

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672

6094 HOUSE STATE AFFAIRS

498

Brown, Koponen

No recommendation (4): Shultz, Uimer, Phillips, Rieger
A previous zero fiscal note with analysis by the Department
of Health & Social Services, published January 9, 1989,
applies to CSHB 70(Fin).

HB 70 was referred to the Rules Committee for placement on
the calendar.

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: HB 70
PUBLISH DATE: HOUSE 1/9/89

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to pharmaceutical medical assistance for needy persons.
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Health & Social Services
BRU: Medical Assistance
Components: General Relief, Medical and Medicaid Non-Facility

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

* See Attached *

Prepared by: Kim Busch *Kim Busch*
Division: Director

Phone: 165-3355
Date: 11-3-88

Approved by Commissioner: *[Signature]*
Agency: DHSS

Date: 12-1-88

Distribution (by preparer):

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

Summary

Before the last legislative session, pharmacy services for Medicaid eligible individuals were purchased from the General Relief Medical program because Alaska had not adopted the pharmacy option under the Medicaid program. During the last legislative session, CSSB 255, which was signed into law as Chapter 120, SLA 1988, added pharmacy services as a Medicaid option for the period October 1, 1988 - June 30, 1989. (SB 255 has a sunset clause which repeals Chapter 120 effective July, 1989.)

Unless this legislation is passed, a general fund appropriation of \$2,560 million will be needed in FY90 to continue to pay for pharmacy services for poor Alaskans. In essence, the state would be relinquishing \$2.56 million in federal match and pharmacy services for Medicaid eligible individuals would once again be purchased through the general relief medical program (GRM). Should general funds not be appropriated, significant reductions in pharmacy services would also likely occur.

Budgetary and Program Impact

All services which are purchased by the state under the Medicaid program receive a dollar-for-dollar federal match. All services purchased under the General Relief Medical program are entirely general funds.

The Department has submitted its FY90 budget assuming this legislation would pass, pharmacy services would remain as a Medicaid option and, \$2,560.2 in federal funds would be received as match. Consequently, this legislation has a zero fiscal note. If it passes, the total pharmacy cost of \$5.037 million is split between federal funds and general funds. The

proposed FY90 budget contains sufficient general funds to pay the state share, so pharmacy services would continue as currently provided.

If this legislation does not pass, federal matching funds for pharmacy services would be lost. Should this occur, an additional \$2,560.2 in general funds would be needed to replace the federal funds so that existing services could be maintained.

When pharmacy legislation (SB 255) passed in FY89, the department estimated \$2 million in savings because the total drug program cost about \$4 million. Services to new eligibles and utilization and price increases have since increased the total program cost to \$5 million. Consequently, returning to a totally general funded pharmacy program would cost \$1 million more in FY90 than it did in FY88, the last year in which pharmacy was entirely funded by several funds.

Throughout the interim, the department has worked diligently with pharmacists to fashion a Medicaid program which captures federal reimbursement while minimizing financial impact to pharmacists. A separate document describes the policy making process, the research conducted on pharmacy costs, and the reimbursement methodologies which resulted from that process.

If the legislature decides not to pass this legislation, the department requests that the full \$2.56 million in general funds be appropriated. This amount includes the inflation in pharmacy service costs which occurred from FY88 to FY90 in addition to the restoration of the general fund which had been supplanted by federal funds.

The following describes the sequence of modification to the FY90 budget that would be needed to continue present services should the legislation not pass:

1. Transfer \$2,476.9 State General Fund Match (SGFM) from the Medicaid Non-Facility component to the General Relief Medical component. (1,328.9 FY89 transfer for Chapter 120, 913.6 FY90 Budget Request transfer and 234.4 FY90 increments for price, utilization and eligibles.) If the program is not a Medicaid option, there are no federal funds to match with state general funds.
2. Decrement the Medicaid Non-Facility component for 2,560.2 federal funds. (1,412.3 FY89 Chapter 120, 913.6 FY90 Budget request and 234.3 FY90 increments for price, utilization and eligibles.) These federal match funds are not received if the pharmacy services are not provided through Medicaid.
3. Increment the General Relief Medical program for 2,560.2 state general funds to offset the federal decrements in #2 above.

The following chart depicts the development of the FY90 budget request and the above described modifications.

FY90 Budget Development

	<u>GRM</u>	<u>Medicaid Non-Facility</u>	<u>Total</u>
FY89 Authorization	913.6	2,741.2	3,654.8
C-4 Transfer	<u>(913.6)</u>	<u>913.6</u>	<u>0</u>
FY90 Adjusted Base	0	3,654.8	3,654.8
FY90 Increments:			
Federal Increment		913.6	913.6
Price		135.2	135.2
Eligibles		196.4	196.4
Utilization		<u>137.1</u>	<u>137.1</u>
FY90 Budget Request	0	5,037.1	5,037.1

Required Modifications

Transfer SGFM	2,476.9	[1] (2,476.9)	0
Decrement Federal	-	[2] (2,560.2)	(2,560.2)
Increment SGF	[3] <u>2,560.2</u>	<u>-</u>	<u>2,560.2</u>
Totals	5,037.1	0	5,037.1

Chairperson Ellis introduced HB 70 for discussion, and invited Ms. Kim Busch, Director of the Division of Medical Assistance of the Department of Health and Social Services (DHSS), to testify before the committee.

Ms. Busch testified in support of HB 70. She said that the DHSS supported the continuation of the state's ability to claim federal medicaid funding for pharmacy services for low income people. She explained that HB 70 would enable the state to participate in the federal program by extending legislation passed during the Fifteenth State Legislature. The current legislation was about to sunset because of a provision added by the Senate that provided the DHSS and pharmacists a pilot year to jointly design and implement a mutually acceptable program.

Ms. Busch addressed policy issues and the fiscal impact. She explained that the FY 90 medicaid budget was based on the assumption that HB 70 would pass and the state would claim federal funds to cover half of the costs, hence the zero fiscal note. She pointed out that this measure would save the state \$2.5 million in FY 90. She cautioned that if HB 70 were not to pass, cuts would have to be made, such as a drastic reduction in pharmacy services to low income Alaskans, a substantial reduction in General Relief Medical (GRM), or the elimination of up to nine medicaid services.

Number 088

In response to Rep. Furnace's question, Ms. Busch replied that GRM was funded entirely by state funds, whereas, medicaid was funded 50% by state funds and 50% by federal funds.

Number 108

Rep. Gruenberg noted that the cost of the state's pharmaceutical program had not decreased in spite of the state's participation in the federal program, and he wondered why the cost had not decreased.

Secondly, Rep. Gruenberg pointed out that lines 19 and 21, on page three of the bill, would incorporate certain federal regulations into statute. He wondered specifically what those regulations were, and he wanted to know the legality of incorporating by reference a federal regulation into an Alaskan statute. He felt that this may not be good policy because federal regulations could be changed with little input from the state; and he cautioned that by deferring to federal regulations, the state may be abdicating its responsibility to make those decisions itself.

Ms. Busch replied that she would be able to provide information on the cost of the pharmacy program from FY 85 forward. She explained that the cost of drugs had increased and, historically, pharmacists had been paid whatever they had charged for a drug. She went on to say that in the recent restructuring and redesign of the program, reimbursement policies had become better defined.

Number 202

Rep. Gruenberg wanted to have the reimbursement policy described to the committee because he felt that if the bottom line of the program was to save the state money, the program was not being effective because the figures illustrated that as much was currently being spent on pharmaceuticals as there was before the program was implemented.

Rep. Goll responded that the bottom line was not to save the state money, but rather to provide reimbursement for pharmaceuticals for low income people. Without the participation of the federal government, the state could not participate in the program at the same level it was currently participating. He pointed out that the state was now able to provide increased service at the same cost to the general fund and at a decreasing cost per person. He thought the program was a demonstrated savings to the state.

Number 219

Ms. Busch pointed out that in 1985 every dollar expended by the state on the pharmaceutical program was a general fund dollar, and now half of every dollar spent on the program came from the federal government.

Number 231

Rep. Gruenberg emphasized his point by stating that previously the program had cost the state \$2.5 million without the participation of federal funds; now, the program cost a total of \$5 million. Half of that was funded federally and half was funded by the state. Because the state's costs remained the same, Rep. Gruenberg felt that the state was essentially applying for federal funds in order to give it to the pharmacists, and he was not sure this was a good use of federal funds.

Ms. Busch replied that the cost of the program had increased over the years. She said the object of the bill that had passed the Fifteenth Legislature was not to save money, but rather to obtain federal funding for pharmacy services, to insure continued access to pharmacy services for poor people, and to design a program suitable to the pharmacists so they would continue to participate in the program. She commented that there were 59 pharmacy outlets employing 80 pharmacists.

Number 265

Rep. Gruenberg requested a copy of the Medical Consumer Price Index for the years 1985 forward.

Number 294

Rep. Boyer found it interesting that the steering committee had observed that Alaska had the highest reimbursement costs in the country. Apparently, Alaska had been paying the full "asked price" for all prescriptions in spite of the fact that the federal government would not reimburse the retail price. The steering committee felt that the most favorable terms had been developed for the pharmacy program, but the pharmacist members of the committee found federal regulations too restrictive. They felt that state

court action against the federal government would result in a more favorable program. Rep. Boyer felt that these findings suggested that the state had been fairly diligent in controlling pharmaceutical costs. He thought that the DHSS had done a good job of trying to reconcile a difference of opinion that had confronted the legislature for a number of years.

Number 334

Rep. Gruenberg said that his recollection of the original debate on this issue had centered around the fact that the state would be able to recoup half of the cost of the program by acquiring federal money.

Number 347

Rep. Goll explained that the cost per unit of drugs had decreased under the medicaid reimbursement program because, rather than reimburse the pharmacist for the retail price of name-brand drugs, pharmacists must now accept reimbursement for generic drugs, which were less expensive per unit of drug. He stressed that the total cost of the program to the state had not increased, but the number of people being served had increased. He warned that the only way to cut costs was to serve fewer people.

Ms. Busch said that Rep. Goll was absolutely correct.

Chairperson Ellis suggested that the House Finance Subcommittee on Health and Social Services could provide Rep. Gruenberg with the figures he had requested. He explained that the increase in program costs was the result of a combination of factors that happened to coincide with the economic situation in Alaska. He said he supported the program, and he felt it was a matter of the state's either supporting the program or funding an additional \$2.5 million in order to continue to fund the program.

Number 391

Rep. Gruenberg stated that he was surprised that the Division of Medical Assistance budget had increased so dramatically in the last three years, and that the pharmaceutical reimbursement program had doubled in size. Rep. Goll wondered if the program had doubled in size because under the old program the state had reached its level of appropriation and now the state was able to serve more people, or had the need been met under the old program and now the need had increased.

Ms. Busch replied that the increased costs were a result of an increase in price, an increase in eligibility, an increase in utilization, an increase in service, and an increase in types of providers.

Number 410

In response to Rep. Gruenberg's question, Ms. Busch replied that the cost of the ingredients in drugs had increased since 1985, but because of the cost containment measures in the new program, the cost per drug was less.

Number 440

Rep. Boyer asked if there was a any type of co-payment schedule within this program.

Ms. Busch replied that as a result of working with the steering committee, it was determined not to have a co-payment schedule. She explained that federal law was very restrictive about co-payments, in that it allowed a co-payment of only \$1.00 per prescription on certain drugs and certain other drugs were exempted from the program. Rep. Boyer pointed out that one of the few ways to contain costs in a program such as this was to curb utilization, which he noted had increased in this program. One of the ways to discourage utilization was to increase the contribution of the participant. Given that the people involved in this program were at the lowest end of the economic spectrum, Rep. Boyer felt this was not a viable solution; and given the federal restrictions, Rep. Boyer felt wondered if there was a solution to cutting costs. Ms. Busch said that other possible restrictions included restricting the types of drugs that were eligible for reimbursement and replacing prescription drugs with less expensive drugs. However, she felt that the possibilities had been fairly addressed during discussions with the pharmacists, and to be more restrictive at this point would not benefit program recipients.

Number 489

Rep. Furnace asked for a statistical breakdown of the low income people participating in the program for the last couple of years. He asked for an annual cost breakdown of the program from 1985 forward in order to track the impact of the federal matching dollars.

Number 504

Referring to Rep. Gruenberg's earlier question, Ms. Busch said that, in order to receive federal funds, the state was required to accept the federal definition of prescribed drugs, which was referenced in HB 70 on page 3, lines 21 and 22. She said that the state was allowed to be more restrictive in its definition, but it could not be broader. Regarding statistics for low income participants, she remarked that each month 29-31,000 people participated in the program, 60% of which were children, and the remainder were 65 or older, or single parents. She noted that 87% of nursing home beds were medicaid funded.

Number 533

Rep. Boyer described the program as an insurance program, the cost of which was fueled by the addition of options. Each new option gave recipients access to a new level of care. He pointed out that it was good for providers because it increased business.

Chairperson Ellis asked how Alaska would rank with respect to other states if it did not participate in this program. Ms. Busch replied that Alaska would be the only state not participating in the pharmaceutical medicaid program.

Number 567

Rep. Goll encouraged the committee to make a clear statement regarding serving the medically indigent. He requested an opportunity to address this issue in depth.

Number 594

Chairperson Ellis introduced Mr. Dirk White, pharmacist and co-owner of White's Pharmacy in Sitka, and invited him to testify before the committee.

TAPE EIGHT, SIDE B

Mr. White testified against HB 70. He said he knew personally of rural and urban pharmacists who would not provide services to medicaid eligible people if the new program were to go into effect. He stated that he was not against federal funding of the program. He added that as a health care professional, he was concerned with the well-being of his patients, regardless of their income. However, he felt that if he were to provide services to the poor, he should be reimbursed at cost and not at the 79 cent margin suggested by the program.

Mr. White was concerned that the DHSS was not yet able to inform him of his reimbursement fees, in spite of the fact that the program was slated to begin on February 1. To date, he only knew that he would be paid the AWP (average wholesale price) of the drug minus a certain percentage. Mr. White alleged that the state had failed to provide a pharmacy medicaid program acceptable to the pharmacy community. He was concerned about being subject to federal regulations that could be changed with very little input from the state. He was also concerned about being forced to dispense generic drugs, because he was not 100% confident with them.

Mr. White referred to a report that had been done for the Division of Medical Assistance by the Certified Public Accountants of Myers and Stauffer regarding the cost of dispensing pharmaceutical prescriptions in the state of Alaska. (The report was not available to the committee at this meeting). He felt that the report presented good and acceptable alternatives for fee reimbursements, and felt that the new program had been rushed through the system in order to meet the sunset deadline.

Number 150

Chairperson Ellis did not understand how Mr. White could make 79 cents on a sale at the same time he was not covering his costs.

Mr. White replied that the pharmacists would be paid the AWP less a percentage. He said that the AWP was a standard price that may or may not match actual wholesale prices. In addition, he had to pay the cost of shipping, and he had a five day turn-around on his large inventory. None of these considerations were figured into his reimbursement. Chairperson Ellis announced that the bill would be held over in committee and assigned to a subcommittee before coming back to the full committee. He asked Mr. Elmo Lindstrom, staff to the House Finance Committee of the Fifteenth Legislature, to apprise the HESS committee of the steering committee deliberations at a later time. Rep. Gruenberg requested that the committee receive copies of the Myers and Stauffer report.

Number 191

Chairperson Ellis announced that HB 10, which was also on today's calendar, would be held over to a time uncertain. Rep. Goll asked Mr. White how he could be expected to be reimbursed at wholesale cost without being able to account for a profit.

Mr. White replied that he would be paid a fee above the AWP minus the percentage, but at this time he did not yet know what that fee would be.

Rep. Goll asked how other states handled the reimbursement situation. Mr. White replied that some states were only reimbursing the AWP without subtracting a percentage and without adding a fee. He said that if the state were to push for it, the federal government would pay the AWP, the fee and other things.

Rep. Goll admitted that the program had been rushed and difficult to implement. He urged interested parties to work together, not to decide whether or not their should be a program, but to insure the program was a responsible one.

Chairperson Ellis appointed himself and Reps. Goll, Gruenberg and Davis to the subcommittee to work on HB 70.

Rep. Furnace volunteered to be on the subcommittee.

Chairperson Ellis said that all committee members were welcome to participate.

Since there was no further business to come before the House HESS Committee, Chairperson Ellis adjourned the meeting at 10:00 a.m.

HOUSE HESS COMMITTEE MEETING CONTINUED - MARCH 3, 1989

HB 70

Chairperson Ellis brought HB 70 before the committee for the purposes of discussion. He reminded the committee that HB 70 had been in a subcommittee made up of himself, Rep. Gruenberg and Rep. Davis. He said that the subcommittee did not recommend any changes to the bill.

Number 396

Rep. Furnace reminded the committee that pharmacists around the state were concerned because DHSS had not finalized a fee reimbursement schedule. Since the schedule would have a great impact on the pharmacists, Rep. Furnace wondered if it had been finalized.

Rep. Ellis explained that the first reimbursement proposal had been rejected by the federal government and a new one would be submitted shortly. Since February 1, the state has operated the program under emergency regulations.

Number 410

MR. ERIC HANSEN, Assistant Director of the DHSS Division of Medical Assistance, explained that reimbursement was comprised of dispensing fees and ingredient fees and was designed to cover the cost of doing business, plus the cost of ingredients, plus a profit margin. The cost of ingredients would be determined via a survey that would be completed the following week. Currently, pharmacists are being paid list price minus 10%.

Mr. Hansen informed the committee that the new proposal

should be ready for submission to the federal government by the end of the month, and reimbursement to the state would be effective as of February 1.

Number 428

Rep. Furnace thought that information on the cost of drug ingredients had already been determined in a study commissioned by DHSS some time ago.

Mr. Hansen replied that the earlier study had been done by certified public accountants, Myers and Stauffer. Their study resulted in a report titled, "Report on the Cost of Dispensing Pharmaceutical Prescriptions in the State of Alaska." (Legislative Reference Library, House HESS meeting file, item #1). It focused strictly on the cost of running a pharmacy exclusive of the price of the ingredients that were dispensed. The second study was independent of the first and focused exclusively on ingredient cost.

Rep. Furnace was not convinced that the pharmacists' discomfort with HB 70 had been addressed. He felt strongly that their concerns should be.

Chairperson Ellis pointed out that testimony had been received from those pharmacists who had attended committee hearings and work sessions on the bill and he was surprised that more pharmacists had not participated. He surmised that the pharmacists were concentrating their effort on the Senate. He was satisfied that ample opportunity had been available for participation.

Rep. Furnace felt there was not much reason for pharmacists to comment until the fee schedule was finalized, because until then, they did not know their reimbursement rate.

Chairperson Ellis pointed out that nothing would be final until approved by the federal government.

Number 483

MS. KIM BUSCH, Director of the Division of Medical Assistance of DHSS, pointed out that in crafting the proposal, DHSS had taken very seriously the intent language passed by the legislature last year. As a result, it had formed a pharmacy steering committee that included pharmacists. She said that DHSS had enjoyed very good cooperation from the pharmacy community.

Ms. Busch stated that the federal government prices drugs according to two components. The first component is called a dispensing fee and covers the cost of doing business including profit. The second component is called the ingredient fee and reflects the cost of ingredients only.

Ms. Busch noted that the pharmacy community had cooperated with, and was pleased with, the Myers and Stauffer report. Ms. Bush explained that the original proposal submitted to the federal government had been preferred by the pharmacists. It had tied the dispensing fee to the cost of the product, so that as the cost of the ingredient increased, the dispensing fee increased. The federal government rejected that proposal, alleging that it was an incentive for more expensive drugs.

Ms. Busch went on to say that the alternative plan included a dispensing fee that was variable by pharmacy. Under that plan, not only would Alaska have on the average the highest dispensing fee in the nation (\$7.90), the fee would be variable and recognize individual costs.

Number 519

Ms. Busch continued by explaining that DHSS had hoped to be able to pay pharmacists their average wholesale price (AWP). However, AWP was not really an average wholesale price, hence the federal government had required the additional survey in order to arrive at actual ingredient cost, keeping in mind that all the profit cannot be taken out of the ingredient cost. Ms. Busch noted that the federal government had been kept apprized of this alternative plan, and she predicted that it would be approved.

Ms. Busch said that DHSS had been reimbursing pharmacists the AWP minus 5% even though in actuality AWP minus 5% was more than the pharmacists actually paid for their ingredients. She felt that the Myers and Stauffer report would demonstrate that the actual cost of ingredients to the pharmacist would probably be AWP minus 10%, which she felt was still generous, because even in a survey such as this, it was impossible to take into consideration every discount that lowered the cost of ingredients. Ms. Busch said the pharmacists had been very complimentary of the work done by DHSS.

Number 553

Rep. Gruenberg noted that according to the Myers and Stauffer report, nearly one third of the 101 pharmacies in the state were ineligible to participate. He wondered if they were ineligible to participate in the medicaid program or in the survey.

Mr. Hansen replied that because of factors such as inadequate information or a rapid change in the cost of doing business, certain pharmacies were deemed not appropriate to participate in the survey. He assumed that all pharmacies were eligible to participate in the medicaid program.

Number 578

Rep. Furnace asked if the federal government had rejected the data in the Myers and Stauffer report.

MR. JAY LIVEY, Special Assistant to the Commissioner of DHSS, said that the basic information in the Myers and Stauffer report had not been refuted. He explained that it was the application of the data to develop a dispensing fee and a pricing structure that the federal government had rejected. Furthermore, a high level of confidence in the report had been expressed at the subcommittee work session by DHSS and a pharmacist who was representing the Alaska Pharmacy Association.

Rep. Furnace said that the pharmacists agreed with the report.

TAPE THIRTY-TWO, SIDE B

Rep. Furnace asked how the reimbursement fee for the pharmacists was being determined. He also asked about the level of acceptance of the pharmacy community with respect to the department's current proposal.

Ms. Bush said that DHSS was using the Myers and Stauffer data to determine the dispensing fee, and using one of the proposals in the Myers & Stauffer's report as its alternative proposal. She stated that DHSS was reimbursing the pharmacists for actual ingredient costs plus a dispensing fee. Actual ingredient costs were currently being estimated to be AWP minus 5%, and an additional survey was conducted in order to determine the actual (unestimated) ingredient cost.

Ms. Busch stressed that the program was estimated to result in a 15% reduction in 10% of a pharmacist's business, which would result in a 2% reduction in his or her annual gross revenues.

Number 073

For the sake of clarification, Rep. Furnace pointed out that what DHSS intended to do was to pay the pharmacists a dispensing fee on a variable basis and then pay them the wholesale price for their ingredients. He did not understand why the wholesale price paid by the pharmacists was not their bottom line cost. He inquired about the the difference between the stated wholesale cost and the actual cost being paid by the pharmacist.

Mr. Hansen said that the drug cost survey involved three components: a listing of the most commonly prescribed and used drugs in Alaska; a statewide inventory of those drugs; and the collection of actual invoices. It was necessary to gather this information in order to measure the actual cost to the pharmacist of the drugs because the list prices published in all the trade journals were inflated. Mr. Hansen said that the goal was to determine the difference between what was being paid by the pharmacist for drugs and what was listed as the published AWP, and then applying that information to all the commonly prescribed drugs in the state to determine their actual cost. The result would then be inflated as much as possible without risking federal rejection in order to maintain the highest level of reimbursement level to the pharmacist, which had been the intent of DHSS since the beginning of the program. Mr. Hansen felt that the department had been true to its intent.

According to Mr. Hansen, at issue was the fact that in the past pharmacists had been reimbursed for whatever they billed the customer. He echoed Ms. Busch, saying that although the pharmacists would be taking a cut in reimbursements, medicaid was typically only 10% of their business, hence the cut would result in a 15% discount on only 10% of their business.

Mr. Hansen pointed out that the Alaska Pharmacy Association felt that the program and methodology was fair and that it would work. Although there are some problems to work out,

Mr. Hansen also felt it was a good program.

Number 185

Rep. Furnace noted that the invoices gathered by the survey reflected the actual cost of the drugs to the pharmacist. He did not understand DHSS's rationale for using AWP minus 5% or 10% if actual costs to the pharmacists are known.

Number 245

Mr. Hansen reiterated that AWP was a misnomer.

Number 271

Since the actual cost paid for drugs by the pharmacists in Alaska was known due to a recent survey of actual invoices, Rep. Furnace again asked why DHSS was relying on AWP minus 5% or 10%. He wondered why DHSS would use a means other than actual data to calculate AWP.

Mr. Hansen explained that when the department said it was paying less than AWP, it meant that it was paying less than AWP according to the trade journals. In fact, DHSS was paying a little more than actual costs, and actual costs were used to determine the reimbursement.

Ms. Busch explained that the starting point was the published AWP, which was not the purchase price, but rather an inflated price; and from the pharmacists' actual invoices it can be determined that they are paying some percent less than the published AWP for their drugs. In determining the reimbursement schedule, all discounts available to the pharmacists were not taken into account, and for that reason she felt that the actual price as defined by DHSS was a very generous approach. Ms. Busch said that the intent of generous reimbursement was to keep a maximum number of pharmacists participating in the program in order to insure that recipients of the program have access to service.

Number 336

Rep. Furnace again asked why DHSS was not using the information it had derived from the actual invoices and coordinated with the manufacturers in order to determine AWP. He asked why the department was relying on the manufacturer's list price in order to determine AWP.

Ms. Busch replied that actual price information had not been available on February 1, so DHSS began to base its reimbursement on the most generous interpretation of what actual costs might be. They had come up with AWP minus 5%. She anticipated that the current survey would show actual costs to be AWP minus 10%.

Rep. Furnace wondered why DHSS was planning to deduct 5% or 10% from AWP, if AWP was going to be based on actual costs. Ms. Busch said that 5% or 10% would not be deducted from what the pharmacists actually paid. DHSS would pay the exact ingredient cost paid by the pharmacist which would probably be about 10% less than the published average wholesale price.

Number 380

Rep. Goll noted that DHSS was planning to pay actual cost, which was what Rep. Furnace was advocating.

Rep. Furnace wondered why the list price was being used to determine actual cost, if DHSS had access to the actual actual cost.

Rep. Boyer left the meeting.

Ms. Bush said that the dispensing fee was variable for each pharmacy, and the ingredient fee was a result of a statistically random sample conducted in order to determine what pharmacists actually paid for their drugs. She reiterated that DHSS would pay the pharmacists exactly what the pharmacists paid the wholesalers.

Rep. Gruenberg pointed out that the bill only set a presumptive fee, and if the pharmacist could justify a higher fee, they could request a hearing and a right of appeal to the court.

Number 417

(This portion of the tape was mistakenly erased).

MR. RON SEDGWICK, pharmacist from Juneau, member of the Alaska Pharmacy Association and member of the pharmacy steering committee, said that DHSS based its program on the published AWP because it was the starting point for the only computer tape able to deal with the program. He said that AWP is the actual price he pays the wholesaler before discounts. (The tape resumes.) Discounts can be gained by ordering certain quantities of drugs, or by paying in advance, the result of which is a cost savings to the pharmacist in Alaska of AWP minus 10%. He commented that the discount was earned, and was a way to increase his margin by operating prudently, but DHSS was trying confiscate that margin.

Rep. Davis left the meeting.

Mr. Sedgwick said that the position of the pharmacists was that AWP was the starting point, and whatever the invoices show below that are earned discounts. He remarked that AWP was the industry and medicaid standard. About 26 states use full AWP in their reimbursement formula, but the trend is that federal officials are targeting earned discounts and they are pressuring DHSS to do the same.

Number 463

Rep. Furnace wondered how the pharmacy community had reacted to the reimbursement schedule.

Mr. Sedgwick replied that the schedule implemented by emergency regulation on February 1 was the alternative proposal which was not accepted by the pharmacy members of the steering committee. He stated that only the original proposal was acceptable. He expressed confidence in the Myers and Staufer report.

Number 476

Reps. Boyer and Davis returned to the committee.

Mr. Sedgwick said that more and more pharmacists would withdraw from the program, and the result would be an ineffective provider community. He stated that the federal government did not approve the original plan because it was innovative, and the federal government had had no experience with that kind of a program. He noted that the

law says that the state should develop its own plan based on good data.

Chairperson Ellis announced that HB 10 would be held over until Monday, March 6, 1989, and HB 152 and 153 would held over to a time uncertain.

Number 510

MR. VANCE SANDERS, attorney with Alaska Legal Services, member of the Medical Care Advisory Committee, and a member of the steering committee, spoke from a point of view of consumer advocacy. He noted that if the state wanted to participate in the federal medicaid program, it would have to devise a formula that the federal government would approve of for the reimbursement of drugs; the state cannot allow pharmacists to keep billing the system the way they have been.

Mr. Sanders pointed out that the proposal would compensate pharmacists for their anticipated loss of income by increasing their dispensing fee, making it the highest in the country.

Mr. Sanders went on to say that the reason it is important for the state to receive medicaid reimbursement for drugs is because that portion of the state's general relief medical (GRM) program that is spent on drugs has risen dramatically as other programs have been cut. In doing so, the GRM funding that is spent on drug reimbursement is taking money away from other consumer groups that desperately need services. If the medicaid program does not pick up part of the cost of drug reimbursement, additional programs will have to be cut.

Number 548

Rep. Furnace noted that 10% of the pharmacist's business is medicaid, and wondered what the state is going to do if pharmacists drop out of the program.

Mr. Sanders said that the Medical Care Advisory Committee was planning to address that issue later today and again tomorrow. He noted that if pharmacists pull out of the program, the state has the power to contract for the service. He agreed that it is a possible problem, but noted that while it was good to have people to provide drugs, it was of no avail if the cuts in GRM prevented consumers from visiting a doctor to prescribe the drugs in the first place. He went on to say that because pharmacists did not serve those people who could not afford to visit a doctor for a prescription, they were losing money on certain people already.

Rep. Furnace left the meeting.

Number 572

Chairperson Ellis noted that while the subcommittee had not recommended any substantive changes to CSHB 70, it did recommend some minor ones. He asked Mr. Jim Nordlund, Committee Aide to the NESS Committee, to explain those changes to the committee.

Mr. Nordlund said that because it was not a good idea to cite federal regulations in statutes, the language on page

three was changed in the committee substitute to reflect conformance with federal regulations. In addition, the title was changed to more accurately reflect the contents of the bill.

Number 581

Rep. Boyer made a motion to adopt the amended committee substitute for HB 70. Chairperson Ellis asked if there was objection. There was none and the motion was so ordered. Chairperson Ellis explained that the public was demanding a reduction in state government spending, and CSHB 70 represented an opportunity to do so. He said that it was time for the bill to pass out of committee, thus allowing the rest of the legislature an opportunity to evaluate the bill.

Number 595

Rep. Boyer made a motion to pass CSHB 70 (HESS) out of committee with individual recommendations. Chairperson Ellis asked if there was objection. There was none and the motion was so ordered.

Since there was no further business to come before the House HESS Committee, Chairperson Ellis adjourned the meeting at 10:16 a.m.

HB 70 "An Act relating to pharmaceutical medical assistance for needy persons; and providing for an effective date."
HB 70 was HELD in Committee and rescheduled on the 3/17/89 agenda.

HOUSE FINANCE CMTE. MTG. CONTINUED - MARCH 16, 1989

HOUSE BILL NO. 70

"An Act relating to pharmaceutical medical assistance for needy persons; and providing for an effective date."
Co-Chairman Larson indicated the HB 70 would add prescribed drugs as a covered Medicaid service. Co-Chairman Larson indicated that a finance committee substitute had been prepared, and had been placed in the members' packets. He said that there were several persons who wished to testify via the teleconference network on the bill.

MS. SHIRLEY COURSEY, PROVIDENCE HOSPITAL, testified via teleconference from Anchorage. She said that the emergency regulations which were implemented in the state on pharmacies have resulted in it not being financial viable for Providence Hospital to continue to maintain these services to patients. She said that Providence has given notice to three of their contracts to seek outside bids for the pharmacy services. There are concerns with the risk associated with the fact that the federal government has not agreed to the state's proposal, Ms. Coursey said. She added that the Denali Center in Fairbanks is facing the same situation, and a retail pharmacist is currently providing the services. She said that they are waiting to find out what the state's program will be. In summary, Ms. Coursey indicted that pharmacists are having to get out of the business and can't take the risk involved.

MERYLEE MAXEY, testifying via teleconference from Sitka, indicated that she was representing Medicaid recipients. She said that some of the generic drugs can be from 30 - 120% effective. Ms. Maxey said that only the pharmacist knows which of the drugs are better, and their discretion is vital. She said that doctors are also frustrated because they cannot prescribe necessary prescriptions. Ms. Maxey offered a suggestion whereby every eligible person receiving Medicaid would contribute \$5.00 for each prescription and \$10.00 for each doctors visit. She said that occupational therapy could be looked at as an alternative response. She summarized her remarks by stating that HB 70 could be deadly to persons who have serious health problems, and that the persons who will be hurt the most, will be those who can't help themselves.

REPRESENTATIVE MAX GRUENBERG, CO-CHAIR HOUSE HEALTH AND SOCIAL SERVICES COMMITTEE, said he would explain the differences between the House HESS CS and the proposed Finance Committee Substitute to HB 70.

Representative Gruenberg said that the proposed finance committee substitute takes care of other aspects of legislation involving pharmaceuticals and merges them into the bill which extends the extension of the Board of Pharmacy. He

noted that Section 2 of the (HESS) CS deals with the one problem that was found in the legislative audit. He said this new version speaks to the statute which requires promulgation of regulations if there is a violation of the generic drug law, and provides the penalty by statute. The effective date of the sections dealing with the penalty would be January 1, 1990, unless the director of the division of occupational licensing sooner certifies that the board of pharmacy has in fact adopted regulations, he said. Representative Gruenberg indicated that section 7 of the CS provides for the July 1, 1990 effective date for the other sections.

Representative Barnes asked Representative Gruenberg why the HESS Committee specifically chose to combine the bills, and commented that she resented having to vote for the other items included in the bill extending the Board of Pharmacy.

Representative Gruenberg said that it made sense to the committee to roll the subjects together.

RUTH ALTON, PRESIDENT OF THE ALASKA PHARMACEUTICAL ASSOCIATION, directed the members' attention to the Association's legislative "fact sheet" dated March 1989 which listed the reasons for their support for the extension of the sunset provision for the Board of Pharmacy, (Attachment 1). She said that the extension would allow the fulfillment of SB 255 (passed last year) to ensure legislative review of the final program -- which is yet to be determined, and has yet to be approved by the federal Health Care Financing Administration (HCFA) officials.

Ms. Alton listed the reasons the Association endorses the reimbursement formula which was developed by the consulting firm of Myers and Stauffer. She noted that they have requested information from the department of health and social services regarding the canvassing of smaller independent pharmacies in outlying locations for the "estimated acquisition cost" survey. She noted that the state has a historical allocation of 3 - 4% of the total Medicaid expenditures to prescription medication, which compares to a national average of 6.6%. At usual and customary fee structures, the pharmacy community has consistently provided the state with a lower Medicaid pharmacy cost than 46 other states, she said.

LARRY SMITH, told the committee that at the present rate of Medicaid, pharmacists are not reimbursed adequately for the time and specialized equipment and chemicals that it takes to do the required compounding. He said the only reimbursed expense for doing compounding prescriptions, is the fee -- not for the ingredients or their time. Mr. Smith explained that the high technology pharmacy is a very specialized area that requires special training for the pharmacist and the IV nurse. Mr. Smith indicated that in the federal Medicare program, their system of reimbursement is something that the pharmacist could find acceptable, if provisions for the IV nurses time were added. He indicated that a patient on total IV nutrition would incur a cost of approximately \$1150.00/per day in a hospital, where the cost with the same services provided by a

high-tech pharmacy and an IV nurse would cost approximately \$400.00/per day. He concluded that he would like to see the legislature retain the sunset provision, because the control should be through legislative oversight.

RON SEDGEWICK, said that he was a local pharmacist, and also legislative chairman of the board of directors of the pharmacy association. Mr. Sedgewick said that the implementation of the emergency regulations created a massive problem which are too restrictive to the point that they are not able to attract enough providers. He said that many pharmacists across the state are waiting for the results of the estimated acquisition cost (EAC) survey from the department. If deeper cuts are announced many pharmacies will not be able to participate, and he said that as many as 80% of the pharmacy providers across the state could be lost. Mr. Sedgewick said that the solution would be to backtrack somewhat and implement the reimbursement formula proposal made by the steering committee found acceptable by the pharmacies. He indicated that the federal agency apparently did not favor the approach proposed by the steering committee, and noted that the state of Texas uses similar methodology initially proposed. Texas' program was implemented in March of 1986 with some objection from federal officials at that time, and by October of 1987 when final regulations concerning pharmacy reimbursement were in place, the federal objections had basically disappeared, he said. Mr. Sedgewick said that they need to adopt the option recommended by the consultants into the state plan submitted, and he acknowledged that the department is under a time crunch.

Mr. Sedgewick concluded that if the state plan could restore the provider network to what it needs to be it would be more equitable. Pharmacists will be willing to take discounts, he said, and they want to have a viable system that works well. To follow the course they are on now, there would only be a partial system with no providers in small communities, which would result in the recipients of Medicaid being hurt the most.

Representative Ulmer referenced a memo describing the problems and proposing two solutions. She said that the first, was an amendment which would sunset the Board next year to continue the legislative oversight, and second, a letter of intent that would suggest the Texas approach to the formula.

Representative Ulmer encouraged the members to review the amendment and the proposed letter of intent.

Representative Boyer said that an issue which he felt was not germane to the House HESS Committee was a reprioritization of the Medicaid list (Section 4 of the bill). He said that, if in fact the HESS budget requires shortfunding, it would be useful to reprioritize the types of services which would be dropped off.

CS HB 70 (Finance) was reported out of committee with individual recommendations and a zero fiscal note with analysis by the Department of Health and Social Services dated 1/9/89.

COMMISSIONER MYRA MUNSON, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, discussed the background of HB 70, which continues the state's program for providing prescription drugs as a medicaid option with federal participation. She told the committee that failure to adopt the bill would require one of two possible actions. One possibility, she said, is that the Legislature would be compelled to appropriate an additional \$2.5 million to return the program to the wholly state-funded general relief medical program in order to retain the same level of prescription medicine benefit to medicaid patients. The other possibility would be to cut in half the regulatory action the pharmaceutical coverage of medicaid recipients throughout the state, she noted, in order to live within the amount remaining in the department's budget.

The House has consistently supported the pharmacy program as a medicaid option, Commissioner Munson told the committee. She said that the program is one of the simplest, most straightforward approaches to cost containment possible, from a state perspective, because the costs of the program are spread to the federal government on a 50-50 matching basis. To comply with legislative intent, when the pharmacy option was adopted, Commissioner Munson reviewed, the Department of Health and Social Services worked closely with pharmacists and others to develop the program in a way least likely to result in economic loss to pharmacists while ensuring federal participation. The goal, she explained, was to assure that the independent and rural pharmacists could continue to participate in the program, ensuring access to medicaid patients living anywhere in the state. She added that the department has made every effort to accomplish this goal and to ensure the continuation of rural service.

Addressing concerns raised in testimony on the previous day, Commissioner Munson explained that long-term pharmaceutical needs that had been paid through the medicaid rate for the facilities had to be part of the pharmacy program. She noted that, upon discovery of this, the department had notified facilities and held off on imposing the requirements of the option until the beginning of July. The facilities will continue to receive funding for their pharmaceutical needs at the medicaid rate through the end of FY 89, she said.

The department has worked closely with the facilities in developing the new program, Commissioner Munson stated, adding that it would require hospitals to build a new billing system. She said she had learned from Eric Hansen that, contrary to remarks made on the previous day, two Anchorage pharmacies were preparing bids for the pharmaceutical programs for the three long-term care facilities. Hope Cottages, one of these facilities, will need to get pharmaceuticals separately from Providence Hospital under federal regulations, she noted. The other two long-term facilities, she said, are the Mary Conrad

Center and Our Lady of Compassion, and these facilities may decide to go to outside pharmacies for a bid for services. However, she told the committee, the Sisters of Providence run the Providence Hospital, the Mary Conrad Center and Our Lady of Compassion. This is an internal management decision, she stated, that is triggered by the requirement for a specialized billing system that would require some investment to carry out.

The department is attempting to build the payment procedures for hospitals if they choose to provide pharmaceuticals for their associated long-term care facilities, the commissioner noted. She explained that the new procedures will compensate the facilities adequately, allowing for the best possible methods of delivering pharmaceuticals. She pointed out the tremendous variation among the facilities regarding procurement and distribution of pharmaceuticals.

The most pressing concern, Commissioner Munson stated, regards the issue of generic drugs. The medicaid program is biased toward generics, she said, to encourage physicians to use generics as a cost-saving measure. In cases where the physician believes it is in the patient's interest to receive a brand-specific drug, she qualified, the program allows the doctor to specify in writing on the prescription, "BRAND-SPECIFIC ONLY." Pharmacists who are concerned about the appropriateness of a generic versus a brand-specific drug may consult the physician, she pointed out.

The pharmacy program, she explained, has several components used in building the fee and in determining the amount that will be paid per prescription. The primary components, she said, are the dispensing fee and the fee for ingredients. Commissioner Munson noted that two surveys used in designing the program had been discussed on the previous day. The Meyers and Stauffer survey, the commissioner said, was conducted to determine the dispensing fee and was addressed positively on the previous day. Previous testimony indicated that the survey of the estimated acquisition costs, EAC, was unreliable because many rural communities had been left out, she said. Noting that the EAC had not yet been completed, Commissioner Munson explained that the EAC survey was a sample survey and that it was not intended to address the entire state. She added that Bethel and Sitka, which were reportedly omitted from the survey, had been included but the pharmacists in those communities had refused to participate. The department is not concerned about the consequences of that omission in the reliability of the survey, she stated, which applies to the costs of the drugs themselves. All of the pharmacists in Alaska, she noted, buy their drugs in Anchorage or Seattle from a single wholesaler. Thus, there is little variability in drug pricing throughout the state, she clarified. Commissioner Munson said that the question was raised regarding the use of the dispensing fee that was incorporated in regulations. The fee adopted by the department, she explained, was biased toward compensating small, independent, and rural pharmacies in order to assure their continued

participation.

It was suggested that the department should use the model adopted by the state of Texas, the commissioner noted, based on the fact that no written documentation existed regarding the financing agency's refusal to allow the use of such a model. She pointed out that members' files contained a letter from the financing agency indicating that Region 10 would not approve the plan if a Texas model were adopted.

Commissioner Munson noted that the Texas plan, which builds the dispensing fee as a factor of ingredient costs, was approved for Texas. However, she said, that situation is an anomaly, and the central office was opposed to the approval of that plan. Under the health care financing regulations, the region can make an approval or pass it off to the central office, she said. If the Texas plan had been passed off to the central office, it would have been disapproved, she pointed out, but the region took the action instead. The central office subsequently informed the regions not to approve any further plans like that of Texas, she said.

If Alaska tried to adopt the Texas model, the commissioner stated, the plan would not be approved unless litigation were pursued. She expressed her belief that such a route would be an irresponsible approach to developing the program.

In Texas, where the dispensing fee may be somewhat higher, cost containment is accomplished on the ingredient costs, Commissioner Munson added. The entire prescription compensation program developed by the Alaska Department of Health and Social Services leads to a higher result in compensation than anywhere else in the country, she said, and it appears to be the most generous program nationwide.

Commissioner Munson pointed out that pharmacists in Sitka had pulled out of the program. She said that she had written to those individuals who confirmed that this had occurred. She also wrote to the physicians in Sitka to inform them of other sources of pharmaceuticals for medicaid patients in the state, noting that long distance charges, freight costs, and other associated costs incurred would be compensated, she said. In addition, the commissioner noted, she had written to the pharmacists, urging them to reconsider their decisions.

Commissioner Munson told the committee that, in the cases of the two Sitka pharmacists, medicaid recipients made up less than ten percent of their business. She added that, even if the pharmacy program were implemented under the medicaid program, resulting in a 20% decrease in compensation, the impact on the pharmacists' gross incomes would be less than 1.5%. She questioned those pharmacists' professional decisions to pull out of the pharmacy program in its first month of implementation, considering those percentages.

The commissioner expressed certainty that most of Alaska's pharmacists would continue to participate in the program in order to assure good quality pharmaceutical care to the people of the state. Where pharmacists choose to pull out of the program, she added, the department is able to provide mail-order service to those communities just as it does to

most of the villages where pharmaceutical service is not available.

Commissioner Munson stated that, although extending the sunset on the issue is an option, she does not encourage it. She noted that the Legislature, the Department of Health and Social Services, and the executive branch had spent more time on this particular provider group, with a total program value of approximately \$5.0 million, than on any other health care option. She urged the committee to adopt the option presented in the bill and move on.

(Tape change: HFC 89-42, Side 2)

Checking in with the teleconference participants, Co-Chairman Larson discovered that the teleconference portion of the hearing had been terminated.

Representative Ulmer brought up the subject of the letter of intent she had offered on the previous day to address the Texas option. She asked the commissioner to help her to find the letter indicating Region 10's refusal to approve such a program. Commissioner Munson directed her to a packet entitled "Pharmacy Program Data" (attachment 5), page 4. She noted that, although this source did not refer directly to the Texas program, it referred to basing all or part of a dispensing fee on the cost of ingredients. She quoted that this practice is "unacceptable because it contradicts HCFA's cost containment efforts."

Representative Ulmer said that she would not ask the department to do something that it cannot do. She expressed appreciation for the additional information. Representative Ulmer noted that she had just received a letter of complaint from a Juneau pharmacist regarding the emergency regulations and questioning the current fee structure. She said that the pharmacist had stated that he was unable to recover the full cost of certain pharmaceuticals. Rather than recovering the \$31.89 that he had paid for the drug, she explained, he had received only \$29.55. She pointed out that not reimbursing pharmacists for actual costs would not benefit the program in the long run and asked how this problem would be addressed. Commissioner Munson asked ERIC HANSEN, OPERATIONS MANAGER, ANCHORAGE DIVISION OF MEDICAL ASSISTANCE, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, to assist with this question. He responded that it would always be possible to find an example of a drug that costs more than the formula will reimburse. If the formula is fair, he pointed out, the department will pay more than the pharmacy pays for most other drugs. He said that this is in fact the case. On balance, he said, the department compensates pharmacies liberally compared to other medicaid programs in the country, notwithstanding the odd example. Darvoset, for example, is available for 35 cents a capsule and the state program reimburses at about 28 cents. The pharmacist is capable of buying Darvoset generics at 16 cents a capsule, he pointed out. Thus, he said, part of the solution may be in more prudent buying practices. It is possible, too, he said, for a pharmacist to lose a little on an isolated drug for which he would make it back on other

drugs over the course of a year.

Representative Ulmer expressed the hope that it does, in fact, balance out and that the rest of the population will not end up absorbing the extra costs. She said that it is important to maintain an overall perspective in terms of reducing costs and providing services to those that need it.

Representative Rieger mentioned that someone testifying on the previous day had stated that pharmacists charge a \$5.00 fee per prescription and physicians charge a \$10.00 fee per visit. He asked for more information about these fees. Commissioner Munson stated that the medicaid pharmacy program will permit a \$1.00 co-payment as a maximum. She said that this co-payment was required for each medicaid prescription, which the pharmacist had to collect. The pharmacists involved with the steering committee had requested that this co-payment be withdrawn, she said, and that was done. Medicaid will not allow co-payments larger than \$1.00, she explained, noting that the patient's portion must be a portion of the total compensation that the medicaid rate permits.

Representative Reiger commented that the idea of the co-payment was to ensure that prescriptions are not overused. He suggested that the department lock into raising the co-payment at the federal level.

Mr. Hansen said that the federal government requires states to exclude large groups of patients from co-payment, including the elderly, children, and pregnant women. When those groups are excluded, the only people left are those who use the least amount of drugs, he noted, and this becomes so complicated that it is almost impossible to administer properly.

Representative Brown MOVED to adopt CS HB 70 (Finance) as the vehicle for the committee's discussion. There being NO OBJECTION, it was so ordered.

Representative Rieger asked if the amendment proposed by Representative Ulmer, adopting the Texas model, would be offered. Representative Ulmer responded that she did not intend to offer either the amendment or the letter of intent. Representative Brown MOVED to report CS HB 70 (Finance) out of committee with individual recommendations and the accompanying zero fiscal note. Representative Phillips OBJECTED. A roll call vote was taken on the motion.

IN FAVOR: Brown, Koponen, Rieger, Ulmer, Hoffman, Larson
OPPOSED: Phillips, Shultz

The MOTION PASSED, 6 -2. CS HB 70 (Finance) was reported out of committee with individual recommendations and a zero fiscal note with analysis by the Department of Health and Social Services dated 12/1/88.

January 12, 1989

HOUSE BILL NO. 80 by Ellis and Koponen, entitled:

"An Act increasing the excise tax on cigarettes."
was read the first time and referred to the Health,
Education & Social Services and Finance Committees.

February 20, 1989

Representative M. Davis added his name as co-sponsor to:

HOUSE BILL NO. 80

"An Act increasing the excise tax on cigarettes."

March 3, 1989

The Health, Education & Social Services Committee has considered:

HOUSE BILL NO. 80

"An Act increasing the excise tax on cigarettes."
and recommends it be replaced with the following committee
substitute:

CS FOR HOUSE BILL NO. 80 (HESS)

"An Act increasing the excise tax on cigarettes,
and authorizing municipalities to levy and collect
taxes on the retail sale of cigarettes and tobacco
products without limitation."

Recommending do pass (5): Ellis (Chairman), Jacko, C.
Davis, Gruenberg, Goll

No recommendation (2): Furnace, Boyer

A fiscal note by the Department of Revenue was published
March 3, 1989.

HB 80 was referred to the Finance Committee.

MARCH 15, 1989

HB 80

The Finance Committee has considered:

HOUSE BILL NO. 80

"An Act increasing the excise tax on cigarettes."
and recommends it be replaced with the following committee
substitute:

HB 80

CS FOR HOUSE BILL NO. 80 (HESS)

(page 513)

Recommending do pass (5): Hoffman (Co-chairman),
Swackhammer, Brown, Koponen, Ulmer

Recommending do not pass (3): Barnes, Shultz, Phillips

No recommendation (3): Larson (Co-chairman), Rieger, Wallis

A fiscal note by the Department of Revenue was published
March 15, 1989.

HB 80 was referred to the Rules Committee for placement on
the calendar.

EFFECT OF CSHB 80

	<u>CURRENT LAW</u>	<u>UNDER CSHB80</u>
MILL RATE PER CIGARETTE dedicated to School Fund	AS 43.50.090 = 2.5 MILLS	AS 43.50.090 = 2.5 MILLS (NO CHANGE)
MILL RATE PER CIGARETTE collected for General Fund	AS 43.50.190 = 5.5 MILLS	AS 43.50.190 = 15.0 MILLS (9.5 MILL INCREASE)
COMBINED MONETARY EFFECT ON EACH 20 cigarette pack	16 CENTS	35 CENTS (19 CENT INCREASE)

There are currently two separate excise taxes levied on cigarettes. Taxes collected under AS 43.50.090, which predates the prohibition against dedicated funds, are deposited in the School Fund. Taxes collected under AS 43.50.190 are deposited in the General Fund. CSHB 80 amends AS 43.50.190 and increases General Fund revenues.

HB 80 Short Analysis:

The original version of the bill raised the excise rate from 8 mills per cigarette to 12.5 mills. The monetary effect would have been to increase the tax on a 20 cigarette pack by 9 cents - from 16 cents per pack to 25 cents per pack.

CSHB 80 (HESS):

The Committee Substitute raises the excise tax on cigarettes to 17.5 mills. The monetary effect is to raise the tax from 16 cents per pack to 35 cents per pack.

CORRECTION

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

HB 80 Short Analysis:

The original version of the bill raised the excise rate from 8 mills per cigarette to 12.5 mills. The monetary effect would have been to increase the tax on a 20 cigarette pack by 9 cents - from 16 cents per pack to 25 cents per pack.

CSHB 80 (HESS):

The Committee Substitute raises the excise tax on cigarettes to 17.5 mills. The monetary effect is to raise the tax from 16 cents per pack to 35 cents per pack.

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: CSHB 80 (HESS)
PUBLISH DATE: HOUSE 3/15/89

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act Increasing the Excise
Tax on Cigarettes
Sponsor: Ellis and Koponen
Requestor: (H)HESS Committee

Agency Affected: Revenue
BRU: Income & Excise Audit
Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & 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	9128.7	8854.8	8854.8	8854.8	8854.8	8854.8

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: See attached.

Prepared By: Steven E. Kettel *Steven E. Kettel*
Division: Income and Excise Audit

Phone: (907) 465-2320
Date: March 9, 1989

Approved by Commissioner: Hugh Malone *Royce FOR*
Agency: Department of Revenue

Date: March 9, 1989

Distribution (by preparer):

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

March 9, 1989

Analysis

1. Assumes effective date of legislation is July 1, 1989.
2. Total cigarette consumption has fallen six percent per year for the three year period ending in FY88. Forecasts under present law assume consumption will drop three percent in FY89 and FY90, then remain level through FY94.
3. The increase in cigarette prices due to the higher tax will reduce consumption. It is estimated that the quantity of cigarettes sold will fall by three percent from the level presently forecast.
4. Revenues to the School Fund will decrease by about \$72,000 each year as that tax rate is not changed by the proposed legislation.

Comment

The latest information indicates that Alaska ranks somewhere in the bottom one-third among states that levy a tax on cigarettes. The highest tax is assessed by Minnesota at 38 cents per pack and the lowest by North Carolina at 2 cents per pack. The state of Alaska levies 16 cents per pack on cigarettes. There are thirty-five states that levy a higher rate than Alaska.

HOUSE COMMITTEE SCHEDULE

February 9, 1989, HESS

Number 130

The next item on the agenda was HB 80. Chairman Ellis turned the gavel over to Vice Chairman Boyer so that Rep. Ellis, the sponsor, could speak for the bill.

Rep. Ellis described the bill and explained it would increase the cigarette tax increase by 9 cents, bringing the total levy to 12.5 mills per cigarette, or 25 cents per pack. He stated that, if passed, this bill would raise an additional four million dollars per year to the general fund which is enough to pay the salary and benefits of 83% of public health nurses in the state of Alaska. He noted that the state was addressing the nicotine abuse problem.

Number 183

Rep. Furnace referred to an attachment to the fiscal note which indicates that a decrease in the use of tobacco products would result in \$72,000/year in reduced funds to the school fund. He asked if Rep. Ellis intended to dedicate that portion of the four million back to the school fund.

Chairman Ellis said no, but it was being explored.

Rep. Furnace remarked that if the legislature saw a decrease to the school fund then it must look for ways to minimize that affect.

Number 229

Rep. Goll asked for an explanation of school tax legislation and authorization. He referred to the dedication of the school fund.

Number 256

ROYCE WELLER, Assistant Commissioner, Department of Revenue, testified that the tax Rep. Goll referred to was passed in 1955, was a dedicated revenue, and was under AS 43.50.090. He said that the legislation before the committee would not impact that particular dedication. Rep. Goll asked why the legislature couldn't add to that dedicated tax under that statute.

Mr. Weller responded that was an open question and it had been looked into by House Research a couple of years earlier. Their conclusion was that it was an open legal issue. He stated that the two questions to consider were, "Can you change the purpose of a dedication?" and, "Can you change the rate of contribution?" House Research came to the conclusion that the latter question was open. The Attorney General's office has ruled different ways over the years.

Number 279

DR. DAVID JOHNSON, Alaska State Medical Association, testified in support of HB 80. He said, "Tobacco is clearly a primary gateway drug into other drug use and abuse in our country. It is the (indiscernible) cause of premature death in the United States and the Medical

Association supports this and any other effort that would increase the obstacles to the use of tobacco, particularly by young people. The use of tobacco by young people is very much quite sensitive. This 9 cent per pack increase could be expected to decrease (consumption) among young people. Right now, (the tobacco company's are spending) two billion, with a "B", dollars a year aggressively marketing tobacco products in an effort to replace the nearly one million smokers a year who cease using tobacco. About one third of those who cease, stop because they are dead from tobacco related diseases. About two thirds of them quit. The tobacco industry is spending about two thousand dollars per new recruit to this addictive substance. The tax, as a percent of the retail price of 5.5, ... if you take 5.5 mils from the days back in the 1950s, cigarettes were under 50 cents a pack. A comparable tax - that's \$1.75 a pack that the retailers now obtain for a pack of cigarettes - would be closer to 20 mils than to 10 mils. So, we would testify that we would like you to look very carefully at the issue that Rep. Goll raised of the percent of the price; and the 5.5 mils increasing to 10 is not a comparable percent of the retail price when this was enacted years ago."

Dr. Johnson commented further on health education. He assessed the social cost of each pack of cigarettes to be in excess of two dollars and called for an increase in accountability on the part of this multi-billion dollar industry. He stated that the State Medical Association strongly supports increasing the state excise tax on cigarettes.

Rep. Gruenberg asked how much the total increase per pack would be.

Chairperson Ellis stated that the legislation would bring the total levy to 12.5 mils, not 10 as had been erroneously inferred earlier, per cigarette, which would come to 25 cents per pack.

Number 380

DR. ROD WILSON, Anchorage physician and board member of the Alaska Chapter of the American Lung Association, testified in support of HB 80. He noted that the price of cigarettes is elastic. He stated that the way America was handling the issue was "one of the greatest shames of the century" and that it has been known since the thirties how harmful cigarette smoking was. Dr. Wilson stated that "it wasn't just when Surgeon General Terry in 1962 came out with his famous first report, it was known long before that." He remarked that by the end of the century a conservative estimate of the number of people killed by tobacco is 20 million people. He commented that problems of radon, asbestos, etc., were minuscule compared to tobacco. He noted that he didn't see this tax as a "sin tax" in the usual sense because this is a tax on a lethal substance and not on pleasure producing substances and activities where toxicity is undetermined.

Number 380

PHYLLIS SHORT, community facilitator for Tobacco Free Alaska 2000 and life long resident of Kotzebue, testified in support of HB 80 from Kotzebue. She stated that a local survey revealed that 35% of our junior and high school students actually admitted smoking cigarettes, 36% admitted to doing tobacco, and 85% had family members who smoked cigarettes. She remarked that it is estimated that half of the students in Kotzebue junior and senior high school smoke cigarettes. Ms. Short said that the current tax does not pay for the damage caused by cigarettes. She concurred with Dr. Johnson that increasing the price of cigarettes discourages use, particularly among youth. Ms. Short further stated that with an increased price of 10%, consumption by youth decreases by 14%.

Rep. Gruenberg remarked that a number of other states permit local governments to levy cigarette tax and asked the witness if she had any thoughts on that.

There was no answer.

Number 419

FAWN HELMS, member of the Fairbanks Chapter of Tobacco Free Alaska, testified in support of HB 80. She stated that her organization would like to see the revenues collected go toward a comprehensive survey of tobacco use so that specific geographic areas could be targeted for health and education programs. She also stated that her organization would like to see a comprehensive health curriculum that emphasized prevention of substance abuse.

Ms. Helms said, "A male between the ages of 35 and 44 who smokes more than two packs a day over his lifetime will incur cigarette related medical bills and lost work time adding up to an average cost of almost \$59,000. A woman in the same category will incur cigarette related medical bills and lost work time adding up to an average of about \$20,000. Absenteeism rates for smokers are approximately 50% higher than for nonsmokers. Smokers have twice as many job related accidents as nonsmokers. According to a study conducted by five health economists, the cost to the nation due to cigarette smoking is 53.7 billion dollars. This translates into a cost to the economy of over 2 dollars for every pack of cigarettes sold in the U.S. In 1985, the estimated total for direct costs, meaning expenses for health care due to smoking, in Alaska was 52.8 million dollars. This is equivalent to \$149 for every Alaskan over the age of twenty or about \$408 for every current smoker in Alaska over twenty. According to Dr. William Leese, of the Smoking Policy Institute in Seattle, each smoker costs their employer an average of over \$4000 per year. This includes estimated insurance costs, absenteeism, reduced productivity, impact on nonsmokers, morbidity and early mortality, damage and depreciation of equipment and facilities, and maintenance costs. In addition, since the state does not provide a smoke free work environment for all of its employees, it is risking lawsuits. One example

of this risk can be seen from a 1982 case, Perotti v. Merit Systems Protection Board. Irene Perotti, a federal employee, suffered from documented asthmatic bronchitis as a reaction to side stream cigarette smoke. The ninth circuit court of appeals ordered Ms. Perotti's employer to provide her suitable employment in a safe environment when it was totally smoke free. Eventually, an out of court settlement awarded Ms. Perotti \$50,000 and a full disability retirement pension."

Ms. Helms cited another case as an example. She stated that in 1987, Alaska collected about 9.4 million from its cigarette tax and in 1988, 8.8 million dollars was collected; and even if HB 80 were passed, the state still would not be close to recovering all the costs of cigarette smoking.

Number 473

Rep. Goll asked Ms. Helms if, given the evidence, should the state impose criminal penalties for the possession of cigarettes.

Ms. Helms replied that at this point that would not be a wise move.

Rep. Goll asked, "Why not?"

Ms. Helms responded that with the current problems in recriminalizing marijuana she did not think that would be possible.

Number 481

KITTY LEW testified from Anchorage in favor of HB 80. She concurred with earlier testimony and stated that cigarette use by Anchorage students was above the national average.

Number 520

ROCKY PLOTNICK-WELLER, President-elect of the American Lung Association of Alaska, trained and certified health educator, testified in support of HB 80. She stated that smoking is the most important preventable cause of premature death in society and, currently, 35 states tax cigarettes greater than 16 cents per pack. She explained that the amount of state dollars that go to fund health care promotion was very small. Between 61% and 76% of Alaskan students have used cigarettes. Of all drugs, legal or illicit, cigarettes are the biggest killer, taking 1000 lives a day. She cited specific health conditions that develop in smokers.

Number 596

Chairman Ellis made an announcement concerning travel.

TAPE 18B, SIDE ONE

Number 000

Travel and meeting arrangements were discussed.

Since there was no further business to come before the House HESS Committee, Chairperson Ellis adjourned the meeting at 10:10 a.m.

March 2, 1989, HESS

The next item of business before the committee was HB 80. Chairperson Ellis stated there was a CS in members' packets

that needed to be adopted.

Rep. Gruenberg addressed a proposed amendment to the cigarette tax bill. He referred to sections 1 and 2, which would allow municipalities to levy sales taxes on tobacco products that exceed 6%. He said that 6% was the tax levy cap. It was a local option tool for raising revenue and may help to finance local health department efforts. He used the Anchorage municipality as an example.

Number 414

Chairperson Ellis stated that he felt the bill was a good idea.

Rep. Gruenberg moved the CS for HB 80.

STEVE KETTLE, Director, Income and Excise Tax Division, Department of Revenue, testified on HB 80 from Anchorage. He asked if the CS would impact the state cigarette tax. Chairperson Ellis said that it would not.

Rep. Davis asked how much a pack of cigarettes would cost with the proposed increase.

Rep. Furnace said that it was about one dollar and fifty cents.

Chairperson Ellis stated that the bill would increase the state's share from 16 cents to 25 cents per pack and that would raise Alaska from the lower third among states for cigarette taxation to the top third.

Rep. Davis felt the tax could be raised even higher.

Rep. Goll asked if there was objection from committee members to raising the tax higher.

Chairperson Ellis stated that to his knowledge only the tobacco interests have objected to that. He said that when he chose the proposed increase, he chose a number he thought would have the best chance of passing both bodies of the legislature.

Rep. Gruenberg recalled that when the legislature passed an increase in the cigarette tax in 1985 or 1986, there was an intent included in the bill. He said that the intent was that the funds be used to "promote wellness." He felt that the intent could still be applied to the proposed increase before the committee.

Chairperson Ellis said there might be concern that a large increase at the state level might reduce incentive to increase the tax at the local level. He said that sales taxes were more appropriately applied at the local level and that was one of the reasons that he personally opposed a statewide sales tax.

Number 494

Rep. Gruenberg commented he didn't think that the tax cap applied to the kinds of sales taxes under question.

Rep. Goll asked why the proposed legislation uses the milage value rather than the dollars and cents value in assessing the tax.

Mr. Kettle stated that because there were various package sizes, volumes and weights that tobacco products are sold in, and since the tax would be somewhat less than a penny per cigarette, it would make sense to keep the assessment

on a milage rate. He said that the current system was based on a milage rate, and for simplicity and efficiency, it would be better to keep the same system.

Rep. Jacko asked how the tax would apply to other tobacco products, such as pipe tobacco or chewing tobacco.

Number 536

Chairperson Ellis replied that the tax wouldn't affect those products, and until last year, individuals who purchased tobacco products other than cigarettes paid no tax to the state treasury.

Rep. Jacko was concerned that this tax increase would provide the incentive for high school students to switch from smoking cigarettes to smoking a pipe.

Rep. Gruenberg remarked that in his amendment regarding the local t ;ation he had inserted the words "or tobacco products" so that an option to expand or contract the tax would be available.

Rep. Gruenberg brought another area of concern to the attention of the committee. He referred to a U.S. Supreme Court case which prohibited a state from imposing a sales tax on purchases made by mail order from out of state. He said that, although Alaska doesn't have a statewide sales tax, that Supreme Court case affects the excise tax before the committee. Rep. Gruenberg remarked that a business could escape both the state and local sales tax by ordering tobacco out of state. He said that the receiving state can't tax the sale, but they can tax it in the state where the product was sold. Rep. Gruenberg explained that the proposed tax would create a disincentive to buy from local merchants. He commented that the National Conference of State Legislatures was quite concerned about that. He said that a number of state legislatures are urging the federal government to pass legislation allowing the taxation of imported goods.

Number 591

Rep. Goll asked how the proposed tax compares with the existing taxes on pipe tobacco, chewing tobacco and cigars. He asked how the milage levels worked.

Rep. Furnace left.

TAPE 31, SIDE 2

Number 000

Mr. Kettle stated that the current milage rate was eight and the bill would add two, making a total of ten. That total, multiplied by 20 cigarettes per pack, equals 20 cents per pack. He added that the tax on other tobacco products is currently 25% of the wholesale price and that price can vary throughout the state and throughout the year. Mr. Kettle said the tax is levied on the wholesale price because those products are sold in various shapes, sizes and weights. He stated that the tax raises somewhere between \$500,000 and \$700,000 per year.

Rep. Goll remarked he was satisfied with that information and it was his intent to move that the tax be increased from the current proposal of 10 mils to 15 mils.

Chairperson Ellis stated he was setting the bill aside temporarily.

March 2, 1989, HESS

Number 431

House Bill 80 was brought back to the table.

Rep. Gruenberg referred to a suggested amendment that Rep. Goll made earlier in the meeting pertaining to the Youth Commission and a minimum age requirement of its members. He stated that he would have supported such an amendment if it had come to a vote.

Rep. Davis moved that the excise tax in the CS be increased from 10 mils to 15 mils.

Number 468

Rep. Gruenberg expressed his concern that the practical effect of such a high tax may be to divert money from a local tax base. He was concerned that Anchorage would be affected.

Chairperson Ellis cited figures indicating that the tax per pack of cigarettes levied would be 30 cents under a 15 mils rate. He went on to state his support for the amendment.

Rep. Davis addressed Rep. Gruenberg and his concern and asked if he had any figures to exemplify his concern.

Rep. Gruenberg indicated he did not.

Rep. Jacko expressed his support for the amendment.

Rep. Davis restated the motion to amend line 25 to read "15" and not "10."

Hearing no further discussion or objection, it was so ordered.

Number 524

Rep. Boyer moved that the CS for HB 80 pass out of committee by unanimous consent with individual recommendations.

Hearing no objection it was so ordered.

Chairperson Ellis asked that committee members think about acupuncture legislation before the next meeting.

Number 531

Since there was no further business to come before the House HESS Committee. Chairperson Ellis adjourned the meeting at 10:02 a.m.

HB 80 "An Act increasing the excise tax on cigarettes."
CS HB 80 (HESS) was reported out of committee with a
"do pass" recommendation and a fiscal note dated
3/9/89 by the Department of Revenue.

Co-Chairman Larson announced that the discussion of HB 80 would be teleconferenced in order to receive testimony from two individuals in Anchorage. He discussed the bill, sponsored by Representatives Ellis and Koponen. The original version of the bill, he stated, would increase the excise tax on cigarettes from 5.5 mills to 10 mills per cigarette. The HESS Committee CS raised the tax to 15 mills, which represents a hike of 30 cents per pack, he told the committee. He said that it also amends current law limiting municipal sales tax rates by exempting tobacco products, allowing municipalities to tax cigarettes at a higher rate than other items. The co-chairman pointed out a fiscal note by the Department of Revenue indicating an increase in state revenues by \$9,182.7. He said that Representative Ellis would discuss the bill with the committee.

REPRESENTATIVE JOHNNY ELLIS, BILL CO-SPONSOR, noted that, in addition to raising the mill levy from 16 to 35 cents per pack of cigarettes, the bill would allow municipalities to raise the local share of taxes on cigarettes above the six mill statutory cap. There would be no change in the 2.5 mill school tax, he said.

Representative Ellis explained that the cigarette tax is a sort of "user fee." Disease, disability, state medical expenditures, and lost productivity are the results of the use of tobacco, he pointed out. Thus, "the current tax does not pull its weight," he said, "in terms of the cost to the state." The tax would result in over \$9.0 million in revenues raised in the first fiscal year, with over \$8.5 million raised in succeeding years, he noted. He said that, in spite of the prohibition against dedicated funds, he would support the use of the tobacco tax income for health and educational programs related to the dangers of tobacco.

Alaska's tax rate on tobacco is in the bottom third in the nation, Representative Ellis told the committee. Of all the states, he said, Minnesota's tax is the highest at 38 cents per pack, and North Carolina's is the lowest at 2 cents per pack. This change would put Alaska in the top third in the U.S., he noted.

Representative Ellis stated that his original proposal was to tax cigarettes at the rate of ten mills. He said that, in the HESS committee, it was suggested that the rate be raised to fifteen mills.

The public is ready for this user fee, Representative Ellis said. He pointed out that budget forums in Anchorage and elsewhere in the state indicate that the people would like to see cigarettes carry their own weight in terms of the state budget.

Co-Chairman Larson noted that the committee substitute would remove the 6% cap on municipalities. He wondered if the

intent of the bill was to allow municipalities to tax tobacco so high as to prohibit sales of the substance, creating "smokeless" communities that might conflict with those bringing cigarettes in from outside.

Representative Ellis responded that killing tobacco sales was not the intent of the legislation. He said that he favors decision-making by the people and that municipalities should be able to decide on whether to increase taxation.

Co-Chairman Hoffman asked why the dedicated fund for education would remain the same under the bill. Representative Ellis answered that, although the HESS committee is always looking for new funding for public education, he had been advised not to tamper with the grandfather rights of the funding for education. A significant increase in that area would damage its constitutional protections, he explained.

Representative Barnes referred to a public meeting in Anchorage regarding the budget. She stated that one message heard "loud and clear" was that the people would look for budget cuts prior to any new taxes. She wondered if Representative Ellis had proposed any budget cuts before instituting new taxes.

Representative Ellis responded that he had compiled a list of areas for reductions in state spending. He noted the difficulty in cutting statutorily mandated health programs, although he said that the health budget is no "sacred cow." He pointed out that the \$9.5 million in revenue from the proposed cigarette tax increase would allow the state to maintain some of those health programs. He offered to work with the committee in making budget reductions as well as helping to find new revenues.

Representative Barnes stated opposition to new taxes. She said that she would oppose the tobacco tax on that basis. Beginning the teleconference portion of the meeting, Co-Chairman Larson told the committee that Mr. Dwight Lee would like to testify on the tobacco tax.

DWIGHT LEE, PhD, PROFESSOR OF ECONOMICS AT THE UNIVERSITY OF GEORGIA, via teleconference from Anchorage, told the committee that he had come to Alaska under the sponsorship of Common Sense of Alaska, Inc., in order to discuss the issue of taxation in relation to the future of the Alaskan economy. During his career as a professor of economics, he noted, he had specialized in the economics of taxation and had analyzed excise taxation in detail.

In most cases, Dr. Lee stated, excise taxes are inefficient and unfair, especially the cigarette excise tax. He noted that the proposed tax increase would harm Alaskan retailers and merchants and would not result in the revenues discussed before the committee.

Dr. Lee said that cigarettes are the number one product sold in American convenience stores, representing an average of 19% of all convenience stores sales. They contribute about 10% to drugstore sales, he added. He noted that, after the last increase in Alaska's cigarette excise tax in 1986 from eight cents a pack to sixteen cents a pack, per capita cigarette

sales had dropped from 128.9 packs in 1985 to 110.4 packs in 1987. He said that, in 1988, per capita sales in Alaska had plummeted to 80 packs in 1988. This significant drop, he said, does not reflect a drop in smoking in Alaska, but an increase in sales to the local military bases, where cigarettes are available at \$1.60 less per carton than in the local convenience stores. He told the committee that, if the proposed increase goes into effect, anyone buying cigarettes at military bases directly or indirectly will save about \$3.50 per carton. Thus, he said, avoiding the tax would be quite easy.

Dr. Lee told the committee that, if the increase passes the legislature, a 19.4% decrease in cigarette sales by Alaskan retailers will occur, which means a \$10.0 million loss in annual sales. The loss of every carton of cigarettes also means a loss of about \$5.00 in collateral purchases, he noted, representing another \$4.2 thousand in lost sales, for a total of almost \$15.0 million lost as a consequence of raising the cigarette excise tax.

Alaska should be pursuing a transition from an oil-based economy to a more diverse economy, Dr. Lee stated. He said that a \$15 million sales loss on retailers would not be helpful in this regard.

The excise tax on tobacco is the most regressive of all taxes levied in the U.S., Dr. Lee added, imposing a greater tax-burden on the poor than on the wealthy. He noted that a study by the Citizens for Tax Justice indicated that excise taxes on tobacco products took seven times more as a percentage of income from those with incomes below \$9,000 a year, in comparison with those whose incomes exceeded \$60,000 a year. This disproportionate burden on the poor, he stated, would be worse in Alaska than this figure indicates because, in Alaska, the poor tend to live in remote areas far from military bases. Dr. Lee concluded that the state will realize little advantage and serious disadvantages from the proposed cigarette tax increase.

Representative Brown pointed out the positive social effects of discouraging smoking, particularly to young people who are most sensitive to increasing the costs of tobacco products. She asked Dr. Lee's view of the use of taxation as a means of discouraging the use of such a harmful substance.

Dr. Lee said that the use of taxes to discourage teenage smoking is a "blunt instrument," in that it imposes a cost on all smokers, including the poor. He said that the issue is best handled by education and by parental discipline, suggesting that the legislation would affect merchants more than teenagers.

Representative Barnes noted that the only way for military people and their dependents to dispose of products bought on a base would be illegal and that he was referring to a black market. She expressed doubts that such a black market exists, especially since military personnel are allowed to purchase only four cartons of cigarettes at a time.

Dr. Lee stated that people do take advantage of the cheaper

prices of cigarettes on bases through smuggling, especially when local taxes make prices high.

Co-Chairman Larson asked about impacts on retailers in the state of Minnesota, where the cigarette excise tax stands at 38 cents a pack. Dr. Lee said that, in 1987, Minnesota raised its tax by 12.5% and, in 1988 sales had dropped by 12.1%. He noted other examples of states whose sales dropped after tobacco excise taxes had been raised. This event was marked in states surrounded by states that taxed tobacco at a lower rate, he pointed out. By saving a few cents per pack in neighboring states, he said, a two-pack-a-day smoker can save hundreds of dollars a year.

Responding to questions from Co-Chairman Hoffman, Dr. Lee stated that tobacco is a significant producer in Georgia, his home state, although it is not the number one producer.

(Tape change: HFC 89-36, Side 2)

NEIL COOPER, ANCHORAGE BUSINESSMAN, testified in opposition to HB 80, explaining that business in Alaska is rough. He said that if the Anchorage municipality levied a cigarette tax, greater competition with businesses outside of the municipality of Anchorage would erupt.

Mr. Cooper stated that, in Anchorage, because the municipality requires annual motor vehicle inspections at a cost of \$35, a number of people had registered their cars in neighboring communities in order to avoid the tax. Allowing municipalities to levy taxes other than general sales taxes, he said, would cause a tremendous drop of revenues in Anchorage.

Mr. Cooper questioned the equity of taxing specific businesses, which he considers discriminatory. He concluded that the state does not need taxation and regulation such as that proposed in HB 80.

ROCKY PLOTNICK-WELLER, PRESIDENT-ELECT, AMERICAN LUNG ASSOCIATION OF ALASKA, told the committee that she is now serving on the national board of the ALA. She added that she is trained as a health educator and has conducted smoking cessation workshops in Juneau for the past few months. She reminded the committee that her father, Danny Plotnick, who served in the House of Representatives, had died of lung cancer after smoking two packs a day for thirty years. The American Lung Association is in favor of HB 80, Ms. Plotnick-Weller told the committee, noting that smoking remains the single most important preventable cause of death in the U.S., killing 390,000 Americans every year. The age at which children start smoking keeps falling, she added, with most starting by the eighth grade and 25% starting smoking by the sixth grade. She noted that a recent survey by the American Council on Education shows a dramatic increase in the number of college freshmen who smoke. From 1987 to 1988, she said, the rate of smoking rose from 8.9% to 10.1%.

Ms. Plotnick-Weller told the committee that Dr. George Lundberg, the editor of the American Medical Association journal, had stated that tobacco kills 1,000 Americans each day, compared with 350 killed daily by alcohol, 3 - 5 by

sedatives and depressants, and 2 - 10 by cocaine. Tobacco is considered one of the gateway drugs, Ms. Plotnick-Weller emphasized, which leads to other drug use. Fewer legal restrictions exist today on children's access to tobacco products than in 1964, she noted. Excise taxes do deter the use of tobacco, she said, as reported by the national Conference of State Legislatures. She said that this is especially true among teenagers.

Ms. Plotnick-Weller stressed the addictive nature of cigarettes and other forms of tobacco. She said that the argument for increasing the tobacco tax relates to the causal relationship between higher cigarette prices and lower cigarette consumption, particularly among young people. From an economic point of view, she acknowledged, the tax might affect some people's incomes, especially those involved in the tobacco industry. She maintained that the health costs incurred by those who continue to smoke are far greater than those economic losses. The American Lung Association supports the "user fee" for those who use this product that "kills when used precisely as intended," Ms. Plotnick-Weller said.

Ms. Plotnick-Weller pointed out to those who criticize tobacco excise taxes as "regressive" that nothing is more regressive than the financial costs that occur from smoking-related illness.

DWAYNE PEOPLES, DIVISION OF PUBLIC HEALTH, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, echoed Ms. Plotnick-Weller's comments on smoking. He said that, nationally, the cost is estimated in the billions due to loss of productivity and health care costs associated with smoking. It is a leading cause of cancer, heart disease, and other cardiovascular medical problems that result in the need for medical care and in premature death, he said. He told the committee that smoking has a great effect on the Alaskan health care delivery system and on the state, as a dominant financier of health care. He concluded that the Department of Health and Social Services supports HB 80.

GARY MILLER referred to Dr. Lee's comments that the poor would be hit harder by an increase in the cigarette excise tax. He asked why the poor are spending their money on cigarettes. Mr. Miller said that, as the father of two young children, he resents the efforts by the tobacco company to hook children on cigarettes. He said that the excise tax would increase the price of cigarettes to the point that more smokers would stop smoking and new smokers would be prevented from starting. He said that kids are poor and they won't spend a lot of money on cigarettes as the price rises. He urged the committee to vote favorably on HB 80.

SHERRIE GOLL, ALASKA WOMEN'S LOBBY, testified in support of HB 80. She said that the Women's Lobby supports the bill not only because of the health benefits enjoyed by those who are deterred from smoking, but also because of the bill's revenue-generating ability. As an advocate for women and children, Ms. Goll said, she is concerned about the current budget crisis. Hearing that the legislature has been thinking

about cutting COLAs on AFDC or short-funding public education, she told the committee, the lobby decided to examine and support revenue-generating activities.

Co-Chairman Larson asked Mr. Lee if, in the Lower 48, local governments have decided to go smokeless or to raise tobacco taxes higher than in the surrounding state. Dr. Lee said that, in Illinois, both Cook County and Chicago had raised taxes that are much higher than in the rest of Illinois. He noted that cigarette sales had dropped dramatically in both of those areas because people buy their cigarettes in surrounding low-tax areas. Dr. Lee said that he had never heard of a community that totally prohibits the sale of tobacco.

Representative Ulmer MOVED to report HB 80 out of committee with individual recommendations. She asked for unanimous consent. Representative Phillips and Representative Shultz OBJECTED.

Representative Ulmer noted that 35 states levy a tax that is higher than Alaska's cigarette tax. She said that, by raising its tax on tobacco, Alaska would join the national average in terms of the amount levied. According to her recent mailout budget survey of the Juneau population, Representative Ulmer stated, 90% of the respondents stated their approval of an increase in taxes on alcohol and cigarettes. She said that Alaskans do not want to encourage smoking because it is such a significant health hazard. Representative Ulmer encouraged members to support the bill, thereby discouraging smoking and raising revenues.

A roll call vote was taken on Representative Ulmer's MOTION.

IN FAVOR: Swackhammer, Ulmer, Wallis, Brown, Koponen,
Rieger, Hoffman, Larson.

OPPOSED: Barnes, Phillips, Shultz.

The MOTION PASSED, 8 - 3. CS HB 80 (HESS) was reported out of committee with a "do pass" recommendation and a fiscal note dated 3/9/89 by the Department of Revenue.

TABLE 1
CIGARETTE TAX RATE AND REVENUE, 1949 - 1987

YEAR	CIGARETTE TAX RATE (CENTS PER PACK)			CIGARETTE TAX REVENUE (\$1,000)			NOTES:
	DEDICATED TAX	ADDITIONAL TAX	TOTAL	DEDICATED TAX	ADDITIONAL TAX	TOTAL	
49	5	0	5	299.8	0.0	299.8	1949--Tobacco Tax Act enacted. Tax levied on all types of tobacco products at varying rates. Receipts deposited in the School Fund and dedicated to school construction.
50	5	0	5	442.6	0.0	442.6	
51	5	0	5	643.1	0.0	643.1	
52	5	0	5	808.6	0.0	808.6	
53	5	0	5	825.1	0.0	825.1	
54	5	0	5	825.5	0.0	825.5	
55	5	0	5	1,015.8	0.0	1,015.8	1955--Tobacco Tax Act repealed and replaced with the Cigarette Tax Act. Tax of 2.5 mills levied on cigarettes. Receipts deposited in the School fund.
56	5	0	5	1,127.0	0.0	1,127.0	
57	5	0	5	1,041.6	0.0	1,041.6	
58	5	0	5		0.0		
59	5	0	5		0.0		1959--Statehood. Dedicated taxes, except for those existing prior to ratification of the constitution, prohibited.
60	5	0	5		0.0		
61	5	0	5		0.0		
62	5	3	8				1961--Additional tax of 1.5 mills levied on cigarettes. Receipts deposited in the general fund.
63	5	3	8				
64	5	3	8				
65	5	3	8	1,303.1	781.9	2,085.0	
66	5	3	8	1,638.1	982.9	2,621.0	
67	5	3	8	1,530.0	918.0	2,448.0	
68	5	3	8	1,576.3	945.8	2,522.0	
69	5	3	8	1,643.8	986.3	2,630.0	
70	5	3	8	1,694.4	1,016.6	2,711.0	
71	5	3	8	1,854.4	1,112.6	2,967.0	
72	5	3	8	2,015.0	1,209.0	3,224.0	
73	5	3	8	2,015.0	1,209.0	3,224.0	
74	5	3	8	2,143.8	1,286.3	3,430.0	
75	5	3	8	2,521.1	1,511.6	4,032.7	
76	5	3	8	2,883.7	1,733.6	4,617.3	
77	5	3	8	3,033.0	1,817.7	4,850.7	
78	5	3	8	2,886.6	1,740.6	4,627.2	
79	5	3	8	2,756.5	1,654.0	4,410.5	
80	5	3	8	2,679.7	1,602.8	4,282.5	
81	5	3	8	2,837.0	1,714.7	4,551.7	
82	5	3	8	3,067.0	1,827.0	4,894.0	
83	5	3	8	3,306.0	2,000.0	5,306.0	
84	5	3	8	3,391.0	2,000.0	5,391.0	
85	5	3	8	3,295.0	2,000.0	5,295.0	1985--Additional tax raised to 5.5 mills.
86	5	11	16	2,833.0	4,938.2	7,771.2	
87	5	11	16	3,239.0	6,657.2	9,896.2	

SOURCE: Alaska Department of Revenue.

1. Revenue from the dedicated portion of the tax are deposited in the "School Fund" and are available for appropriation to the Department of Education for the exclusive purpose of school construction.
2. Revenue from the additional tax are deposited in the general fund and may be appropriated for any purpose.

Prepared by the House Research Agency, February 1988, (88-173).

TABLE 1
CIGARETTE TAX RATE AND REVENUE, 1949 - 1987

YEAR	CIGARETTE TAX RATE (CENTS PER PACK)			CIGARETTE TAX REVENUE (\$1,000)			NOTES:
	DEDICATED TAX	ADDITIONAL TAX	TOTAL	DEDICATED TAX	ADDITIONAL TAX	TOTAL	
49	5	0	5	299.8	0.0	299.8	1949--Tobacco Tax Act enacted. Tax levied on all types of tobacco products at varying rates. Receipts deposited in the School Fund and dedicated to school construction.
50	5	0	5	442.6	0.0	442.6	
51	5	0	5	643.1	0.0	643.1	
52	5	0	5	808.6	0.0	808.6	
53	5	0	5	825.1	0.0	825.1	
54	5	0	5	825.5	0.0	825.5	
55	5	0	5	1,015.8	0.0	1,015.8	1955--Tobacco Tax Act repealed and replaced with the Cigarette Tax Act. Tax of 2.5 mills levied on cigarettes. Receipts deposited in the School Fund.
56	5	0	5	1,127.0	0.0	1,127.0	
57	5	0	5	1,041.6	0.0	1,041.6	
58	5	0	5		0.0		
59	5	0	5		0.0		1959--Statehood. Dedicated taxes, except for those existing prior to ratification of the constitution, prohibited.
60	5	0	5		0.0		
61	5	0	5		0.0		
62	5	3	8				1961--Additional tax of 1.5 mills levied on cigarettes. Receipts deposited in the general fund.
63	5	3	8				
64	5	3	8				
65	5	3	8	1,303.1	781.9	2,085.0	
66	5	3	8	1,638.1	982.9	2,621.0	
67	5	3	8	1,530.0	918.0	2,448.0	
68	5	3	8	1,576.3	945.8	2,522.0	
69	5	3	8	1,643.8	986.3	2,630.0	
70	5	3	8	1,694.4	1,016.6	2,711.0	
71	5	3	8	1,854.4	1,112.6	2,967.0	
72	5	3	8	2,015.0	1,209.0	3,224.0	
73	5	3	8	2,015.0	1,209.0	3,224.0	
74	5	3	8	2,143.8	1,286.3	3,430.0	
75	5	3	8	2,521.1	1,511.6	4,032.7	
76	5	3	8	2,883.7	1,733.6	4,617.3	
77	5	3	8	3,033.0	1,817.7	4,850.7	
78	5	3	8	2,886.6	1,740.6	4,627.2	
79	5	3	8	2,756.5	1,654.0	4,410.5	
80	5	3	8	2,679.7	1,602.8	4,282.5	
81	5	3	8	2,837.0	1,714.7	4,551.7	
82	5	3	8	3,067.0	1,827.0	4,894.0	
83	5	3	8	3,306.0	2,000.0	5,306.0	
84	5	3	8	3,391.0	2,000.0	5,391.0	
85	5	3	8	3,295.0	2,000.0	5,295.0	1985--Additional tax raised to 5.5 mills.
86	5	11	16	2,833.0	4,938.2	7,771.2	
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SOURCE: Alaska Department of Revenue.

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The

Case for

Increasing

California's

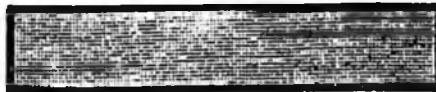
Tobacco Tax

COALITION

for a

HEALTHY

CALIFORNIA



5858 Wilshire Blvd., Suite 400
Los Angeles, CA 90036-9930
(213) 937-6464

American Academy of Pediatrics • American Cancer Society, California Division • American Heart Association
American Lung Association of California • Blue Cross of California • Americans for Non-Smokers Rights
California Association of School Health Educators • California Association for Medical Laboratory Technology
California Dental Association • California Association of Hospitals and Health Systems
California Association of Public Hospitals • California Medical Association • California Nurses Association
California Professional Firefighters • California Public Health Association • California School Boards Association
California Society of Periodontists • California State Fireman's Association • California Thoracic Society
Campaign California • Health Officers Association of California • Kaiser Foundation Health Plan, Inc.
Los Angeles City Council • The Planning and Conservation League of California

TECHNICAL AND POLITICAL FACTORS TO CONSIDER IN
CHANGING TAX POLICY TO INCREASE
THE CALIFORNIA TOBACCO TAX

1. Substance of the tobacco tax increase proposal
 - a. Amount of increase
 - 1) How much should it be? Comparison with other states?
 - 2) What number would minimize problem for machine vendors?
 - 3) Cigarettes only or proportionate increase for other tobacco products?
 - 4) Is the amount of the increase and the amount of revenue raised in consonance with the social rationale for the increase?
 - b. Effective date of the increase
 - 1) What date would create the fewest administrative problems for the agency which would collect the tax?
 - 2) What date would create the fewest problems for those who pay the tax...distributors, machine vendors, etc.?
 - c. Collection of the tax
 - 1) Which agency should be responsible for collection?
 - 2) Administrative costs of collecting 35 cents as compared to 10 cents.
 - d. Use of revenue derived from the tax
 - 1) Should entitlements to proceeds from current tax be preserved? What are the rationales?
 - 2) Earmarking assuming proceeds of the increase would go toward smoking prevention education, research for smoking-related diseases and provision of health care for the indigent, how will decisions be made as to:
 - a) Operational definitions of "education", "research" and "health care"?
 - b) Specific activities which fall within the operational definitions.
 - c) Whether all implementing programs are administered by public employees only or whether the state will contract with private agencies for services.
 - d) Percentage distribution among education, research and health care.
 - e. Administration of distribution of tax proceeds
 - 1) Should statutory provision be made for a gross division of proceeds to administering agencies (e.g., 1/3 to department of Education to administer research and health care programs) and rely on each Department to implement by regulation?
 - 2) Create advisory committee and stipulate composition?

3. Require distribution to go through budget appropriation process with all proposed expenditures subject to legislative review?

f. Administering state agencies

- 1) One (e.g., DHS) or several (e.g., DHS, DOE, UC).
- 2) Existing agency or create new one?
- 3) How do other states do it?

g. Maintenance of effort

- 1) Device to be used (e.g., "State shall not expend less dollar amounts than expended in 1987-88 fiscal year for Medi-Cal, health care for the indigent, etc.").
- 2) Important that all new revenues seen as funds to augment existing programs, not as substitute for present funding. Critical because tax is designed to reduce smoking, will therefore eliminate itself if successful.

- h. Should bill proposal be identical to initiative proposal so that proponents can argue that the legislative process was attempted without success and therefore the people must take the matter into their own hands?

- i. Who are the interested parties in a proposed tax increase? Which among them have sufficient power that they can influence the policy outcome?

2. Political questions which must be addressed whether attempting to enact legislation or passing an initiative

- a. Legislative strategy must be consistent with initiative strategy.

- b. A thoughtfully developed, philosophically consistent, rationale is needed for:

- 1) Earmarking for specific purposes and no others.
- 2) Why cigarettes (all tobacco?) and not other harmful substances (e.g., alcohol).
- 3) The user-fee concept.
- 4) Social justification for requiring smokers to pay health care costs, smoking prevention education costs, and smoking-related disease research costs.

- c. Should the coalition which sponsors the bill be the same as the one which sponsors the initiative?

- 1) Who would do the lobbying?
- 2) Who would finance the initiative?

- d. Public opinion survey research on fundamental policy questions.
 - 1) To what extent would non-smokers support an increase in tax?
 - 2) To what extent would smokers support an increase?
 - 3) How much of an increase?
 - 4) Priority uses of the proceeds.
 - 5) Support for user-fee concept.
 - 6) Support for distributing proceeds to non-health related uses.
- e. Coordinate vs. separate individual media relations strategy.
- f. Possibility of developing a lobbying "game plan", creating a lobbying control committee, and getting advance commitments for execution. Hold weekly strategy sessions during legislative consideration.
- g. Development of major arguments which can be made:
 - 1) In favor
 - 2) against
 - 3) proponent's responses to opponent's arguments
- h. Strategy for approaching the opposition
 - 1) Who will comprise the opposition—cigarette manufactures, distributors, retailers, vending machine operators, etc.?
 - 2) How committed is each likely to be?
- i. Authorship of legislation
 - 1) Chairman of Revenue and Taxation Committees in each house?
 - 2) As many co-authors as possible?
 - 3) Bi-partisan?
 - 4) Better one party or the other?

3. Pre-Initiative planning

- a. Survey of potential supporters
 - 1) Will you support?
 - 2) Resource Commitment?
 - 3) When?
- b. Public opinion survey research
 - 1) Benchmark Survey
 - 2) Who pays?
- c. Creation of preliminary planning committee
 - 1) Small as possible?
 - 2) Comprised of certain supporters only?

d. PPC discuss possibilities with campaign management firms

- 1) Interest in taking the yes campaign.
- 2) Possible strategy?
- 3) Probable cost of a winning campaign.

e. PPC discuss possibilities with professional fundraisers

- 1) Interest
- 2) Potential

4. Initiative planning

a. Organizational structure of sponsoring coalition

- 1) Umbrella for all supporting parties.
- 2) Steering committee (money).
- 3) Executive committee (more money).
- 4) Control committee which will direct campaign consultants and other officers of the campaign committee (lots of money).

b. Retain:

- 1) Legal counsel
- 2) Professional fundraiser
- 3) Campaign consultant

c. Campaign budget:

- 1) Minimum/optimum.

d. Public opinion survey research.

e. Initiative timing flow chart.

f. Draft initiative proposal.

g. Circulation of petitions/qualification strategy.

COALITION



HEALTHY

CALIFORNIA



The Facts About

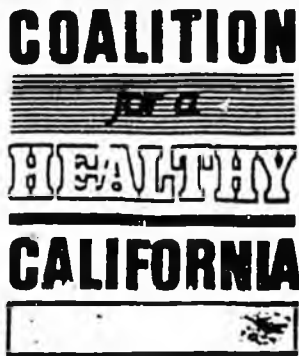
CHILDREN AND TOBACCO

Efforts which prevent or postpone the onset of tobacco use have the greatest potential to reduce the number of users.

- ▶ 90% of all smokers start by age 19 and 60% start by age 14, four years before they are legally entitled to smoke in California.
- ▶ 34% of California 9th graders and 31% of 11th graders smoked within the last six months. (January, 1986)
- ▶ Smoking rates among young people have not declined at the same rate as smoking among adults. Smoking among young females is significantly above their male counterparts.
- ▶ 16 percent of males between the ages of twelve and twenty-five use some form of smokeless tobacco. 25-35 percent of adolescent males (in some regions) currently use smokeless tobacco.
- ▶ 34% of Californians between the ages of eighteen and twenty-four smoke compared to 18% of those over the age of 65.
- ▶ Nationally, 3,279,000 children between the ages of twelve and seventeen smoke an average of 16 cigarettes each day.

CAN A TOBACCO TAX KEEP CHILDREN OFF TOBACCO?

- ▶ The proposed tobacco tax will earmark 20% of revenues — \$130 million annually — to "programs for the prevention and reduction of tobacco use, primarily among children, through school and community health education programs."
- ▶ Health education taught well, works. The Centers for Disease Control in Atlanta report "one of the most interesting behavior changes is the delay of onset of cigarette smoking." If all elementary school children participated in a good program, 150,000 fewer 12-year olds would start smoking each year.
- ▶ A good health education program costs as little as \$8 per student each year.
- ▶ Children and teenagers are influenced by the price of cigarettes when deciding to smoke. Experts predicted that a 16 cent increase in the Federal tobacco tax would cut the number of smokers under the age of 19 by 800,000 nationwide.
- ▶ A 25 cent tax increase in California could discourage as many as 100,000 children and teenagers from using tobacco each year.



Public Opinion

About Tobacco Use

What voters know and feel about tobacco use affects the final outcome of the campaign, but it may not be decisive. Advertising by the tobacco industry can confuse and mislead voters.

However, the declining number of smokers and changing public opinion about the issue may create obstacles which the tobacco companies cannot overcome.

- ▶ Only 25% of California adults smoke, down from 32% in 1980. Of the five million Californians still smoking approximately 25% tried to quit during the last Great American Smokeout in November 1987.
- ▶ 68% of Californians favor the provisions of the Tobacco Tax and Health Protection Act, 27% are opposed and 5% are undecided. Of the 68% in favor, 56% are "strongly" in favor. The 56% "strong" support will be exceptionally difficult for tobacco industry advertising to overcome. (1987)
- ▶ 77% of smokers surveyed by the Gallup Poll said they would like to stop smoking, up from 66% in 1981. (1987)
- ▶ 47% of teenagers support a nationwide ban on tobacco sales. Well over 50% of above average students living in the East support the idea. Roughly 70% of the same students support a ban on selling tobacco to those under 21 years of age. (1988)
- ▶ College students assign smoking the rank of 3rd among activities with the greatest risk. (1987)
- ▶ 87% of Americans, smokers and non-smokers alike, now believe companies should either ban smoking at work totally or restrict it to designated areas. (1986)
- ▶ 94% of Americans believe smoking is hazardous to health. (1986)
- ▶ 75% of all Americans believe that smokers should not light up in the presence of non-smokers. (1986)
- ▶ 67% of Californians support increasing the tax on tobacco products to fund parks and recreation areas. (1987)

COALITION



HEALTHY

CALIFORNIA



What Smoking Costs

Your Company

- ▶ An employer can save at least \$345 per employee every year during the first three years after they quit smoking. In Los Angeles, the savings estimate is \$675 each year.
- ▶ Employees who quit smoking continue to save company money in years four through ten at the rate of \$224 per year.
- ▶ Assuming 30% of employees smoke, a company which has 5000 employees will save \$1,552,500 over the first three years if all its employees stop smoking. A similar sized Los Angeles company will save \$4,657,500 over three years.
- ▶ A large employer with 50,000 employees would have 15,000 smokers and save \$15,525,000 in the first three years of its smoke free environment.

It is unrealistic for any company to plan on total success in smoking cessation efforts, but savings are evident at every level of success. Where do the savings come from?

- ▶ Smokers use 50 percent more sick leave, and have fifty percent more use of the health care system.
- ▶ Smokers have twice the mortality rate during working years.
- ▶ Smoking wastes 6 percent of an employees work time.
- ▶ Smoking increases the health care costs for employees affected by "second hand" smoke.
- ▶ Working in the presence of smokers reduces morale and productivity among non-smoking personnel.
- ▶ Smoking increases maintenance and cleaning costs and requires a much larger investment in air conditioning and circulation.
- ▶ Of the total California health care bill of \$35.4 billion in 1983, it is estimated that \$5.6 billion was spent treating tobacco related diseases.
- ▶ Nationally, middle range estimates put 1985 health care costs attributable to smoking at \$22 billion and lost productivity at \$43 billion for a total of \$65 billion or \$2.17 cost for each pack of cigarettes sold.

The Tobacco Tax and Health Protection will:

- ▶ Reduce the flow of new smokers and tobacco users into the workplace.
- ▶ Fund uncompensated medical care for patients without medical insurance thereby reducing the need for doctors and hospitals to charge their insured patients more.
- ▶ Support medical research which will improve prevention and treatment of tobacco related diseases.

I. What is Tobacco?

1. The tobacco industry is a \$32 billion enterprise in this country. (Wall Street Journal, 11-14-86)
2. 98% of all cigarettes manufactured in this country are made by six companies. (Coalition on Smoking or Health)
3. Cigarettes contain at least 48 known carcinogens including nicotine, tar, carbon monoxide, ammonia, and benzopyrene. There is no such thing as a safe level of exposure to cigarette smoking. (Office of Smoking and Health)
- * 4. The nicotine in tobacco is six to eight times more addictive than alcohol. Its addictive power bears a "stunning" resemblance to opium and heroin. (Harvard University; National Institute on Drug Abuse)

II. Who decides to Smoke? - Kids!

1. Approximately 30% of Americans now smoke; 33% male and 28% females.
- * 2. In general, adults don't make the decision to smoke—kids do. 90% of all smokers make their decision to start smoking before the age of 20. 60% begin by the age of 14; 22% by the age of nine. (Health Affairs)
- * 3. 60% of teenage smokers are addicted before they leave the 9th grade. (Health Notes)
4. Each day, approximately three to five thousand U.S. kids smoke for the first time. (Cahan, G., "Smoking as a form of child Abuse," Washington Post May 22, 1985)
- * 5. The tobacco industry spent \$2.6 billion in the U.S. on advertising and promotion in 1985 primarily targeting the young and depicting users as healthy, athletic, active and attractive and relating tobacco use with pleasure and glamour. (Nonsmokers' Rights Foundation)
- * 6. A 10% increase (approximately 10 cents) in the price of cigarettes will lead to an overall 4.2% drop in cigarette smoking and a 14% drop in teenage smoking (U.S. Department Agriculture; USDA, February 28, 1986)

III. The Cost of Tobacco Smoking to Society

- * 1. The U.S. Government spends approximately \$4.2 billion each year on the Medicare and Medicaid programs to pay for the cost of smoking related illnesses. This cost to society works out to 14 cents for each pack of cigarettes. (Office of Technology and Assessment)

2. The U.S. Health care system spends approximately \$22 billion each year to treat smoking-related diseases. This cost to society computes to 72 cents for each pack of cigarettes sold. (Office of Technology and Assessment)
3. Another \$43 billion in productivity losses in the U.S. economy are attributable to cigarette smoking. This amounts to \$1.45 for each pack of cigarettes sold. (Office of Technology and Assessment).
- * 4. The total cost of cigarette smoking to society totals (e2 and e3 above) to \$65 billion. This amounts to \$2.17 per pack of cigarettes sold. (Office of Technology and Assessment)
5. Nevertheless, taxes for a pack of cigarettes in California are only 18 cents for federal tax and 10 cents of state tax, totalling to 28 cents per pack. The rest of the costs caused by cigarettes are subsumed in individual private health insurance premiums and taxes.

IV. California's Cigarette Tax

1. California's cigarette tax has remained at 10 cents per pack since 1967. (Board of Equalization)
2. Only six other states, primarily tobacco growing states have a lower rate than California. Nevada and Arizona tax at 15 cents per pack while Oregon taxes at 27 cents per pack (Board of Equalization).

V. Human Costs of Cigarette Smoking

- * 1. Approximately 350 thousand people die each year due to smoking related illnesses. This accounts for one of every six deaths. (Office of Technology and Assessment).
2. Smoking is associated with 30% of all cancers. (American Cancer Society)
3. Smoking causes 85% of all lung cancer deaths (130 thousand in 1984 in the U.S.) and is the major cause of lung cancer in women. (American Cancer Society)
4. Smoking causes 90% of all cases of bronchitis and emphysema (American Cancer Society)
5. Besides being the primary cause of lung cancer, smoking is also a major cause of cancer of the larynx, oral cavity and esophagus. It contributes to cancer of the urinary bladder, kidney and pancreas. (American Cancer Society)

6. Smoking is the major cause of coronary heart disease (American Cancer Society)
7. Smoking results in low birth weight babies and contributes to higher miscarriages (American Cancer Society)

VI. Miscellaneous Statistics

1. Polls indicate that 85% of smokers would like to quit (American Cancer Society)
2. Employers will save approximately \$550 per employee per year for each employee who quits smoking. (IBM)
4. Cigarette-caused fires kill over 2,300 people and burn 5,000 others each year in the U.S. and cause over 30 million in property damage. (IBID, pg. 5)
5. The December 1984 Report of the U.S. Surgeon General concluded that cigarette smoking represents a greater cause of death and disability than any other factor in the workplace. (U.S. Surgeon General).
6. In 1985, Canada raised its cigarette taxes an additional 25 cents per pack, bringing the total Canadian federal tax to 82 cents per pack of 25 cigarettes. Heavy provincial taxes increase the average selling price of a pack of 25 cigarettes to \$2.54 (CDN). In Newfoundland the average price is \$3.39 (CDN) per pack.

HOUSE JOURNAL JANUARY 25, 1989

HB 112

HOUSE BILL NO. 112 by the Resources Committee, entitled:

"An Act relating to big game hunting and to the regulation of big game and marine mammal guide-outfitting, transportation, and other commercial services for big game hunters; creating the Big Game Commercial Services Board; and providing for an effective date."

was read the first time and referred to the Resources and Finance Committees.

MARCH 15, 1989

HB 112

The Resources Committee has considered:

HOUSE BILL NO. 112

"An Act relating to big game hunting and to the regulation of big game and marine mammal guide-outfitting, transportation, and other commercial services for big game hunters; creating the Big Game Commercial Services Board; and providing for an effective date."

HB 112

and recommends it be replaced with the following committee substitute:

CS FOR HOUSE BILL NO. 112 (Resources)

"An Act relating to big game hunting and to the regulation of big game and marine mammal guide-outfitting, transportation, and other commercial services for big game hunters; creating the Big Game Commercial Services Board; relating to presumptive sentences for violation of certain big game commercial services statutes; and providing for an effective date."

Recommending do pass (5): Menard (Co-chairman), Navarre, Jacko, Sharp, Foster

No recommendation (2): Hudson, Furnace

Two fiscal notes, by the Department of Commerce & Economic Development and the Department of Fish & Game, one zero fiscal note by the Department of Natural Resources, and one zero fiscal note with analysis by the Department of Public Safety were published March 15, 1989.

HB 112 was referred to the Finance Committee.

MARCH 31, 1989

HB 112

The Finance Committee has considered:

HOUSE BILL NO. 112

"An Act relating to big game hunting and to the regulation of big game and marine mammal guide-outfitting, transportation, and other commercial

services for big game hunters; creating the Big Game Commercial Services Board; and providing for an effective date."

and recommends it be replaced with the following committee substitute:

CS FOR HOUSE BILL NO. 112 (Finance)

"An Act relating to big game hunting and to the regulation of big game and marine mammal guide-outfitting, transportation, and other commercial services for big game hunters; creating the Big Game Commercial Services Board; relating to presumptive sentences for violation of certain big game commercial services statutes; and providing for an effective date."

Recommending do pass (8): Larson and Hoffman (Co-chairmen), Koponen, Ulmer, Shultz, Phillips, Rieger, Wallis

No recommendation (3): Swackhammer, Brown, Barnes

Two previous fiscal notes by the Department of Commerce & Economic Development and the Department of Fish & Game, a previous zero fiscal note by the Department of Natural Resources, and a previous zero fiscal note with analysis by the Department of Public Safety, published March 15, 1989, apply to CSHB 112(Fin).

HB 112

HB 112 was referred to the Rules Committee for placement on the calendar.

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Commerce & Economic Dev.
 Title: An Act relating to big game hunting and to the regulation of big game and marine mammal guide-outfitting... BRU: Occupational Licensing
 Sponsor: House Resources Components: All
 Requestor: House Resources

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		39.8	39.8	39.8	39.8	39.8
TRAVEL		28.7	28.7	13.9	13.9	13.9
CONTRACTUAL		16.3	16.3	16.3	16.3	16.3
SUPPLIES		2.0	2.0	2.0	2.0	2.0
EQUIPMENT		12.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		98.8	86.8	72.0	72.0	72.0

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

REVENUE		103.0	105.5	108.0	110.5	113.0
---------	--	-------	-------	-------	-------	-------

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (GF/PR)		98.8	86.8	72.0	72.0	72.0
TOTAL		98.8	86.8	72.0	72.0	72.0

POSITIONS:

FULL-TIME						
PART-TIME		2	2	2	2	2
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See attached for explanation.

Prepared by: Jennifer Strickler, Administrative Officer
 Division: Occupational Licensing

Phone: 465-2144

Date: March 14, 1989

Approved by Commissioner: Larry Mercurieff
 Agency: Commerce and Economic Development

Date: 3/15/89

Distribution (by preparer):

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

BIG GAME COMMERCIAL SERVICES BOARD EXPENSES

The expenses identified in this fiscal note, except where noted, are new costs expected to be incurred by the new Commercial Services Board in addition to those already budgeted for the current Guide Board. The increase in board expenses will be covered by a parallel increase in the division's program receipt authority. The expenses will be paid for by revenues generated by new or increased licensing fees.

FY 90:

PERSONAL SERVICES:

Occupational Licensing Examiner I, Range 12A 6 months (PPT), Juneau	\$17.3
Investigator II, Range 16A 6 months (PPT), Anchorage	22.5
Personal Services Sub-Total:	\$39.8

~~BOARD MEETINGS~~ TRAVEL:

These costs are based on nine (9) members from the following locations:

- 3 Barrow members
- 3 Fairbanks members
- 1 Kotzebue member
- 1 King Salmon member
- 1 Bettles member
- 1 Cordova member

These staff members (three from Juneau, and one from Anchorage)

Board meetings by board members and staff in the first year is

3 Barrow meetings (\$6330 x 2)	\$12.7
1 Fairbanks meeting	8.6
1 Kotzebue meeting	8.5
	\$29.8

~~BOARD MEETINGS~~ (Rural Implementation):

To encourage rural resident participation in the big game services industry, it is planned that a Licensing Examiner will travel to seven rural sites for out-reach purposes; Barrow, Bethel, Dillingham, Kodiak, and Ketchikan
\$5.8

~~BOARD MEETINGS~~ (Investigations):

To focus on the licensure of transporters and commercial use of vehicles, funds are necessary for an Investigator to travel to Fairbanks, King Salmon, Kotzebue, Bettles, Cordova, and Bettles
\$4.1

(Total) These costs are reduced by \$11.0 already built into the Licensing Boards the division of occupational licensing operating budget.)
\$11.0

CONTRACTUAL

Printing (decals, forms, etc.)	\$5.0
Advertising (meetings and regulations)	1.7
Exam consultation	5.0
Phones, postage	3.0
Space rent (for meetings)	1.6
	\$16.3

Contractual Sub-Total \$16.3

COMMODITIES:

Standard operating supplies such as stationery, envelopes, pens, etc.	\$2.0
---	-------

EQUIPMENT: (one time costs only)

2 - Phone units	.4ea.	.8
2 - DP/WP Computer workstations	2.2ea.	4.4
2 - Desks, double pedestal, 70x36	.7ea.	1.4
2 - Chairs, swivel with arms	.7ea.	1.4
2 - Chairs, side without arms	.2ea.	.4
2 - Typewriters, IBM SelectricIII	1.2ea.	2.4
2 - Desk calculators	.1ea.	.2
2 - Tables, 72x36	.2ea.	.4
2 - File cabinets, 5 dr legal with lock	.3ea.	.6
		\$12.0

Equipment Sub-Total: \$12.0

TOTAL FY 90 COSTS: 98.8

FY 91:

Costs in FY 91 are anticipated to be the same as in FY 90, less the one-time FY 90 equipment costs of \$12.0.

TOTAL FY 91 COSTS: \$86.8

FY 92:

Cost differences between FY 90 and FY 92 result from a reduction in FY 92 of the number of meetings budgeted under travel. FY 92 expense is based on two meetings, one in Anchorage and one in Fairbanks, while FY 90 was based on four.

Anchorage Board Meeting Deleted	[6.3]	
Juneau Board Meeting Deleted	[8.5]	
	[14.8]	[14.8]

TOTAL FY 92 COSTS: \$72.0

Costs are the same for FY 93 and FY 94 taking into consideration two meetings to be held each year, one in Anchorage and the other to alternate between Fairbanks and Juneau each fiscal year.

BIG GAME COMMERCIAL SERVICES BOARD PROGRAM RECEIPTS

The current Guide Board already generate program receipts through its licensing fees. The revenues reflected in this fiscal note represent the amount of additional revenue necessary to cover the added costs associated in CSHB 112(Res) with sunseting the Guide Board and creating a Big Game Commercial Services Board. The revenues are based on a modest increase of \$50.00 to the fees presently established by regulation and assessed against licensed guides renewing their licenses and against persons seeking initial licensure. Unlike other occupational licensing areas, which renew biennially, CSHB 112(Res) requires annual renewal and the revenue reflects that mandate.

FY 90 is based on:

437 Guide-Outfitters x \$50	\$21.8
1224 Class-A and Assistant Guides x \$50	61.2
300 Transporters x \$50	15.0
100 Outfitters x \$50	5.0
FY 90 Revenue	\$103.0

FY 91 is based on FY 90 calculations with an additional 50 new licensees added:

437 Guide-Outfitters x \$50	\$21.8
1224 Class-A and Assistant Guides x \$50	61.2
325 Transporters x \$50	16.3
125 Outfitters x \$50	6.2
FY 91 Revenue	105.5

FY 92 is based on FY 91 calculations with an additional 50 new licensees added:

437 Guide-Outfitters x \$50	\$21.8
1224 Class-A and Assistant Guides x \$50	61.2
350 Transporters x \$50	17.5
150 Outfitters x \$50	7.5
FY 92 Revenue	\$108.0

FY 93 is based on FY 92 calculations with an additional 50 new licensees added:

437 Guide-Outfitters x \$50	\$21.8
1224 Class-A and Assistant Guides x \$50	61.2
375 Transporters x \$50	18.8
175 Outfitters x \$50	8.7
FY 93 Revenue	\$110.5

FY 94 is based on FY 93 calculations with an additional 50 new licensees added:

437 Guide-Outfitters x \$50	\$21.8
1224 Class-A and Assistant Guides x \$50	61.2
400 Transporters x \$50	20.0
200 Outfitters x \$50	10.0
FY 94 Revenue	\$113.0

STATE OF ALASKA
1989 LEGISLATIVE SESSION

CC

BILL VERSION: CSHB 112 (RES)
PUBLISH DATE: HOUSE 3/15/89

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act Relating to Commercial
Services for Big Game Hunters
Sponsor: Resources Committee
Requestor: _____

Agency Affected: Fish and Game
BRU: Wildlife Conservation
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	31.5	75.8	67.5	58.2	58.2	58.2
TRAVEL	1.5	5.0	3.0	1.0	1.0	1.0
CONTRACTUAL		.5	.5	.5	.5	.5
SUPPLIES		1.7	1.0	1.0	1.0	1.0
EQUIPMENT		6.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	33.0	90.0	72.0	60.7	60.7	60.7

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

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	1	1	1	1	1	1
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary) The FY89, FY90, and FY91 expenditures are necessary to coordinate the development of a computerized area-based management system for use in administering the guide/outfitting industry. The FY92, FY93, and FY94 expenditures would depend on the guide/outfitter area management system which is devised and ADF&G's role in that system.

Prepared by: W. Lewis Pamplin, Jr., Director Phone: 465-4190
Division: Wildlife Conservation Date: 2/15/89

Approved by Commissioner: [Signature] Date: 2/15/89
Agency: Fish and Game

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

FISCAL NOTE FOR HOUSE BILL 112
 Page 2 of 2

	FY89		FY90		FY91		FY92	
	Mos.	Cost	Mos.	Cost	Mos.	Cost	Mos.	Cost
LINE 100								
WB III @ \$4.5/month	3	13.5	11	49.5	11	49.5	11	49.5
AP II @ \$3.3/month	3	9.9	5	16.5	3	9.9	1	3.3
DPC II @ \$2.7/month	3	8.1	4	10.8	3	8.1	2	5.4
TOTAL		31.5		76.8		67.5		58.2
LINE 200 TRAVEL		1.5		5.0		3.0		1.0
LINE 300 CONTRACTUAL SERVICES		0.0		0.5		0.5		0.5
LINE 400 SUPPLIES		0.0		1.7		1.0		1.0
LINE 500 EQUIPMENT		0.0		6.0		0.0		0.0
TOTAL		33.0		90.0		72.0		60.7*

* This total may vary with the role that ADF&G ultimately plays in the guide/outfitter area management system.

CC

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: CSHB 112 (RES)
PUBLISH DATE: HOUSE 3/15/89

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Big game guiding and sport hunting
Sponsor: House Resources
Requestor: House Resources

Agency Affected: Public Safety
BRU: Fish & Wildlife Protection
Component: Enforcement & ISU

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

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
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	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Passage of HB 112 would create a nine-member Big Game Commercial Services Board. It is anticipated that travel expenses for Board members would be included in the budget of the Department of Commerce and Economic Development, Division of Occupational Licensing. Department of Public Safety (DPS) staff time will be provided to assist the Board as necessary; no additional fiscal impact on DPS is anticipated.

Jin
3/15/89

Prepared by: Captain Conrad Selbel
Division: Fish & Wildlife Protection

Phone: 269-5509
Date: 3/15/89

Approved by Commissioner: J.A.H. Arthur English
Agency: Department of Public Safety

Date: 3/15/89

STATE OF ALASKA
1989 LEGISLATIVE SESSION

CC
BILL VERSION: CSHB 112 (RES)
PUBLISH DATE: HOUSE 3/15/89

No. 4

FISCAL NOTE

REQUEST:

Revision Date: 15-Feb-89
Title: An Act relating to big game hunting and regulation of commercial services.
Sponsor: House Resources
Requestor: House Resources
Agency Affected: Natural Resources
BRU: Management and Administration
Components: Commissioners Office

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0					

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Travel costs for Natural Resources will be included in DCED fiscal note.

Prepared by: Carol Wilson Phone: 465-2400
Division: Commissioners Office Date: 15-Feb-89

Approved by Commissioner: Lennie Gorsuch Date: 15-Feb-89
Agency: Department of Natural Resources

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

Representative Menard announced HB 112 and SB 140 to be open for discussion.

Stephen White, Assistant Attorney General, said that he was prepared to answer any questions about the Department's interpretation of the Owsichek decision. He gave a brief history of the decision. The court basically said that if you want limited entry for any resources used under the common use clause, the proper way to do it is through a constitutional amendment as with fishing limited entry permits.

Senator Fahrenkamp asked Mr. White if this issue would affect oil and gas leases and he answered no.

Number 400

Representative Menard noted that Ken Fanning was in attendance.

Randall Burns gave a line by line description of the changes made in HB 112 and SB 140.

Representative Davidson asked Mr. Burns why the transition for outfitters to guides did not require journeyman training for three years. He answered it was because a lot of the outfitters have had a legitimate portion of the big game commercial services industry in the state, and since this bill is creating a combined guide/outfitter classification, it was a way to allow them to continue business and not shut them out of their profession for three years.

Number 373

Joel Bennett, member of the Board of Game, said he thought the Game Board would applaud the effort put into this kind of legislation. If an acceptable bill were passed, it would make the functions of the Game Board much easier, because there would be more information. Mr. Bennett said that having a closer relationship between the Game Board, the Guide Board, and the Commercial Services Board is good. He said the transporter license hasn't in the past been woven into the system the way it should; and this bill has made a real step forward in this respect.

Number 553

Mr. Burns continued his line by line discussion of changes in the bill embodied in the committee substitute.

Representative Menard asked Mr. Utermohle, from legal services, if he had any comments. He said he was available to answer questions. There were no questions.

Senator Fahrenkamp commented that there is a need to work with diligence to reach agreement with the people concerned as quickly as possible, because it's absolutely necessary to move this legislation along.

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Chairman Menard announced that a new proposed CS for HB 112 was before the committee and asked Ms. Munson to address the changes.

JOHANNA MUNSON, Committee Aide, stated that the proposed CS incorporates a number of changes based on committee testimony and meetings with outfitters and other involved people, including the Department of Law. She added that many of the changes were technical in nature. She read through the changes as detailed in a memo to the committee from staff dated 3/13/89, copies of which were before the members. (Refer to Attachment #1 for exact amendments which can be found at the Alaska Legislative Reference Library or at the House Resources Committee Room, Capitol

Building #126.)

Representative Furnace referred to page 2 of the memo (Attachment #1) and asked what A.P.A. stood for. Ms. Munson replied that it stood for the Administrative Procedure Act.

Representative Furnace asked if it wouldn't be to the advantage of the party involved to go through that appeal process.

RANDALL BURNS, of the Division of Occupational Licensing, stated that the reason for the suggestion on page 28, lines 28-29, was that it can take up to two years to go through the A.P.A. formal hearing process and the new language allows the opportunity to have the commissioner decide the issue, thereby taking a shorter period.

Representative Furnace asked if there was a choice and if a person still had the ability to use the A.P.A. process.

Mr. Burns responded that they didn't want to use the A.P.A. process with the transition type of appeal as it was very expensive to the state. Representative Furnace stated that some individuals may prefer the A.P.A. process.

Mr. Burns pointed out that the proposed CS still allows an individual to appeal to the Superior Court if not satisfied with the decision, which is the same remedy allowed by the A.P.A. process.

Ms. Munson added that this section of the bill allows for a special appeal process for those transitioning with the new law.

Mr. Burns stated an additional concern: the board will make the original determination as to whether people will be eligible for admission under the transition and if they were subject to the A.P.A., they would have to go to a hearing, then come back to the board. The feeling was that it worked better to add a new entity to the process, that of the commissioner.

REPRESENTATIVE HUDSON expressed the concern of a constituent regarding lawfully registered camps, cabins or lodges as something many transitioning outfitters had not done. He didn't see anything in the bill that would allow them to get around that aspect. He asked if it would be possible to amend line 5, on page 28, to allow outfitters to show other records to indicate they have had significant action in the area, even though they had no registered cabin, lodge or camp.

Mr. Burns responded that the intention of the appeal process is for those types of situations which can be appealed to the commissioner as provided for on page 29, line 1. He recognized that a number of people are concerned that they will be left out of the transitional phase. He pointed out that under the bill, there is no prohibition for transporters, but there is a need to be careful about allowing a window of opportunity for those who claim to have outfitted in the past, when in fact they hadn't. He explained further, noting that HB 112 doesn't preclude transporters from continuing their business, but

it does require them to have a license.

Representative Hudson discussed his constituent's concern about not fitting into the transition.

Ms. Munson continued her discussion of the changes detailed in the memo (Attachment #1).

REPRESENTATIVE SHARP brought up the language beginning on page 3, line 26 through page 4, line 4, and asked if it is the only area in the proposed CS that gives the commissioner legal power over the board. Mr. Burns replied that it is the only place where the Fish and Game Commissioner appears.

Chairman Menard indicated his intent to report the proposed CS out of committee today.

Representative Furnace asked to address some constituent concerns first. He MOVED to AMEND the proposed CS by deleting page 20, lines 19-20, regarding the responsibility of guide-outfitters for violations of their employees.

Representative Navarre OBJECTED. He said that by deleting the language, there would be no control over the assistant guide-outfitter for violations in the field, and it was important to keep the language in the bill to assure responsibility.

Representative Sharp brought up concerns about constitutionality which had been expressed by his constituents.

The question was called and the committee VOTED. The AMENDMENT FAILED.

Representative Furnace MOVED to AMEND the proposed CS by deleting subsection (3) on page 24, lines 3-8, regarding felony convictions.

Representative Navarre OBJECTED. Representative Furnace explained his constituent's concerns regarding entrapment with respect to the section.

Mr. Burns explained that the section starts on page 23 and amends the criminal code. The proposed amendment to delete subsection (3) would delete current language in the criminal code which has nothing to do with the bill.

Representative Navarre opposed the amendment because it cuts across all other areas affected by the language in the criminal code.

The question was called and the committee VOTED. The AMENDMENT FAILED.

Representative Furnace then MOVED to AMEND the proposed CS by deleting lines 8-14, page 32.

Representative Navarre OBJECTED because it would give blanket immunity to persons who broke the law previously, it would be unfair and set a bad precedent.

REPRESENTATIVE FOSTER asked if there was any language in the bill which spoke to breaking an old law which is no longer a law in the new bill. Representative Navarre responded that the procedure would carry forward to a resolve, as the law was in effect at the time of offense.

The question was called and the committee VOTED. The AMENDMENT FAILED.

Representative Navarre MOVED to ADOPT the proposed CS for HB 112, dated 3/13/89. There was NO OBJECTION, and it was so moved.

REPRESENTATIVE JACKO MOVED to AMEND CSHB 112(RES) and referred to his amendment (Attachment #2, which can be found at the Alaska Legislative Reference Library or at the House Resources Committee Room, Capitol Building #126), a copy of which was before the committee members. He explained that the amendment to page 7, line 20, allows old-timers in rural areas to get into the guiding system. Representative Hudson commented that the amendment seems substantive and he was concerned that it had not been taken up in the public process. He was hesitant to take it up now and preferred recommending it to the task force.

Mr. Burns commented that the issue had been discussed by the task force. The section applies to rural residents and would do what Representative Jacko explained. He felt there would be no opposition to the amendment.

Chairman Menard added that the concept was run by the outfitters and they expressed no problems with it.

JOE CLUTCH, representing Alaska Professional Hunters, testified that he had been involved with the guiding-outfitting issue for two years and that he supported the amendment in its present form. He said it offers the opportunity for people in the bush to get into the system.

The question was called and the committee VOTED. The AMENDMENT (Attachment #2) was adopted.

Representative Navarre MOVED to Report Out of Committee CSHB 112(RES), as amended, with INDIVIDUAL RECOMMENDATIONS. There was NO OBJECTION, and it was so ordered.

CSHB 112(RES) was Reported Out of Committee with four fiscal notes, (fiscal impact from DF&G and DCED and zero fiscal notes from DNR and DPS) and provided a DO PASS RECOMMENDATION.

STATE OF ALASKA
THE LEGISLATURE

ROUCH V STATE CAPITOL
JUNEAU ALASKA 99801
907 465 1800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 27, 1989

SUBJECT: Sectional Summary of CSHB 112 (Resources);
An Act relating to big game hunting and to
the regulation of big game and marine mammal
guide-outfitting, transportation, and other
commercial services for big game hunters,
creating the Big Game Commercial Services
Board; relating to presumptive sentences for
violation of certain big game commercial ser-
vices statutes; and providing for an effec-
tive date.

TO: Representative Lyman Hoffman
Representative Ron Larson
Co-Chairs, House Finance Committee

FROM: George Utermohle *GU*
Legislative Counsel

The following is a sectional summary of CSHB 112 (Re-
sources).

Please note that a summary of a bill should not be con-
sidered an authoritative interpretation of the bill. The
bill itself is the best statement of its contents.

Section 1 of the bill repeals and reenacts AS 08.01.010(10)
to provide that the Big Game Commercial Services Board is
subject to and benefits from centralized licensing proce-
dures under AS 08.01.

Section 2 of the bill repeals and reenacts AS 08.03.010(c)-
(20) to provide that the Big Game Commercial Services Board
terminates on June 30, 1993 under the "sunset" provisions of
AS 08.03.

Section 3 of the bill adds new sections to AS 08.54.

ARTICLE 4. BIG GAME COMMERCIAL SERVICES BOARD.

Sec. 08.54.300 establishes the Big Game Commercial Services Board (Board) in the Department of Commerce and Economic Development. The Board consists of nine members. Two members of the board are licensed guide-outfitters. Two members of the Board are licensed transporters. One member of the Board is a commercial use permit holder who is not a guide-outfitter or transporter. One member of the Board is a member of the Board of Game who is chosen by the Board of Game. One member is a person who represents Native landholders. Two members of the Board are public members. The guide-outfitter, transporter, commercial use permit holder, and public members of the Board, as well as the representative of Native landholders, are appointed by the governor.

Sec. 08.54.310 sets out the duties and powers of the Board. The Board shall prepare, grade, and administer examinations for guide-outfitters licenses and for game management unit certifications; determine qualifications for class-A assistant guide-outfitter, marine mammal guide-outfitter, and assistant guide-outfitter licenses; establish performance standards for providers of big game commercial services and regulate the activities of these providers; publish an annual list of big game commercial services providers; prohibit big game commercial services that are unsportsmanlike, unethical, unsafe, etc; revoke, suspend, or deny renewal of licenses and permits; authorize issuance of transporter licenses and commercial use permits; meet at least twice each year; and provide for registration of base camps and other facilities.

The Board may establish a management system for guide-outfitters and establish standards of supervision that a guide-outfitter must exercise over class-A assistant guide-outfitters and assistant guide-outfitters.

Sec. 08.54.320 provides that the Board shall adopt regulations as required by this chapter and as necessary for administration of this chapter.

Sec. 08.54.330 provides that the Department of Fish and Game, Department of Natural Resources, and Department of Public Safety shall provide the Board with information necessary to regulate providers of big game commercial services.

ARTICLE 5. LICENSING.

Sec. 08.54.350 sets out the minimum qualifications necessary for a guide-outfitter license. A person who currently holds a master guide license may receive a master guide-outfitter license, but is in all other respects treated as a guide-outfitter. A guide-outfitter may contract to guide-outfit hunts for big game.

Sec. 08.54.360 sets out the minimum qualifications necessary for a marine mammal guide-outfitter license. A marine mammal guide-outfitter may contract to guide-outfit hunts for marine mammals.

Sec. 08.54.370 sets out the requirements for renewal of guide-outfitter and marine mammal guide-outfitter licenses. The department may not renew a license unless these requirements are satisfied.

Sec. 08.54.380 sets out the minimum qualifications necessary for a class-A assistant guide-outfitter license. A class-A assistant guide-outfitter may not contract to guide-outfit hunts. A class-A assistant guide-outfitter must be under the supervision of a guide-outfitter but may take charge of a camp in the absence of a guide-outfitter.

Sec. 08.54.390 sets out the minimum qualifications necessary for an assistant guide-outfitter license. An assistant guide-outfitter may not contract to guide-outfit hunts and must be employed by a guide-outfitter and supervised by a guide-outfitter or class-A assistant guide-outfitter while in the field on a hunt.

Sec. 08.54.400 sets out the requirements for obtaining and renewing a transporter license.

A transporter may provide transportation services to big game hunters. A transporter may also provide accommodations to big game hunters in the field in certain situations. A transporter must place a decal provided by the department on each piece of transportation equipment that the transporter uses in providing transportation services to big game hunters.

Sec. 08.54.410 provides for an appeal to the commissioner of commerce and economic development if an applicant for any

Representative Lyman Hoffman
Representative Ron Larson
Page 4
March 27, 1989

class of guide-outfitter license or transporter license is denied a license by the Board. Specific criteria that an appellant must satisfy in order to file an appeal under this section are set out.

Sec. 08.54.420 provides that guide-outfitter, marine mammal guide-outfitter, and transporter licenses are renewed annually.

Sec. 08.54.430 provides for examinations for any class of guide-outfitter license that may be required under this chapter. The Board shall administer qualification examinations at least twice a year and at least once each two years shall administer the examinations at a location outside of Anchorage. The examinations must be administered at least 90 days apart.

The Board shall regularly provide information on examinations and qualifications for all classes of guide-outfitter licenses to residents of rural areas.

Sec. 08.54.440 provides for renewal of all classes of guide-outfitter licenses after the license has lapsed. If any class of guide-outfitter license has lapsed for two consecutive years, the applicant must satisfy the requirements for initial issuance of the license.

A guide-outfitter does not have to repeat the three year apprenticeship as a class-A assistant guide-outfitter or an assistance guide-outfitter unless the guide-outfitter license has been lapsed for three years or more.

Sec. 08.54.450 provides that the department shall set fees for examinations and licenses required under this chapter. A license fee for any class of guide-outfitter license is in addition to the fee paid for a hunting license.

Sec. 08.54.460 requires that a person, other than a licensed guide-outfitter, marine mammal guide-outfitter, or transporter, who provides other big game commercial services for compensation register with the Board, obtain a commercial use permit, and pay the commercial use permit fee. Examples of "other big game commercial services" are listed.

Sec. 08.54.470 requires guide-outfitters, marine mammal guide-outfitters, and transporters to obtain an annual commercial use permit and pay the commercial use permit fee.

Representative Lyman Hoffman
Representative Ron Larson
Page 5
March 27, 1989

The department, in consultation with the Board, shall set the amount of the commercial use permit fee.

A guide-outfitter, marine mammal guide-outfitter, or transporter shall pay the commercial use permit fee with the application for issuance or renewal of their license.

The commissioner of administration shall separately account for the fees received for commercial use permits. The legislature may use the money received for commercial use permits to make appropriations to the Department of Fish and Game and the Department of Public Safety for game management and enforcement of game laws.

ARTICLE 6. PENALTIES.

Sec. 08.54.500 sets out the procedures for discipline of a person who holds any class of guide-outfitter license.

The Board may hold a disciplinary hearing upon receiving a written complaint about the guide-outfitter licensee. The Board shall hold a disciplinary hearing upon receiving three complaints from members of three separate hunting parties about a licensee's activities or a complaint about a licensee's conduct in a life-threatening situation or if the licensee is convicted or certain state or federal laws.

The Board may revoke, suspend, or deny renewal of any class of guide-outfitter license after a hearing if the Board finds that the licensee engaged in certain proscribed activities or violated certain state or federal laws.

The Board shall revoke any class of guide-outfitter license after a hearing if the Board finds that the licensee is not qualified for the license held, is incompetent, or has been convicted of certain state or federal laws during the preceding five years.

The Board shall immediately suspend any class of guide-outfitter license if a certified copy of a judgment of conviction of a licensee for certain state or federal crimes is filed with the Board.

Sec. 08.54.505 provides for the discipline of transporters and commercial use permittees.

The Board may hold a disciplinary hearing regarding the activities of a transporter or commercial use permittee upon receiving a complaint about the transporter or commercial use permittee. The Board shall hold a disciplinary hearing upon receiving three complaints from members of three separate hunting parties about the transporter's or permittee's activities or if the transporter or permittee is convicted of certain state or federal laws.

The Board may revoke, suspend, or deny renewal of transporter license or commercial use permit after a hearing if the Board finds that the licensee or permittee engaged in certain proscribed activities or violated certain state or federal laws.

The Board shall revoke a transporter license or commercial use permit after a hearing if the Board finds that the licensee or permittee is not qualified for the license or permit or has been convicted of certain state or federal laws during the preceding five years.

The Board shall immediately suspend a transporter license or commercial use permit, if a certified copy of a judgment of conviction of licensee or permittee for certain state or federal crimes is filed with the Board.

Sec. 08.54.510 sets out general provisions applicable to disciplinary proceedings.

A person who is disciplined under AS 08.54.500 or 08.54.505 may not engage or be employed in the business of providing big game commercial services during a period of license or permit revocation or other disciplinary action. A person who is licensed under this chapter or who holds a commercial use permit may not employ a person whose license or permit under this chapter has been suspended or revoked.

A license or permit that has been revoked must be surrendered immediately to the department.

A certified copy of a judgment of conviction is conclusive evidence of the commission of the offense in a disciplinary proceeding of the Board, regardless of whether the conviction resulted from a plea of nolo contendere or the conviction is under appeal, unless the conviction is overturned on appeal.

The Board shall notify a complainant of the result of the Board's hearing within 30 days after the hearing. The Board must also notify a complainant of its reasons for not taking disciplinary action.

Sec. 08.54.520 sets out unlawful acts involving the provision of big game commercial services and establishes the penalties for those acts.

A person may be punished by a fine of not more than \$30,000 or imprisonment for not less than two months or more than one year or both for

(1) failing to report violations of certain laws by a client or employee if the person holds a license or permit issued under this chapter;

(2) committing, aiding in the commission of, or allowing a violation of certain fish and game laws if the person holds a license or permit issued under this chapter;

(3) providing big game commercial services without holding a commercial use permit;

(4) obstructing the lawful hunting activities of hunter who is not a client of the person, if the person holds a license or permit under this chapter;

(5) providing guide-outfitting services except while employed and supervised by a guide-outfitter, if the person is a class-A assistant guide-outfitter or assistant guide-outfitter;

(6) entering or remaining unlawfully on state, federal, or private land without prior authorization, if the person holds any class of guide-outfitter license.

A person may be punished by a fine of not more than \$30,000, or imprisonment for not less than two months or more than one year, or both for a first offense or by a fine of not more than \$50,000 or imprisonment for not more than five years for a second or subsequent offense for

(1) providing guide-outfitter services without having an appropriate class of guide-outfitter license and hunting license in actual possession;

(2) advertising or to representing to be a guide-outfitter without holding a guide-outfitter or marine mammal guide-outfitter license;

(3) providing transportation services to a big game hunter without holding a transporter license;

(4) contracting to lead a hunt, if the person is a class-A assistant guide-outfitter or assistant guide-outfitter.

A person who provides big game commercial services while the person's license to provide those services is suspended or revoked is punishable by a fine of not more than \$50,000 or by imprisonment for not more than three years.

A person who is convicted of an act set out in this section may also be subject to revocation of the person's license to provide guide-outfitter and transportation services for not more than five years and forfeiture of guns, boats, aircraft, and other equipment used in committing the act.

A court may not suspend imposition or execution of sentence and the person may not be granted probation until the minimum sentence is served, if a person is convicted of an act set out in this section.

Sec. 08.54.530 provides that the Board may obtain an injunction to stop a person from violating certain provisions of this chapter.

Sec. 08.54.540 provides that a guide-outfitter is subject to discipline by the Board under AS 08.54.500 for violations of certain state and federal laws committed during the course of employment by a class-A assistant guide-outfitter or assistant guide who is employed by the guide-outfitter.

ARTICLE 7. GENERAL PROVISIONS.

Sec. 08.54.550 provides for the collection of certain information and reports from guide-outfitters, marine mammal guides, and transporters by the department. This information is confidential except that aggregated information may be released in reports by the department.

08.54.590 established definitions for "base camp", "big game", "big game commercial hunting services", "big game

commercial service", "board", "compensation", "department", "enter or remain unlawfully", "field", "game management unit", "guide-outfit", "spike camp", "transportation services", and "unethical activity".

Section 4 of the bill amends AS 12.55.125(e), by establishing a one year presumptive sentence for a first felony conviction if the offender is convicted of AS 08.54.520(a)(7) - (10).

Section 5 of the bill amends AS 16.05.407(a) by adding mountain goat to the list of species for which a nonresident hunter is required to utilize the services of a guide-outfitter and by making certain technical changes that are necessary to conform with the remainder of the bill.

Section 6 of the bill amends AS 16.05.407(d) by making a technical change that is necessary to conform to the repeal of AS 16.05.407(e).

Section 7 of the bill amends AS 16.05.408(a) by making technical changes necessary to conform with Section 3 of the bill.

Section 8 of the bill amends AS 16.05 by adding a new section.

Sec. 16.05.783 prohibits hunting clubs from supporting big game hunting activities or providing facilities or services for big game hunting. "Hunting club" is defined.

Section 9 of the bill amends AS 39.50.200(b)(48) in order that the members of the Big Game Commercial Services Board are subject to the conflict of interest law.

Section 10 of the bill amends AS 41.23.420(d) by making a technical change that is necessary to conform to section 3 of the bill.

Section 11 of the bill amends AS 44.62.330(a)(35) to provide that the Big Game Commercial Services Board is subject to certain provisions of the Administrative Procedure Act.

Section 12 of the bill provides for the transition from the existing classes of guide licenses to the new classes of guide-outfitter licenses.

All classes of guide licenses that are in effect on the effective date of this bill continue to be valid for the period for which the licenses were originally issued.

Persons who currently hold master guide licenses shall be issued master guide-outfitter licenses. Persons who currently hold registered guide licenses shall be issued guide-outfitter licenses. Persons who currently hold class-A assistant guide licenses shall be issued class-A assistant, guide-outfitter licenses. Persons who currently hold assistant guide licenses shall receive an assistant guide-outfitter license. The new licenses shall be issued to the current licensee at the time of the next license renewal following the effective date of this bill, if the person is in good standing at the time of issuance and pays the appropriate fees.

If the Department of Commerce and Economic Development can issue new licenses sooner than is required by this section, the department may do so without charge to the licensee.

Section 13 of this bill provides that natural persons who have provided big game outfitting services in the past may qualify for a guide-outfitter license.

In order to qualify for a guide-outfitter license under this section, the person must have registered a camp, cabin, or lodge under AS 16.05.787 during 1988, engaged in the business of big game outfitting in 1986, 1987, and 1988, passed the guide-outfitter examination within two years from the effective date of this bill, and satisfied other requirements.

A person who is denied a guide-outfitter license under this section by the Big Game Commercial Services Board may under certain circumstances appeal the action of the Board to the commissioner of commerce and economic development.

A person who provides sufficient proof of past history as a big game outfitter may receive an interim outfitter license that is valid for a period not to exceed two years from the effective date of this bill.

A person who holds an interim outfitter license may provide transportation and other big game commercial services to hunters in the field, except that the person may not provide big game guiding services.

A person who holds an interim outfitter license must promptly report violations of certain laws committed by a client or employee of the person.

A person who holds an interim outfitter license must register base camps, cabins, and lodges that the person uses in providing big game outfitting services. The person must report the amount and kinds of big game taken by each hunter who uses the registered camp, cabin, or lodge.

A person who holds an interim outfitter license and who fails to report violations of certain laws by clients and employees is punishable by a fine of not more than \$2,000 or imprisonment for up to one year or both. Falsification of an affidavit of registration for a base camp, cabin, or lodge constitutes the crime of unsworn falsification under AS 11.56.210.

The terms "base camp", "big game", "field", "guiding", and "outfitting" are defined.

Section 14 of the bill allows certain extraordinary appointments to fill the initial vacancies on the Big Game Commercial Services Board.

The guide-outfitter seats on the Board may initially be filled by persons who are either a master guide or registered guide under current law or who registered a camp, cabin, or lodge under AS 16.05.787 during 1988 and engaged in the business of big game outfitting in 1986, 1987, and 1988.

The transporter seats on the Board may initially be filled by persons who engaged in the business of providing transportation to big game hunters in 1986, 1987, and 1988.

Section 15 of the bill provides for the continuance of legal proceedings, hearings, investigations, and regulations during the transition from the current guide statutes (AS 08.54.010 - 08.54.240) to the guide-outfitter statutes contained in this bill.

Section 16 of the bill provides for the repeal of the current guide statutes (AS 08.54.010 - 08.54.240); the requirement for big game tag harvest reports and big game transporter reports (AS 16.05.370(b) and (c)); the requirement that nonresident hunters provide information on big game hunting services used in taking moose and caribou