accounted for by the commissioner of administration. The funds are not dedicated but it is envisioned the legislature may use the annual balance to make appropriations for health care and other health related areas.

AS 43.50.360 requires the department to submit to the legislature an annual report on the first day of each regular session.

AS 43.50.370 allows the department to adopt regulations to carry out the provisions of the statute.

AS 43.50.390 defines the terms "distributor", "licensee", "tax", "tobacco product" and "wholesale price". The term tobacco products excludes cigarettes. The wholesale price is the "established price" for which a manufacturer sells a tobacco product to a distributor which may not necessarily be the actual price.

Section 2

AS 43.50.170 is amended to limit the definitions pertaining to the cigarette tax to those provisions and to make them inapplicable to the tobacco products provisions. A drafting revision is also made to make references to gender neutral.

Fiscal Costs

§15.0 contractual - to provide necessary funds for tax return form revisions, new forms, spreadsheet software for preparing annual report to legislature, and costs attendant for drafting and public noticing regulations to address reporting requirements.

Prepared by:
Department of Revenue
Division of Audit
May 12, 1987

H B

261

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

C
HB 261
M

POUCHY - STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

MEMORANDUM

April 5, 1988

SUBJECT: Ignition interlock devices - CSHB 261(Jud)
TO: Representative Max Gruenberg
FROM: Michael F. Ford *M.F.*
Legislative Counsel

You have asked if the probation that may be imposed under AS 12.55.102, enacted in CSHB 261(Jud), would reduce any mandatory minimum jail time required under other provisions of law. The short answer is no. While the legislation allows a new condition of probation to be imposed, the bill does not reduce the existing mandatory minimum jail time otherwise required to be served. For example, in sections 4 and 6 of CSHB 261(Jud) the existing language requiring that probation may not be granted unless the minimum imprisonment provided in those sections is first served, has not been changed.

Please contact me if you have further questions.

MFF:bb
b4/096

State of Alaska

House Majority Leader

COMMITTEES

HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES
HOUSE JUDICIARY
HOUSE RULES



Representative Max F. Gruenberg, Jr.
District 11
Spenard, Upper Midtown Anchorage

P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-3718
465-4968/4986

914 CLAY COURT
ANCHORAGE, ALASKA 99503
(907) 276-6844

M E M O R A N D U M

TO: Senator Mitch Abood, Chair
Senate State Affairs Committee

FROM: Max F. Gruenberg, Jr.

DATE: March 9, 1988

RE: CSHB 261, (Judiciary) "An Act relating to sentencing
in criminal actions involving alcohol."

I would very much appreciate it if you would schedule a hearing for CSHB 261 as soon as it is possible.

As explained in the enclosed Time Magazine article, HB 261 will allow judges to require persons convicted of alcohol-related offenses to install, at their expense, an "ignition interlock device" on their motor vehicles. This "mini-breathalyzer" prevents the car from starting unless the driver "blows clean."

Courts around the country have started to require these devices. Twenty-two other state legislatures are presently considering ignition interlock legislation. Five states have already enacted laws establishing an interlock program. Four states have started ignition interlock programs through their court systems without statutes and two states have passed resolutions to start study programs.

Nationwide studies show that multiple DWI offenders sentenced to an ignition interlock program are three times less likely to be reconvicted than are those sentenced under conventional DWI sentencing practices. Moreover, a survey of offenders who have installed the device shows that most believe this is an effective method of preventing DWI's.

The cost to the defendant is about \$500.00 per year for installation and maintenance of the interlock device. The judge may deduct this cost from the defendant's fine.

CSHB 261 passed the House unanimously. It has the emphatic support of both Anchorage C.H.A.R. and Anchorage M.A.D.D. If we can keep persons with known alcohol-related problems from driving while intoxicated, we can save many lives. I hope you will support the bill.

My staff attorney, Mark Handley, will call your office today and set up an appointment for us to talk about the bill.

Thank you very much.

Enclosure

American Notes



Mayor Washington at a rally with senior citizens



The doomed Atlas-Centaur



If she had one for the road, her car won't start

CRIME

Etta Smith's Fatal Vision

For Etta Louise Smith, the nightmare began shortly before Christmas 1980, when she claims to have had a vision of something white, covered by brush. A Lockheed aerospace worker in Burbank, Calif., Smith does not consider herself a psychic. Yet after she heard radio reports about Nurse Melanie Uribe, 31, who had vanished on her way to work, Smith was convinced she knew where the body could be found. She took her information to the police, who put her off.

Smith then organized a search with two of her young children and a 20-year-old niece. In remote Lopez Canyon, 18 miles north of Los Angeles, her daughter spotted a white heap that turned out to be Uribe—robbed, raped and beaten to death. Smith told police of her discovery and was arrested for the murder.

While she was held in jail for four days, the killers—three men with prior arrest records—turned up Smith, 39, filed a suit for false arrest. Last week Los Angeles County Superior Court Judge Joel Rudolf ruled that despite Smith's detailed account of the murder of a woman she never knew or saw, police did not have probable cause to lock her up. Smith's attorney has asked for \$750,000 in damages; the jury's verdict is expected this week.

SPACE

A Bolt In the Blue

Atlas-Centaur rockets have been launching U.S. satellites into orbit for the past 25 years, but last week the sturdy workhorse suffered a rare failure. Less than a minute after liftoff from Pad 36B at Cape Canaveral in threatening weather, a \$78 million, 117-ft. rocket disappeared into rain-swollen thunderheads and went out of control. A range safety officer hit the destruct button, and the rocket exploded along with its payload, an \$83 million communications satellite. For NASA, struggling to recover from the loss of the *Challenger* shuttle 14 months ago, the aborted flight broke a string of seven successful launches since September. The cause was not immediately known, although a leading suspect was lightning.

INVENTIONS

Drunkproofing Automobiles

The crusade against drunk driving has gained an ingenious new weapon: the breath-test ignition lock. The auto's ignition is linked to a breath-alcohol measuring device, and it becomes impossible to start a car unless the driver is sober. Already used in some states, in-

cluding Ohio, Maryland and Michigan, and pending in a dozen or so others, the locks will undergo their first systematic trial in California by summer.

Intended as an alternative to jail terms and suspended licenses for drunk drivers, the locks have mouthpieces into which drivers must exhale to measure their breath-alcohol level. The manufacturers, Guardian Interlock Systems of Denver and Safety Interlock of Carmel, Calif., claim that built-in safeguards make it difficult for drivers to use compressed air or borrow a breath of fresh air from a friend. One unsolved problem: how to prevent a tipsy driver from borrowing a car that has not been drunkproofed.

CALIFORNIA

What's Yours Is Mine

Mount Pico Blanco near Big Sur contains 600 million tons of limestone, one of the largest deposits in the U.S. The Granite Rock Co. wants to quarry the scenic mountain, which is on federal land, while the California coastal commission wants to protect it. Last week the Supreme Court ruled 5 to 4 for the coastal commission, upholding the right to states to enforce environmental requirements even on federal property. California can require the mining company to obtain a state permit, even

though it had received a federal go-ahead. Fully 19 states, along with the National Governors Association, had filed briefs as friends of the court on behalf of the coastal commission.

CHICAGO

Dishonorable Opponents

Chicago has never been known for civics-textbook politics, but this year's mayoral race amounts to a demolition derby. After winning February's Democratic primary, black Mayor Harold Washington has been challenged by two white opponents from his own party for the April 7 election, although both are running under minor-party labels. Yet Cook County Tax Assessor Thomas Hynes and Alderman Edward Vrdolyak are spending most of their time attacking each other.

After Vrdolyak accused Hynes of using his office as county tax assessor to gain more business for his law firm, Hynes was quoted in the *Chicago Sun Times* suggesting that Vrdolyak had met with a Mafia boss. Vrdolyak sued for libel and accused Hynes of being a "liar and a sleaze." Even Washington, who leads Hynes by 35% and Vrdolyak by 39%, could not resist stooping for a shot at his longtime enemy Vrdolyak. Said the mayor: "He's slime."

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version: HB 261
Publish Date: 4-8-87

Revision Date: _____
Title: "An Act relating to ignition
interlock devices"
Sponsor: Depr. Gruenberg, Barnes,
Requestor: Donley

Agency Affected: Dept. of Corrections
BRU: _____
Comments: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

The Department of Corrections will be able to perform the responsibilities described in this Bill and supports its concept.

Prepared by: Susan E. Knighton, Research Analyst IV
Division: Statewide Programs

Phone: 465-3376
Date: 4-21-87

Approved by Commissioner: Susan Humphrey-Barnett
Agency: Department of Corrections

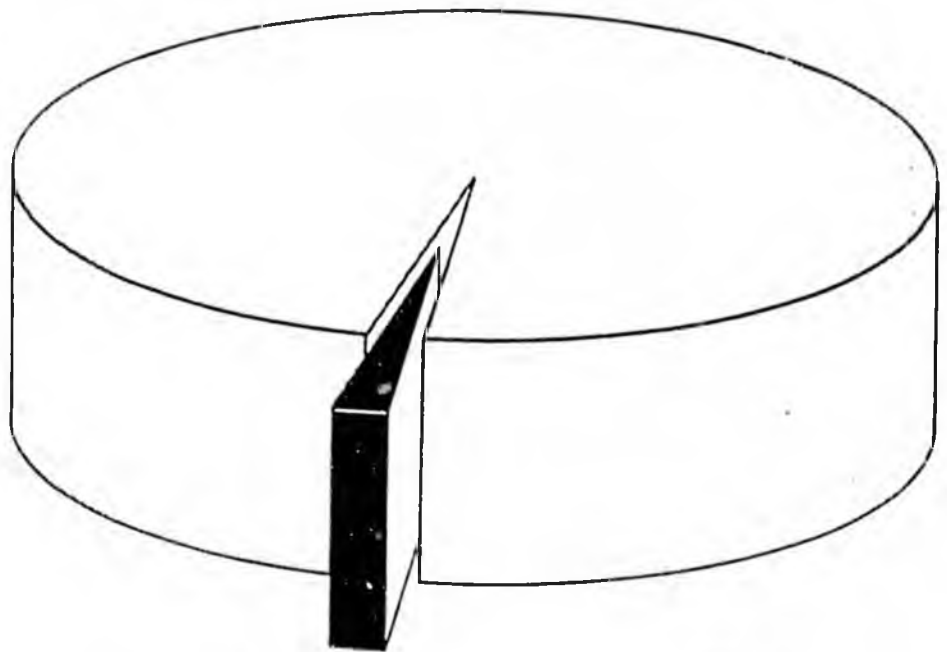
Date: 4-21-87

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

RESULTS

Guardian Interlock Responsible Driver ProgramSM significantly reduces risk of repeat drunken driving



A STATISTICAL ANALYSIS OF DUI/DWI* offenders in the Guardian Interlock Responsible Driver ProgramSM shows that only 4.6% were rearrested for drunken driving within the 12 months ending December, 1987.

In comparison, many jurisdictions nationwide report that approximately 15% of multiple DUI/DWI offenders subject to only conventional sentencing are rearrested within one year.

The statistics indicate that court officials who sentence offenders to the Responsible Driver Program are three times more likely to reduce the number of repeat drunken driving offenses in their jurisdictions than those who do not use the program.

The analysis involved a sample population of mostly multiple offenders sentenced for at least one year to the program typically as a condition of probation for drunken driving.

THE RESPONSIBLE DRIVER PROGRAM provides for installation of the Guardian InterlockTM in an offender's vehicle and monitors his or her use of the computerized device. Guardian Technologies, Inc., manufacturer of the device, reports the results

GUARDIAN INTERLOCK
RESPONSIBLE DRIVER PROGRAM
SAMPLE POPULATION
OVER
12 MONTH PERIOD

REARREST RATE 4.6%

of these monitoring checks to the court every 60 days.

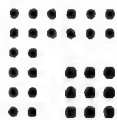
More than 100 courts in eight states are including the program in their sentencing of offenders to deter further drunken driving offenses. The program can be used as an alternative to traditional sentencing or to supplement and enhance such measures as alcohol treatment.

The Guardian Interlock, which requires a breath test before a vehicle will start, is tamper-resistant. As an

added safeguard, it features technology which can detect attempted tampering and circumvention.

For more information on the Guardian Interlock Responsible Driver Program, call toll-free (800) 457-0001; In Colorado, call (303) 831-6333. Or write: Program Development, Guardian Technologies, Inc., 1009 Grant Street, Denver, CO 80203. Results on the program will be updated periodically.

*Driving Under the Influence - Driving While Intoxicated.



**GUARDIAN
TECHNOLOGIES, INC.**

© 1988 Guardian Technologies, Inc.
RG 88122

HOUSE HEALTH, EDUCATION, & SOCIAL SERVICES COMMITTEE MEETING - MAY 14, 1987

Rep. Ellis brings HB 261 before the committee.

Rep. Gruenberg states that HB 261 is modeled after California legislation that would allow a judge to require, as a measure of probation, a person convicted of a alcohol related offense to install a breathalyzer in his or her car. People would be able to start their car unless they "blow clean." Other states have done this. Rep. Gruenberg states that there is a videotape about the breathalyzer.

Rep. Gruenberg mentions that there is a proposed committee substitute for HB 261 which takes care of the Court Systems problems. On page 2, line 23 language has been added so that additional certificates would not be required.

Rep. Koponen (who has rejoined the committee) asks Nancy Nogg to testify via teleconference.

Ms. Nogg explains that the breathalyzer is wired into the ignition system. The driver must give a deep lung sample that is below a set amount of alcohol content before the engine will start. There is a patterned breath code also required so that a drunk person cannot get some one else to start the car. The breathalyzer is inspected every 60 days for signs of tampering. Three states have passed legislation regarding the use of these devices. Ms. Nogg reports that in the five states that have used the devices, the only repeat offense was caught walking drunk. The device can be fitted for all-terrain vehicles also.

Rep. Gruenberg asks how the device works in cold weather. Ms. Nogg replies that it will read at minus 40 degrees. It will not interfere with the engine heater.

Committee members view the videotape.

Rep. Gruenberg comments that he is impressed with the zero recidivism.

Rep. Koponen asks about rental cars. Ms. Nogg reports that other states have required notification on the person's drivers license and the rental car agency would be prohibited to rent a car to that person unless it had a breathalyzer. Rep. Gruenberg notes that HB 261 proposes to have it a class C misdemeanor to sell, rent or lease a car when the person knows they are to have a breathalyzer.

Rep. Hudson asks if anyone else will be able to start and use the car. Ms. Nogg replies that a family member may be trained. It does eliminate the passersby though.

Rep. Koponen asks Jan Wrentmore to testify.

Rep. Hudson asks what the fiscal implications of the bill are. Rep. Gruenberg replies that there is a zero fiscal note from the Department of Correction. Rep. Gruenberg corrects his previous statement and says that it is the Department of Corrections and not the Department of Public Safety that does the certification.

Rep. Koponen moves that the committee substitute for HB 261 be passed with individual recommendations. Seeing no objections, it is so ordered.

HOUSE JUDICIARY COMMITTEE MEETING - FEBRUARY 12, 1988

HB 261

Vice-chair Ulmer announced the committee would take testimony on HB 261 over teleconference after Representative Gruenberg gave an overview of the bill.

Representative Gruenberg, sponsor of HB 261, explained that HB 261 would allow a judge, as a condition of probation in alcohol offenses, to require installation of an ignition interlock device, which is basically a mini-breathalyzer. A car with this device cannot be started unless it's blown clean; it will not allow a drunk person to drive. He explained that most devices are breath activated and they have specific individual codes that are required to start the car. He noted that the bill has provisions that make it a crime to lend a vehicle without a device to a person knowing they are required to have an interlock device, and to activate the breathalyzer for another person. The penalty is a \$500 fine and thirty days in jail. HB 261 is not intended to take the place of present DWI penalties, but is in addition to them as a positive step towards drunk driving.

Representative Gruenberg discussed statistics, pointing out that recidivism is cut by two-thirds. Laws for interlock devices are relatively new, with California passing the first in 1986, and several other states now have provision. HB 261 also provides for the Department of Corrections to certify manufacturers who produce eligible interlock devices in Alaska. They will set standards and the devices will undergo testing at manufacturers expense to make sure they meet the requirements established by the department. The devices will have a warning label regarding tampering. A judge can assign a device, to be installed at the defendant's expense for \$500 per year. There is a also provision that the judge may suspend a fine to allow a defendant to pay for the cost of the device.

Laurel Nelson, Manager of Governmental Affairs at Guardian Technologies, stated that they manufacture technological devices used within the criminal justice system, including home arrest systems, and are one of three manufacturers of ignition interlock systems. She said that twenty-two states have introduced similar legislation. Last year,

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

HOUSE HEALTH, EDUCATION, & SOCIAL SERVICES COMMITTEE MEETING - MAY 14, 1987

Rep. Ellis brings HB 261 before the committee.

Rep. Gruenberg states that HB 261 is modeled after California legislation that would allow a judge to require, as a measure of probation, a person convicted of an alcohol related offense to install a breathalyzer in his or her car. People would be able to start their car unless they "blow clean." Other states have done this. Rep. Gruenberg states that there is a videotape about the breathalyzer.

Rep. Gruenberg mentions that there is a proposed committee substitute for HB 261 which takes care of the Court Systems problems. On page 2, line 23 language has been added so that additional certificates would not be required.

Rep. Koponen (who has rejoined the committee) asks Nancy Nogg to testify via teleconference.

Ms. Nogg explains that the breathalyzer is wired into the ignition system. The driver must give a deep lung sample that is below a set amount of alcohol content before the engine will start. There is a patterned breath code also required so that a drunk person cannot get someone else to start the car. The breathalyzer is inspected every 60 days for signs of tampering. Three states have passed legislation regarding the use of these devices. Ms. Nogg reports that in the five states that have used the devices, the only repeat offense was caught walking drunk. The device can be fitted for all-terrain vehicles also.

Rep. Gruenberg asks how the device works in cold weather. Ms. Nogg replies that it will read at minus 40 degrees. It will not interfere with the engine heater.

Committee members view the videotape.

Rep. Gruenberg comments that he is impressed with the zero recidivism.

Rep. Koponen asks about rental cars. Ms. Nogg reports that other states have required notification on the person's driver's license and the rental car agency would be prohibited to rent a car to that person unless it had a breathalyzer. Rep. Gruenberg notes that HB 261 proposes to have it a class C misdemeanor to sell, rent or lease a car when the person knows they are to have a breathalyzer.

Rep. Hudson asks if anyone else will be able to start and use the car. Ms. Nogg replies that a family member may be trained. It does eliminate the passersby though.

Rep. Koponen asks Jan Wrentmore to testify.

Ms. Wrentmore supports the legislation. She states that a lot of alcohol related accidents in this state are caused by repeat offenders. People cannot reason with drunks and they often insist on driving.

Rep. Koponen asks Jerr Reinwand to testify.

Mr. Reinwand supports HB 261.

Rep. Hudson asks if the breathalyzer would work with some one using drugs. Ms. Nogg replies that alcohol is different from other drugs in how it is absorbed into the blood stream and that is why a breathalyzer works. Using a breathalyzer for other drugs is still being researched. However, people who use drugs often also drink.

Ms. Nogg explains again how members of a family can be trained to use the device so they can drive the car. The code is a series of breaths which are based in volume.

Rep. Gruenberg asks that HB 261 be held over for interim hearings and public education. Rep. Koponen appoints a subcommittee of Representatives Gruenberg, Ellis and Hanley. Committee members discuss needed materials and how to educate the public.

Rep. Koponen reminds committee members that the meeting tomorrow is at 7:30 a.m. for the federal social service block grant hearing. Interim work will also be discussed along with newly referred bills from the Senate.

HOUSE H.E.S.S. COMMITTEE MEETING - JANUARY 21, 1988

HB 261

Rep. Ellis brings HB 261 before the committee and asks Rep. Gruenberg to make his presentation.

Rep. Gruenberg reviews the 9/3/87 draft of the bill. The first change is that the court is allowed to reduce the fine by the cost of the interlock device. This will alleviate the problem of people not being able to afford the device. Secondly, the Department of Public Safety must establish regulations for the standards on the device in order to be certified. The manufacturers must show that they meet the standards and to get certified. The cost of certification is borne by the manufacturer. Finally, a warning label must be displayed stating that anyone tapering with the device is guilty of a class C misdemeanor.

Rep. Gruenberg moves that the 9/3/87 version of HB 261 be adopted as the committee substitute. Seeing no objections, it is so ordered.

Rep. Ellis notes that the committee did work on HB 261 during the interim.

Rep. Hudson asks what the fiscal implications of the bill are. Rep. Gruenberg replies that there is a zero fiscal note from the Department of Correction. Rep. Gruenberg corrects his previous statement and says that it is the Department of Corrections and not the Department of Public Safety that does the certification.

Rep. Koponen moves that the committee substitute for HB 261 be passed with individual recommendations. Seeing no objections, it is so ordered.

HOUSE JUDICIARY COMMITTEE MEETING - FEBRUARY 12, 1988

HB 261

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Representative Gruenberg discussed statistics, pointing out that recidivism is cut by two-thirds. Laws for interlock devices are relatively new, with California passing the first in 1986, and several other states now have provision. HB 261 also provides for the Department of Corrections to certify manufacturers who produce eligible interlock devices in Alaska. They will set standards and the devices will undergo testing at manufacturers expense to make sure they meet the requirements established by the department. The devices will have a warning label regarding tampering. A judge can assign a device, to be installed at the defendant's expense for \$500 per year. There is a also provision that the judge may suspend a fine to allow a defendant to pay for the cost of the device.

Laurel Nelson, Manager of Governmental Affairs at Guardian Technologies, stated that they manufacture technological devices used within the criminal justice system, including home arrest systems, and are one of three manufacturers of ignition interlock systems. She said that twenty-two states have introduced similar legislation. Last year,

California followed up their initial legislation with an Assembly bill, which is similar to the provisions in HB 261, to reduce fines. Oregon has strong legislation. They have a pilot program where eleven counties are gathering statistics for the legislature's review in a year. There is a requirement for an interlock device when a defendant receives an occupational driving privilege. The devices will also be installed in conjunction with first offense diversion programs in some instances. Some financial assistance based on an indigency standard is also provided for in Oregon.

Ms. Nelson noted that some states are using interlock systems without enabling legislation and it expected that twenty-eight states will be considering provisions this year. She discussed statistics which strongly indicate positive behavior modification among drivers. Other studies have shown lower re-arrest rates. One jurisdiction that has been using the program for two years offer it for defendants who have been convicted of first offenses of alcohol blood level above .20 percent, multiple offenders, and for refusal cases. They offer to return revoked licenses sooner with use of the interlock system. She further discussed statistics and various usage of the system as a deterrent or preventative tool.

Representative Gruenberg asked if the age of the car made a difference. Ms. Nelson replied that their system is designed to work on older cars. They haven't had any problems with the system not working, except when a malfunctioning battery system already exists with the vehicle. Representative Gruenberg asked if the device will work in extremely cold weather, such as -65" as in Fairbanks. Ms. Nelson was not sure, but they are certified to very low temperatures. She was hesitant to guarantee they would work without additional testing, but they have been successfully tested at -30".

Representative Gruenberg asked if Ms. Nelson had a copy of the bill and referred to Section 10. It states the commissioner shall establish standards. Representative Gruenberg's intent is that the commissioner may limit the use of the devices to areas of the state with compatible temperatures. He asked if her company could respond further regarding temperature. Ms. Nelson recommended the committee consider standard language that appears in many bills that indicates specifically that the commissioner would include minimum standards.

Representative Gruenberg recalled that Oregon statutes were similar to Section 10. The liability insurance requirements are found in regulation. He stated that he would prefer them to stay in regulation unless shown a need to have them in statute. Ms. Nelson replied that it was a

policy decision and read from the Oregon regulations. Representative Gruenberg asked how the devices worked in heavy rainfall areas. Ms. Nelson didn't think there would be a problem with high humidity. Representative Gruenberg noted that, in Alaska, people travel by boat and plane and asked whether the devices had only been used on automobiles. Ms. Nelson affirmed and added that it posed no problem on a conceptual basis to extend beyond automobiles.

Representative Gruenberg asked about the California law that the court may require the installation of an interlock device in a drug related offense. Ms. Nelson replied that until a technological basis is secured for drugs, it would not necessarily address the problem. It would allow law enforcement a means to screen out those who use alcohol.

Vice-chair Ulmer asked if there were others who wished to testify.

Juli Lederhaus, representing ARBA (Anchorage and Bar Association) and CHARR (Cabaret, Hotel and Restaurant Retailers Association), testified in support of HB 261 via teleconference from Anchorage.

Ron Eagley, representing the Spenard Community Council, testified via teleconference from Anchorage in support of HB 261 as a means of prevention for second offenses of drunk driving.

Stephanie Joannides, of the Department of Law, testified that there may be a possible ambiguity regarding HB 261. It was her understanding, in speaking with the sponsor, that there was no intent to affect the mandatory license revocation or any other mandatory penalties now imposed for DWI and refusals. To insure that the drivers license suspension aspect of existing law is not affected, she proposed an amendment to page 2, line 28, by inserting after subsection (a), "subject to AS 28.15.165(d) and AS 28.15.181(c)." AS 28.15.165 deals with mandatory administrative revocation and parallels the mandatory court ordered revocation in AS 28.15.181.

Representative Gruenberg stated that he has discussed the amendment with Ms. Joannides and had no objection to the amendment. He didn't want any ambiguity and requested a CS to reflect the amendment.

There was no further testimony on HB 261 and Vice-chair Ulmer adjourned the meeting at 2:00 p.m.

and Representative Gruenberg. Chairman Sund brought HB 261, which was heard on February 12, before the committee for consideration.

Representative Gruenberg moved that the committee adopt a CS, dated 2/15/88, which incorporated an amendment on page 3, lines 4-7, that read, "A condition of probation imposed under this subsection takes effect after any period of license revocation imposed under AS 28.15.165(d) or 28.15.181(c)." The purpose is to insure that it is not in lieu of a license revocation as requested by the Department of Law.

Representative Barnes and Representative Taylor arrived at 1:36 p.m.

There was no objection to adopt the CS and so it was adopted. Representative Gruenberg discussed the previous hearing on HB 261 and the amendment offered by the Department of Law. He explained the bill and the use of the ignition interlock device.

Chairman Sund asked if there were any questions on HB 261. Representative Ulmer moved to pass the bill from committee with individual recommendations.

Representative Cotten noted that the bill makes it a crime to loan a car to a person who has an interlock device installed. He asked how a person is supposed to know another has the device. Representative Gruenberg discussed the provision. Representative Cotten asked if he loaned his car if he would commit a crime. Representative Gruenberg replied that "knowingly" on page 2, line 6, provides that a person has to know that the device is a condition of probation.

Chairman Sund brought up the operation of the devices in weather below sixty degrees. Representative Gruenberg noted that the bill allows the commissioner to certify the devices for certain areas and conditions where they will operate.

Representative Cotten referred to his previous question and asked if he would have to know a person was on probation under AS 12.55.102 before lending his car. Representative Gruenberg affirmed and said there had to be specific knowledge.

Representative Taylor stated that the bill doesn't give leeway to the court with regard to the ten year mandatory. Chairman Sund remarked that the bill doesn't deal with that issue. Representative Taylor expressed his concern with the cost of the devices and suggested there may be less costly alternatives which should be considered.

Representative Ulmer noted that the devices were an option to the court. Chairman Sund noted that a person can teach their spouse or family members to use the code on the device.

Representative Gruenberg discussed the HESS Committee amendment on page 3, lines 25-27, which gives the judge discretion to have a defendant pay for the device in lieu of a fine. Representative Taylor remarked that, by putting this into statutes, it lays a scenario without consideration of other options. Representative Gruenberg pointed out that a payment plan for the devices is also available.

Representative Cotten asked about the establishment of a class C misdemeanor, where there had never been one before. Representative Gruenberg responded that a bill passed the House last year which already established a class C misdemeanor, although it did not pass the Senate. Chairman Sund asked if it was necessary to have a class C misdemeanor in the bill. Representative Gruenberg replied that it was unless the committee wanted it to be a class B or A and criminalize it more. Representative Cotten wanted to know what offense is being established by a class C misdemeanor. Representative Gruenberg noted it was in Section 2, on page 2, line 4, and that other offenses could be added to that classification later. Chairman Sund restated his question and asked if the bill and the establishment of a new misdemeanor classification were separable ideas. Representative Gruenberg responded, that if separated, the penalty would be heavier and the crime doesn't warrant it. Representative Taylor pointed out that if a violation occurs, the person is already subject to revocation of probation. Representative Gruenberg remarked that the penalty deals with someone other than the person on probation.

Chairman Sund stated that he would hold HB 261 over until tomorrow to work on the class C misdemeanor portion. Representative Ulmer withdrew her motion to pass the bill.

Representative Gruenberg, sponsor of HB 261, stated he wanted to keep the class C misdemeanor in the bill.

Chairman Sund stated that he was biased about establishing a class C misdemeanor in this legislation. He asked, in reference to Section 2, if it was necessary to make it a crime to loan a car to someone. He also asked why it was critical to the bill to create a crime. Representative Gruenberg responded that if someone knowingly loans their car in violation of the law, it basically puts a weapon in the hands of the person under court order to use an interlock device.

Chairman Sund gave an example of present law that says it is a crime for an individual to drive a car with a license but not for someone who loans the car. Representative Gruenberg commented that other states have this provision because these people are not supposed to be driving a car except without the device and it should be a penalty to blow into it for someone else or let them have a car without it.

Chairman Sund noted the two sections of the bill, one dealing with tampering, the other dealing with loaning, and said he was focused more on the loaning penalty. He pointed out the difference of the two with an example. Representative Gruenberg felt it was not a reason to take the provision out of the bill, but perhaps expand it. Representative Taylor stated that he wouldn't support expansion of the bill.

Representative Cotten asked why they should make this offense an exception to establish a class C misdemeanor. He remarked that he wanted more committee time spent on classifications of offenses and that it was one of the two major subjects of the bill. He supported the other part of the bill dealing with the devices.

Representative Gruenberg discussed the options. Chairman Sund asked about making it a class B misdemeanor. Representative Ulmer offered a compromise position. If people aren't comfortable with imposing jail time, they can just make it a fine. Representative Gruenberg stated that he was willing to live with that. Chairman Sund pointed out that this was already in AS 12.55.035(b)(5) in the form of a \$300 fine. Representative Gruenberg stated that Section 3 would have to be stricken and add "guilty of a violation" on line 14. Representative Cotten commented that it would solve his concern. Chairman Sund said Section 5 should also be taken out to take care of the class C misdemeanor.

Representative Ulmer moved to amend the bill by making the suggested changes above. It deletes the class C misdemeanor language and provides that Section 2 be a violation subject to fine.

Chairman Sund asked if there was objection. There being none the amendment was adopted. He asked if there was any other area in the statutes that makes citizens criminally responsible for other's behavior. He discussed the difference between loaning a car to someone with an interlock device and someone without one who is drunk.

Representative Gruenberg stated that the purpose was to make certain that people aren't driving drunk by requiring them to use an interlock device.

LEGISLATIVE REPORTING SERVICE (BILL SUMMARY)

Ignition Inter-
lock devices
(probation)

HOUSE BILL NO. 261, by Reps. Gruenberg, Barnes, Donley, Collins, Hudson, Larson, Martin, Springer, Koponen and Ulmer. Allows the courts to order as a condition of probation for a defendant guilty of an offense involving alcohol that he/she may not operate a motor vehicle unless it is equipped with an ignition interlock device. Such a device is designed to prevent a vehicle from being operated by a person who has consumed alcoholic beverages. Certain exceptions could be made under this section to allow use of an unequipped motor vehicle for work, if it is a condition of employment and the defendant's driving would not pose a substantial danger. A defendant would be required to surrender his driver's license and use a certificate valid for the duration of the probation. The defendant would bear all costs, including installation, repair, and monitoring of an ignition interlock device.

Makes it a class C misdemeanor to knowingly circumvent or tamper with an ignition interlock device to allow a person on probation to avoid using it; or to rent, loan, or lease a motor vehicle to a person on probation under the above section unless the vehicle is equipped with an ignition interlock device. A person convicted of a class C misdemeanor could receive a \$500 fine, or be imprisoned for up to 30 days (unless otherwise specified in the law defining the offense) under this bill. The commissioner of corrections would establish by regulation standards for ignition interlock devices and their use in probation under the above section. Does not provide an effective date (bill becomes law 90 days after being signed by the Governor).

Introduced April 8 and referred to HESS; Judiciary; Finance.

Ignition Inter-
lock Devices
(probation)

HOUSE BILL NO. 261, (see page 518). Reported back to the House January 22, 1988 by Health, Education & Social Services recommending it be replaced with a substitute and that it do pass. concurring: Ellis and Koponen (Co-Chairs), Phillips, Hudson, Grussendorf, Donley. Not concurring: Hanley had no recommendation. To Judiciary.

The HESS substitute adds several new sections:

—amends AS 09.50.250 (Actions Where State a Party. Actionable Claims Against the State) so that an action may not be brought under the section "if the claim . . .(4) arises out of the use of an ignition interlock device certified under AS 33.30.020(c)."

—adds new language that would allow the court to include the cost of the ignition interlock device as part of the fine. Adds a new section amending AS 28.35.030 (Operating a vehicle, aircraft or watercraft while intoxicated) and 28.35.032 (Refusal to submit to chemical test) that would allow the court to reduce the required fines (under minimum sentencing provisions for DWI's) by the cost of the ignition interlock device.

—adds language that would require the commissioner of corrections to establish standards for calibration (as well as for certification, maintenance, and monitoring) of ignition interlock devices. The manufacturer of the device would have to reimburse the state for the cost of certification, and the department of corrections would have to notify the manufacturer when the device is certified. The commissioner of corrections could not certify the device unless it displays a label warning that a person circumventing or tampering with it is guilty of a class C misdemeanor.

Representative Ulmer asked about loaning cars to someone with a suspended license. Chairman Sund replied that it was not a crime or a violation. He gave an example of serving alcohol to a parolee and that it was the parolee who got penalized. He agreed on a penalty for circumventing or tampering with the device, but not with one for loaning a car. Representative Gruenberg said that a car rental agency would know a person shouldn't have a car without an interlock because it would be on his license and that it wasn't unreasonable to require compliance. Representative Ulmer stated that a penalty gives someone another excuse to say no to a drunk driver and it was good public policy.

Representative Taylor talked about never passing a judgment that couldn't be enforced and said this was a good concept but thought it would be hard to supervise and enforce.

Chairman Sund moved to delete the section on page 2, lines 10-12. Representative Gruenberg stated that there was an instance of a similar type of crime established with the law making it illegal to pass school busses. He argued for enforceability of the provisions.

Representative Ulmer asked as a practical matter how many times people loan their cars to someone they don't know very well. She felt it was not only enforceable but also useful.

Representative Cotten said he would support the amendment because he didn't think this was the place to establish a class C misdemeanor.

Chairman Sund called for a vote: in favor were Chairman Sund, Representative Cotten and Representative Taylor; opposed were Representative Ulmer, Representative Gruenberg and Representative Barnes, and so the amendment failed.

Chairman Sund noted that there was no evidence to show that the devices will work in subzero temperatures.

Representative Gruenberg moved to pass the bill as amended with individual recommendations. There was no objection and so CSHB 261(JUD) passed.