

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990

8672

6101 HOUSE STATE AFFAIRS

525

agreement.

1 SCC. 90

* Sec. 55. AS 44.33.240 is amended by adding a new subsection to read:

2 (b) The department may use money in the fund for costs of admin-
3 istering AS 44.33.240 - 44.33.275.

4 * Sec. 56. AS 44.33.245(a) is amended to read:

5 (a) The department may

6 (1) make loans for the construction, renovation, and equip-
7 ping of child care facilities, including private nonprofit child care
8 facilities;

9 (2) adopt regulations necessary to carry out the provisions
10 of AS 44.33.240 - 44.33.275, including regulations to establish rea-
11 sonable fees for services provided and charges for collecting the fee;
12 and

13 (3) collect the fees and charges established under this

14 subsection.

15 SCC. 93

* Sec. 57. AS 44.33.255(d) is amended to read:

16 (d) All principal and interest payments, and any money charge-
17 able to principal or interest that is collected through liquidation by
18 foreclosure or other process on loans made under AS 44.33.240 -
19 44.33.275, shall be paid into the child care facility revolving loan

20 fund.

21 SCC. 94

* Sec. 58. AS 44.33.600 is amended by adding a new subsection to read:

22 (c) Money in the fund may be used by the legislature to make
23 appropriations for costs of administering AS 44.33.600 - 44.33.630.

24 SCC. 95

* Sec. 59. AS 44.41.020 is amended by adding a new subsection to read:

25 (c) The Department of Public Safety may operate state housing in
26 support of the department's statutory responsibilities and charge rent
27 consistent with applicable collective bargaining agreements, or, if no
28 collective bargaining agreement is applicable, competitive with market

conditions. Rent received from tenants shall be deposited in the general fund.

1
2 SCC. 96 * Sec. 60. AS 44.41 is amended by adding a new section to read:

3
4 Sec. 44.41.040. CRIMINAL HISTORY FEE. The commissioner of
5 public safety may establish by regulation and the Department of Public
6 Safety may charge a reasonable fee to be paid by a person requesting a
7 criminal history record check or a copy of the person's criminal
8 history record from confidential files maintained by the department.

9 SCC. 97 * Sec. 61. AS 44.42.020(b) is amended to read:

10 (b) The department may

11 (1) engage in experimental projects relating to available
12 or future modes of transportation and any means of improving existing
13 transportation facilities and service;

14 (2) exercise the power of eminent domain, including the
15 declaration of taking as provided in AS 08.55;

16 (3) publish plans, schedules, directories, guides, and
17 manuals for distribution, with or without charge, to private or public
18 entities or persons;

19 (4) operate state housing in support of the department's
20 statutory responsibilities and charge rent that is consistent with an
21 applicable collective bargaining agreement;

22 (5) charge reasonable fees to cover the costs of issuing
23 easements, licenses, and permits and to cover the costs of reproduc-
24 tion, printing, mailing, and distribution of contract and bid docu-
25 ments and design and construction standards manuals;

26 (6) charge and collect fees for training services and
27 technical assistance provided by department personnel.

28 * Sec. 62. AS 44.46 is amended by adding a new section to article 1 to
29 read:

1 Sec. 44.46.025. FEES FOR SERVICES. The department may adopt
 2 regulations that prescribe reasonable fees for services provided by
 3 the department, including fees for services provided under AS 03.05,
 4 AS 17.20, AS 18.35, AS 44.46.020, and AS 46.03.020. The department
 5 shall collect the fees and deposit them in the general fund.

6 * Sec. 63. AS 44.47.055 is amended to read:

SEC. 100

7 Sec. 44.47.055. FEES FOR PUBLICATIONS, [AND] RESEARCH DATA, AND
 8 OTHER SERVICES. The commissioner may establish by regulation and the
 9 department may change reasonable fees for department publications,
 10 [AND] research data, and other services to cover the cost of reproduc-
 11 tion, printing, mailing, [AND] distribution, and other services. [THE
 12 COMMISSIONER OF ADMINISTRATION SHALL SEPARATELY ACCOUNT FOR FEES
 13 COLLECTED UNDER THIS SECTION THAT THE DEPARTMENT DEPOSITS IN THE
 14 GENERAL FUND. THE ANNUAL ESTIMATED BALANCE IN THE ACCOUNT MAY BE USED
 15 BY THE LEGISLATURE TO MAKE APPROPRIATIONS TO THE DEPARTMENT TO CARRY
 16 OUT THE PURPOSES OF THIS SECTION.]

SEC. 101

17 * Sec. 64. AS 44.47.380 is amended by adding a new subsection to read:

18 (b) Money in the fund may be used by the legislature to make
 19 appropriations for costs of administering the housing assistance
 20 program.

SEC. 104

21 * Sec. 65. AS 44.83.170 is amended by adding a new subsection to read:

22 (i) Money in the power project fund may be used by the legisla-
 23 ture to make appropriations for costs of administering the fund.

SEC. 106

24 * Sec. 66. AS 44.83.361 is amended by adding a new subsection to read:

25 (g) Money in the rural electrification revolving loan fund may
 26 be used by the legislature to make appropriations for costs of ad-
 27 ministering the fund.

SEC. 108

28 * Sec. 67. AS 45.87.010 is amended by adding a new subsection to read:

29 (b) Money in the fund may be used by the legislature to make

appropriations for costs of administering this chapter.

SEC. 109
* Sec. 68. AS 45.87.020(c) is amended to read:

(c) Repayments of the principal, the interest, and the money chargeable to principal or interest that is collected through liquidation by foreclosure or other process on a loan made under this chapter [FROM THE BULK FUEL REVOLVING LOAN FUND] shall be paid [BY THE COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT] into the bulk fuel revolving loan fund.

* Sec. 69. AS 45.87.060 is amended to read:

Sec. 45.87.060. REGULATIONS. The department may [SHALL] adopt regulations necessary to carry out the provisions of [TO IMPLEMENT] this chapter, including regulations to establish reasonable fees for services provided and charges for collecting the fees.

SEC. 111
* Sec. 70. AS 45.87 is amended by adding a new section to read:

Sec. 45.87.065. FEES. The department may collect the fees and collection charges established under AS 45.87.060 and shall deposit the money in the general fund.

SEC. 112
* Sec. 71. AS 45.88.010 is amended by adding a new subsection to read:

(b) Money in the fund may be used by the legislature to make appropriations for costs of administering this chapter.

SEC. 113
* Sec. 72. AS 45.88.020(a) is amended to read:

(a) The department may

- (1) make loans for the purchase, construction, and installation of alternative energy systems;
- (2) adopt regulations necessary to carry out the provisions of this chapter, including regulations to establish reasonable fees for services provided and charges for collecting the fees;
- (3) collect the fees and collection charges established under this subsection.

SEC. 115

* Sec. 73. AS 45.88.030(d) is amended to read:

(d) All principal and interest payments, and money chargeable to principal or interest that is collected through liquidation by foreclosure or other process on loans made under this chapter, shall be paid into the alternative energy revolving loan fund.

SEC. 116

* Sec. 74. AS 45.89.010 is amended by adding a new subsection to read:

(b) Money in the fund may be used by the legislature to make appropriations for costs of administering this chapter.

SEC. 117

* Sec. 75. AS 45.89.030(h) is amended to read:

(h) All principal and interest payments, and money chargeable to principal or interest that is collected through liquidation by foreclosure or other process [AMOUNTS REPAID] on a loan made under this chapter, [SECTION] shall be paid into [DEPOSITED TO] the residential energy conservation fund.

SEC. 118

* Sec. 76. AS 45.89.070 is amended to read:

Sec. 45.89.070. REGULATIONS. The department shall adopt regulations necessary to carry out the provisions of [IMPLEMENT] this chapter, including regulations to establish reasonable fees for services provided and charges for collecting the fees.

SEC. 119

* Sec. 77. AS 45.89.070 is amended by adding a new subsection to read:

(b) The department may collect the fees and collection charges established under (a) of this section.

SEC. 120

* Sec. 78. AS 45.90.010 is amended to read:

Sec. 45.90.010. CREATION OF A TOURISM REVOLVING FUND. There is created in the Department of Commerce and Economic Development a tourism revolving fund. All principal and interest payments, and money chargeable to principal or interest that is collected through liquidation by foreclosure or other process on loans made under this chapter, shall be paid into the tourism revolving fund.

SEC. 121

* Sec. 79. AS 45.90.010 is amended by adding a new subsection to read:

(b) Money in the fund may be used by the legislature to make appropriations for costs of administering this chapter.

SEC. 122

* Sec. 80. AS 45.90.020(a) is amended to read:

(a) The department may

(1) make loans to a business directly involved in the tourist industry;

(2) designate agents and delegate powers to them as is necessary;

(3) adopt rules and regulations necessary to carry out its functions, including regulations to establish reasonable fees for services provided and charges for collecting the fees;

(4) establish amortization plans for the repayment of loans not to exceed 20 years;

(5) collect the fees and collection charges established under this subsection.

SEC. 124

* Sec. 81. AS 45.95.010(a) is amended to read:

(a) The Department of Commerce and Economic Development shall formulate general policies and adopt regulations necessary to carry out the provisions of this chapter, including regulations to establish fees for services provided and charges for collecting the fees. The department may collect the fees and collection charges established.

SEC. 125

* Sec. 82. AS 45.95.020(d) is amended to read:

(d) Money loaned shall be delivered to the borrower in the form of a warrant drawn on the treasury, vouchered in the manner prescribed for state disbursing officers, and charged against the small business revolving loan fund. Each voucher shall be approved by the commissioner or a [ANY] bonded deputy authorized to act as a certifying officer. Upon repayment of loans by installments, or otherwise, in

accordance with the prescribed terms, or upon liquidation by foreclosure or other process, or upon receipt of interest [OR OTHER REVENUE], the money so received shall be turned over to the commissioner of revenue for deposit in the small business revolving loan fund.

Sec. 126

* Sec. 83. AS 45.95.060 is amended by adding a new subsection to read:

(b) Money in the fund may be used by the legislature to make appropriations for costs of administering this chapter.

Sec. 127

* Sec. 84. AS 45.98.010 is amended to read:

Sec. 45.98.010. CREATION OF HISTORICAL DISTRICT REVOLVING LOAN FUND. There is created in the Department of Commerce and Economic Development a historical district revolving loan fund. All principal and interest payments, and money chargeable to principal or interest that is collected through liquidation by foreclosure or other process on loans made under this chapter, shall be paid into the historical district revolving loan fund.

Sec 127

* Sec. 85. AS 45.98.010 is amended by adding a new subsection to read:

(b) Money in the fund may be used by the legislature to make appropriations for costs of administering this chapter.

Sec 128

* Sec. 86. AS 45.98.030 is amended to read:

Sec. 45.98.030. POWERS AND DUTIES OF THE DEPARTMENT. For purposes of administering this chapter, the Department of Commerce and Economic Development may

(1) prescribe the form and procedure for submitting loan applications under this chapter;

(2) designate agents and delegate powers to them as is necessary;

(3) in consultation with the Historic Sites Advisory Committee, adopt regulations necessary to carry out its functions, including regulations for the process of plan approval by the committee

and regulations to establish reasonable fees for services provided and charges for collecting the fees:

(4) establish amortization plans for the repayment of loans not to exceed 30 years;

(5) collect the fees and collection charges established under this section.

Sec. 131
* Sec. 87. AS 47.05 is amended by adding a new section to read:

Sec. 47.05.080. RETENTION OF OVERPAYMENTS COLLECTED. Benefit overpayments collected by the department in administering programs under AS 47.25.120 - 47.25.300 (general relief), AS 47.25.310 - 47.25.420 (aid to families with dependent children), AS 47.25.430 - 47.25.615 (adult public assistance), and AS 47.25.975 - 47.25.990 (food stamps) shall be remitted to the Department of Revenue under AS 37.10.050(a).

Sec. 132
* Sec. 88. Notwithstanding AS 37.10.050(a), as amended by sec. 1, ch. 138, SLA 1986, a fee charged by an agency under a regulation that was adopted before July 1, 1987, under authority of a statute that does not expressly authorize a charge for a service, is valid if it would have been valid before the 1986 amendment of AS 37.10.050(a). The regulation and fee remain in effect, and the agency may charge for the service, until the regulation is repealed or amended by the agency. To amend the regulation to change the fee, the agency shall meet the standard of AS 37.10.050(a) as amended by sec. 2 of this Act.

* Sec. 89. AS 14.56.035; AS 14.57.015; AS 16.05.053; AS 37.05.500(a)(1), 37.05.500(a)(4), 37.05.500(a)(6); AS 44.42.025; AS 44.83.195(c); and AS 46.03.020(12) and 46.03.025 are repealed.

* Sec. 90. Section 88 of this Act, dealing with fees charged under a regulation adopted before July 1, 1987, is retroactive to July 1, 1987.

* Sec. 91. This Act takes effect immediately under AS 01.10.070(c).

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
LINF AU ALASKA 99811
907 465 3800

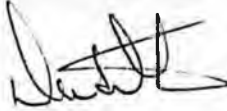
LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 8, 1989

SUBJECT: HB 85 (Program Receipts)

TO: Representative H. A. "Red" Boucher
Chair, House State Affairs Committee

FROM: David R. Dierdorff 
Revisor of Statutes

I note that you have scheduled a hearing for the governor's program receipts bill, HB 85. The purpose of this memo is to point out some technical problems that I have spotted in the bill and to share with you a concern about the approach taken by this bill (and by ch. 138, SLA 1986) as it relates to the maintenance of the Alaska Statutes.

Technical Problems.

Section 1 of the bill adds a definition of "program receipts" to AS 07.10.060, which sets out certain definitions for all of the Alaska Statutes. However, the term program receipts is not used in the Alaska Statutes, except for four isolated occurrences (AS 14.17.024(b), AS 18.56.089, AS 37.07.080(h), and AS 44.47.530), and this bill would not add any other usages to those four. Consequently, I question the utility of providing a definition for all 45 active titles of the statutes. The definition really belongs in AS 37 as a substantive provision.

Several sections of the bill appear to have been based on outdated versions of the law. For example, sections 2 and 10 fail to take into account editorial changes made during 1988 and reflected in the 1988 replacement parts for the statutes. I have not checked the entire bill, but that will need to be done at some point.

The bill sections that delete references to AS 10.05.773, which is repealed effective July 1, 1989, failed to include amendments to AS 10.15.535 and AS 10.20.530, which also in-

clude references to AS 10.05.773. I should note that all references to that repealed section are being dealt with in the current revisor's bill (not in the bill as introduced, HB 148, but in amendments submitted to the House Judiciary Committee).

As I mentioned, I have not reviewed the entire bill, but my quick look at it revealed the noted defects and I assume that there may be more.

Effect of this Approach on the Alaska Statutes.

This may be three years late and three dollars short, but I am concerned that the approach to program receipts that was taken in ch. 138, SLA 1986, and that is continued in this bill, is unnecessarily verbose and ultimately expensive. As you know, the method used in 1986 was to enact a few general provisions in AS 37, and a lot of isolated, repetitive provisions throughout the statutes. Every time a fee was authorized, or some other activity generated revenue for the state, the boiler plate program receipts language was added. This repetitious language should have been placed in a general provision in AS 37, and made to apply to all activities which generate miscellaneous receipts for the state. It is quite proper that each program have its own authority to charge fees for particular purposes, but it is really unnecessary for each of those fee-generating provisions to have its own boiler plate. Unfortunately, the timing was not right in 1986 for us to suggest a change in the approach used that year, and it might be too late to make that change now. However, I think it is worth considering.

The reason I say that this approach is expensive is simply this: the price of the Alaska Statutes to the state and to the private sector is based primarily on page count. Consequently, the more words we put in the statutes, the more we pay for our annual updates. The use of program receipts language takes up a lot of space. For example, it often requires an entire subsection (see sec. 3 of the bill); in other instances, it requires the addition of at least three sentences when only one is really necessary (see secs. 4 and 5 of the bill, where only the first new sentence would be necessary with the right general provisions in AS 37).

There is also another type of expense involved in this approach. The present codification of the Alaska Statutes is 27 years old. In several titles, and in more chapters

Representative Red Boucher
Page 3
February 8, 1989

within several titles, we are running out of room. Consequently, I am very conservative about "using" new section designations, or even subsection designations, particularly when general provisions either apply or can be made to apply. Recodifying the laws is a time consuming and expensive process, and it is in our best interest to postpone that event as long as possible.

At this time there are approximately 81 sections of the Alaska Statutes that contain the boiler plate. It may well be that even with general provisions, a few of the specific provisions would need to remain, because they have material that is unique to a particular program (e.g., the proceeds from fees for certain license plates are handled differently than the general receipts for license plates). However, the vast majority of the provisions simply repeat the boiler plate regarding accounting and the legislature's intent to use the estimated account balance when appropriating to the program that generated the receipts.

To change the approach now would require amending the boiler plate out of most of the 4 statutes, enacting the appropriate general provisions, and deleting the boiler plate provisions from HB 85.

Please feel free to contact me if you would like further information on the matters discussed in this memo.

DRD:gc:kb
WKG6/108

(for committee packets,
not for referral or committee
file.)

HOUSE COMMITTEE ON STATE AFFAIRS

**RECAP OF
HB 85**

Charging, Accounting for Program Receipts

Received January 13, 1989
by The Rules Committee by
Request of the Governor

Heard February 9, 1989
Heard March 2, 1989
Heard March 15, 1989

Committee Substitute adopted March 15, 1989

Passed Out of Committee March 15, 1989
6 No Recommendation

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HB 85: Charging, Accounting for Program Receipts

- Item 1: HB 85 by The Rules Committee by Request of the Governor
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 - Item 2: Governor's Transmittal Letter
 - Item 3: Fiscal Note and Analysis
 - Item 4: Sectional Analysis of HB 85
 - Item 5: A Brief History of Program Receipts Legislation Prepared by the Division of Budget Review
 - Item 6: Letter from the Office of Management and Budget February 27, 1989
 - Item 7: Memorandum from Legislative Affairs Agency Re: CS HB 85 (SA) Version H and Sectional Analysis, March 8, 1989
-

Item: —
VERSION "E"
VERSION "O"

HOUSE STATE AFFAIRS
STANDING COMMITTEE
March 2, 1989
8:30 a.m.

Members Present:

Rep. H.A. "Red" Boucher, Chairperson
Rep. Eileen MacLean, Vice-Chairperson
Rep. Dave Donley
Rep. Alyce Hanley
Rep. Curt Menard
Rep. Ann Spohnholz
Rep. Jim Zawacki

COMMITTEE CALENDAR

HB 85:

An Act relating to the financial administration of state government; the provision of and charges for state services; and the accounting for and disposition of state receipts; and providing for an effective date.

HB 150:

An Act relating to representation of others by legislators and certain legislative employees before state agencies.

HB 43:

An Act allowing retirement credit for the unused sick leave of an employee participating in the public employees' retirement system.

WITNESS REGISTER

Jim Chase
Division of Pioneers' Benefits
Department of Administration
P.O. Box CL
Juneau, AK 99811
Phone: 465-4416
Position Statement:

Barbara Bathony
Division of Pioneers' Benefits
Department of Administration
P.O. Box CL
Juneau, AK 99811
Phone: 465-4416
Position Statement:

Sally Smith

6/11
1. insert FIN + HOS LIC
set FECC Admin
p609 ✓
2. NO SEC + NOT OUT
3. COOP - set according
to COS OF PROGRAM

H B

86

HOUSE COMMITTEE ON STATE AFFAIRS

RECAP OF
HB 86

Employee Access to Own Personnel File

Received February 1, 1989
by the Labor and Commerce Committee

Heard February 14, 1989

Passed Out of Committee February 14, 1989
4 Do Pass
1 No Recommendation

TABLE OF CONTENTS

HB 86: Employee Access to Own Personnel File

- Item 1: HB 86 by the Labor and Commerce Committee
- Item 2: Labor & Commerce House Committee Report
January 31, 1989
- Item 3: Fiscal Note
- Item 4: Memorandum from Rep. Dave Donley
January 10, 1989
- Item 5: Department of Labor Position Paper
- Item 6: Memorandum from Legislative Counsel
February 13, 1989

HOUSE COMMITTEE REPORT

Item 2

(5)

Date Referred: 1/17/89

FURTHER REFERRALS: STATE AFFAIRS
JUDICIARY

Date of Committee Action: 1/31/89

The LABOR & COMMERCE Committee recommends that:

HOUSE BILL NO. 86 [EMPLOYEE ACCESS TO OWN PERSONNEL FILE]
"An Act requiring employers to permit employees and former employees to have access to their personnel files."

[] be replaced with _____ [] the ~~same~~ title
[] a new title

[] have attached amendment(s)

- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact
- zero fiscal note
- zero with analysis

APPROVES PREVIOUS:

- fiscal note(s) published: _____
- zero fiscal notes(s) published: _____

SIGNING DO PASS:

David Donley

Mark Boyer

W. J. ...

Bob ...

SIGNING OTHER THAN DO PASS:
(Do Not Pass, No Recommendation, Amend)

John ... no rec

Alvin ... no rec

David Donley

Chairman's signature

Item 3

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION : HB 86
PUBLISH DATE : _____

FISCAL NOTE

REQUEST:

Revision Date: _____	Agency Affected: <u>Labor</u>
Title: <u>"An Act requiring employers to permit access to ...personnel files."</u>	BRU: <u>Labor Standards & Safety</u>
Sponsor: <u>House Labor & Commerce</u>	Components: <u>Wage & Hour</u>
Requestor: <u>House Labor & Commerce</u>	

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	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Tom Stuart, Director Phone: 465-2725
 Division: Labor Standards & Safety Date: 1/26/89

Approved by Commissioner: Jim Sampson Date: 1/26/89
 Agency: Department of Labor

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

Item 4

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE
Chairman - Representative Dave Donley

P.O. BOX V, JUNEAU 99811

(907) 465-3892



January 10, 1989

MEMORANDUM

- To: Members, House Labor and Commerce Committee
- From: Representative Dave Donley, Chair
House Labor and Commerce Committee
- Re: Proposed Committee Legislation - Access to Personnel Files

The attached bill, identical to the final version of HB 540 from last year, authorizes employees to have access (including copying) to any information contained in their personnel files.

The bill covers all employees in Alaska including the state, the University of Alaska, the Alaska Railroad and political subdivisions of the state.

Item 5

Bill No. House Bill 86

Date January 30, 1989

Title "An Act requiring employers to permit employees and former employees to have access to their personnel files."

Contact: Tom Stuart
264-2452
Eileen Plate
465-2700

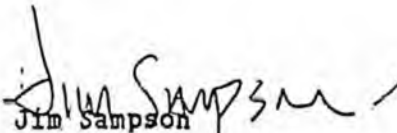
House Bill 86 requires employers to provide an employee or former employee access to his or her respective personnel records and to permit the employee to make copies of the records. The employer may charge the employee for the costs of duplicating the records.

Employees should have access to employer kept personnel records as provided in this bill. The accuracy of such records may have a direct bearing on a worker's employability should a prospective employer contact the worker's current or former employer as a reference. Under the provisions of this bill, a worker would have an opportunity to at least be aware of any discrepancies in the employer's personnel records.

The Department supports the provisions of this bill which provide workers a right to access and copy employer kept personnel records.

House Bill 86 would not have a fiscal impact on the Department of Labor.

APPROVED


Jim Sampson
Commissioner

Item 6

STATE OF ALASKA THE LEGISLATURE

FOUCH Y STATE CAPITOL
BUREAU ALASKA 99511
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 13, 1989

SUBJECT: Scope of HB 86
(Access to personnel files)

TO: Representative Dave Donley

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have asked whether HB 86 requires an employer to keep personnel files on employees. In my opinion, the answer is no. Under subsection (a), if an employer maintains personnel files, the employer must allow access to the information. There is nothing that affirmatively requires that the information be maintained in the first place.

If I may be of further assistance, please advise.

TC:kb
wkk1/119

HB

87

HOUSE COMMITTEE ON STATE AFFAIRS

RECAP OF
HB 87

Long-Term Financial Planning

Received January 17, 1989
by the Rules Committee by
Request of the Governor

Heard February 9, 1989
Heard February 22, 1989

Committee Substitute adopted February 22, 1989

Passed Out of Committee February 22, 1989
4 Do Pass
1 No Recommendation

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HB 87: Long-Term Financial Planning

- Item 1: HB 87 by The Rules Committee by
Request of the Governor

CSHB 87 (SA)
- Item 2: Governor's Transmittal Letter
- Item 3: Fiscal Note
- Item 4: Memorandum from Rep. Boucher to House State
Affairs Committee Members, February 15, 1989
- Item 5: Memorandum re: Long-term Financial Plan for
the State (CSHB 87 (SA)), February 23, 1989

HOUSE COMMITTEE REPORT

(5)

Date Referred: 1/17/89

FURTHER REFERRALS: FINANCE

Date of Committee Action: _____

The STATE AFFAIRS Committee recommends that:

HOUSE BILL NO. 87 [LONG-TERM FINANCIAL PLANNING]

"An Act requiring the governor to formulate and submit a long-term financial plan for the state; and providing for an effective date."

be replaced with CS #B87(SA) the same title
 a new title

have attached amendment(s)

- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):

- fiscal impact
- zero fiscal note
- zero with analysis

APPROVES PREVIOUS:

- fiscal note(s) published:
- zero fiscal notes(s) published:
1/17/89 Budget Review

SIGNING DO PASS:

SIGNING OTHER THAN DO PASS:
(Do Not Pass, No Recommendation, Amend)

David Donley (as amended)
Carl Young (as amended)
Jim Swadlow (AS AMENDED)
Gileen P. MacLean (as amended)

Allyce Donley (No Rec)

Gileen P. MacLean
Vice-Chairman's signature



Alaska State Legislature

House of Representatives
COMMITTEE ON STATE AFFAIRS

TO: Representative Lyman Hoffman
Representative Ron Larson
House Finance Committee

FROM: Representative H.A. "Red" Boucher, Chair
House State Affairs Committee

DATE: February 23, 1989

RE: CSHB 87(SA): Long-Term Financial Planning

I would like to refer your attention to the memorandum dated 2/23/89 from Tamara Cook regarding suggested changes to CSHB 87(SA). I support these changes and request that you give them favorable consideration.

Ex Budget Act
ADP 2-7-89
(10)

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2

HOUSE BILL NO. 87

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - FIRST SESSION

A BILL

NOT GOOD
file 5 - 1/24/89
6/25/89

6 For an Act entitled: "An Act requiring the governor to formulate and
7 submit a long-term financial plan for the state; and
8 providing for an effective date." (6)

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

10 * Section 1. AS 37.07.020(b) is amended to read:

11 (b) In addition to the budget and general appropriation bill,
12 the governor shall submit a long-term [CAPITAL IMPROVEMENTS PROGRAM
13 AND] financial plan [COVERING THE SUCCEEDING SIX FISCAL YEARS]. The
14 long-term financial plan shall include estimates of expenditures,
15 estimates of annual revenue from all sources, and recommendations for
16 additional sources of revenue. The long-term financial plan shall
17 include projections of estimated expenditures covering the five suc-
18 ceeding fiscal years and projections of revenue for the 20 succeeding
19 fiscal years. (10)

20 * Sec. 2. AS 37.07.030 is amended to read:

21 Sec. 37.07.030. RESPONSIBILITIES OF THE LEGISLATURE. The legis-
22 lature shall

- 23 (1) provide for a budget review function;
24 (2) analyze the comprehensive operating and capital im-
25 provements programs and long-term financial plan [PLANS] recommended
26 by the governor;
27 (3) adopt legislation to authorize implementation of the
28 governor's comprehensive operating and capital improvements budget
29 [PROGRAMS AND FINANCIAL PLANS OR APPROPRIATE ALTERNATIVES TO THOSE

1 PLANS];

2 (4) provide for a post-audit function to cover financial
3 transactions, program accomplishment, and compliance with legislative
4 intent;

5 (5) adopt or revise the estimate or receipts required to
6 balance the succeeding fiscal year's budget in order that proposed
7 expenditures do not exceed estimated receipts for that fiscal year;

8 (6) adopt, revise, or initiate revenue measures in order to
9 balance the succeeding fiscal year's budget and the capital improve-
10 ments section of the budget for the succeeding six years;

11 (7) adopt a concurrent resolution approving or recommending
12 revisions to the long-term financial plan annually submitted by the
13 governor.

14 * Sec. 3. AS 37.07.060 is amended to read:

15 Sec. 37.07.060. GOVERNOR'S RECOMMENDATION. (a) The governor
16 shall formulate the long-term [OPERATING AND CAPITAL IMPROVEMENTS
17 PROGRAMS AND] financial plan [PLANS] required to be recommended to the
18 legislature by AS 37.07.020 after considering the state agency
19 proposed program and financial plan [PLANS], and other programs and
20 alternatives that the governor considers appropriate. The plan
21 [PLANS] must include the governor's recommended goals and policies,
22 recommended plans to implement the goals and policies, recommended
23 operating and capital improvement program for the succeeding five
24 fiscal years [YEAR, RECOMMENDED CAPITAL IMPROVEMENTS PROGRAM FOR THE
25 SUCCEEDING SIX FISCAL YEARS], recommended programs for the upgrading
26 of public buildings and facilities prepared in accordance with AS
27 35.10.015, and recommended revenue measures to support the programs.

28 (b) The governor shall present the proposed budget [COMPRE-
29 HENSIVE OPERATING AND CAPITAL IMPROVEMENTS PROGRAMS] and long-term

1 financial plan [PLANS] in a message to a joint session of the legisla-
2 ture before the fourth legislative day following the convening of the
3 legislature in regular session. The message must be accompanied by an
4 explanatory report that summarizes recommended goals, plans, and
5 appropriations. The report must contain

6 (1) the coordinated program goals and objectives that the
7 governor recommends to guide the decisions on the proposed program
8 plans and budget appropriations;

9 (2) the governor's operating program and budget recommenda-
10 tions for the succeeding fiscal year organized by agency as required
11 by AS 37.07.020(a);

12 (3) the governor's capital improvements program and budget
13 recommendations for the five succeeding fiscal [YEAR AND CAPITAL
14 IMPROVEMENTS PROGRAM FOR THE SUCCEEDING SIX FISCAL] years, which must
15 include

16 (A) a description of each project, its estimated cost
17 for the year construction is to start and the estimated cost of
18 the project adjusted for inflation over the estimated period of
19 construction, and the source of financing for the project; the
20 project description for a new building or a new facility or for a
21 major addition to a building or facility should include a site
22 plan, preliminary drawings, and architect's or engineer's total
23 cost estimate for the project;

24 (B) a summary of projects previously authorized and
25 not yet completed;

26 (C) a summary, listed by agency, of all previously
27 proposed projects that have been deferred beyond the period [SIX
28 YEARS] covered by the plan and the year in which construction has
29 been rescheduled to begin;

1 (D) a forecast of the debt structure of the state and
2 the various debt ratios over the life of the state's bonds out-
3 standing, bonds authorized and to be issued, and bond authoriza-
4 tions recommended in the plan;

5 (E) a description of additional revenue measures
6 needed to finance the plan in lieu of debt;

7 (F) bond election bills to authorize the bonds
8 required to fund the projects scheduled for the first three years
9 of the plan;

10 (G) projections of population of the state and its
11 regions and communities;

12 (H) economic data and projections necessary for the
13 evaluation of the plan;

14 (4) a summary of state receipts in the last fiscal year, a
15 revised estimate for the current fiscal year, and an estimate for the
16 succeeding fiscal year;

17 (5) a summary of expenditures during the last fiscal year,
18 those authorized for the current fiscal year, and an estimate for the
19 succeeding fiscal year;

20 (6) any additional information that will facilitate under-
21 standing of the governor's proposed programs and long-term financial
22 plan [PLANS] by the legislature and the public.

23 * Sec. 4. AS 37.07.070 is amended to read:

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25 consider the governor's proposed long-term [COMPREHENSIVE OPERATING
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27 ate alternatives to the plan [PLANS], make program selections among
28 the various alternatives and determine, subject to available revenues
29 the level of funding required to support authorized state services.

1 The operating and capital budgets of each agency shall be separately
2 reviewed. During each regular session of the legislature, legislative
3 review of the governor's supplemental appropriation bills and the
4 governor's budget amendments shall be governed by the following time
5 limits:

6 (1) Requests by the governor for supplemental appro-
7 priations for state agency operating and capital budgets for the
8 current fiscal year may be introduced by the rules committee only
9 through the 30th legislative day.

10 (2) Requests by the governor for budget amendments to state
11 agency budgets for the budget fiscal year may be received and reviewed
12 by the finance committees only through the 60th legislative day.

13 * Sec. 5. This Act takes effect July 1, 1989.

→ letter of content ←
→ NOTE OF CONCERNS ←
→ HISTORY

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 87

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11 agency budgets for the budget fiscal year may be received and reviewed
12 by the finance committees only through the 60th legislative day.

13 * Sec. 5. This Act takes effect July 1, 1989.

Item 2

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 13, 1989

The Honorable Sam Cotten
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Cotten:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that makes changes in existing law to clarify the status of and accounting for money received for goods and services provided by state agencies.

The purpose of the bill is the same as that of ch. 138, SLA 1986: namely, to expressly authorize setting and receiving fees and other charges by state agencies for the performance of functions prescribed by law. As with ch. 138, SLA 1986, this bill includes provisions requiring separate accounting for these program receipts and provisions suggesting legislative appropriation to the respective programs that produced the receipts. This bill attempts to include the amendments that ch. 138, SLA 1986 missed, and it removes an ambiguity in that Act's amendment of AS 37.10.050(a), making certain that fee regulations meet the same standards as those prescribed by the Alaska Administrative Procedure Act for other regulations.

Perhaps the most significant provisions of this bill are in secs. 1 and 132. Section 1 defines "program receipts" as "fees, charges, income earned on assets, and other state money received by a state agency in connection with the performance of its functions" and identifies those receipts that are not general fund program receipts.

Section 132 is a "grandfather clause" that protects from any unintentional invalidation fees charged by agencies under regulations that were adopted before July 1, 1987, notwithstanding the 1986 amendments of AS 37.10.050(a) which took effect July 1, 1987.

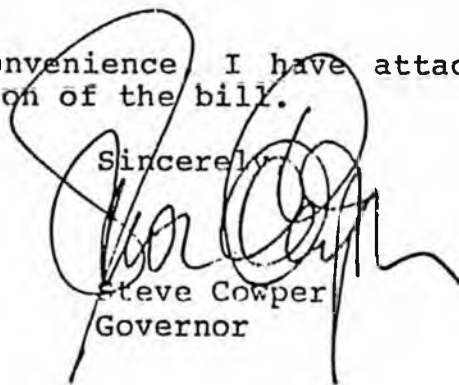
The remaining sections of the bill either (1) expressly authorize the assessment of fees or the provision of services already impliedly authorized by existing law; or (2) prescribe a method of accounting for and using money generated by state programs.

This bill has an immediate effective date, to achieve consistency with ch. 138, SLA 1986's amendments as soon as possible.

The amendments set out in this bill will make clear the permissible handling of program receipts. Although my Administration believes that the most appropriate use of program receipts is for the expenses of the activities that earned them, it is within the legislature's discretion to determine the purpose for which those program receipts may be spent. The power of the legislature to appropriate program receipts is no different from its power to appropriate other money in the general fund.

For the legislature's convenience I have attached a section-by-section description of the bill.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read 'Steve Cowper', is written over the typed name and title.

Steve Cowper
Governor

47

Item 3
No. 1

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: HB 87
PUBLISH DATE: HOUSE 1/17/89

FISCAL NOTE

REQUEST: _____
Revision Date: _____ Agency Affected: Office of Governor
Title: Gov. formulate/submit long-term BRU: _____
financial plan for state _____
Sponsor: Rules Components: _____
Requestor: Governor _____

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
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Alison M. Edger, Director Phone: 465-3568
 Division: Budget Review Date: 1/13/89
 Approved by Commissioner: Tommy Fiske Date: 1/14/89
 Agency: _____

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



Representative H.A. "Red" Boucher

Chairman House Committee on State Affairs • Special Committee on Telecommunications

TO: House State Affairs Committee Members

FROM: Representative H.A. "Red" Boucher, Chair
House State Affairs Committee

DATE: February 15, 1989

RE: HB 87 Long-Term Financial Planning
HB 85 Charging, Accounting for Program Receipts

Attached you will find three versions of HB 85 and copies of HB 87. I would like you to review this material and advise me of your views/concerns/recommendations regarding these bills by early next week.

Comments:

House Bill 87

I would like to recommend that the long-term financial plan called for in HB 87 be amended as follows:

- projections of estimated expenditures should cover four fiscal years rather than five; and
- revenue projections cover ten fiscal years rather than twenty.

I also agree with Representative Donley that Section 2 (7) is unrealistic and should be deleted from the bill. You may wish to note that Alison Elgee has offered the attached "Proposed Amendment" to replace the language in (7). I believe, however, that language already in statute (AS 37.07.030) already accomplishes this, consequently the proposed amendment may not be necessary.

HB 85 Charging, Accounting For Program Receipts

I have attached three different versions of HB 85 for your consideration. The memorandum dated February 10th and 11th discuss a "centralized" approach to program receipts (Versions E and H). The February 14th memorandum (Version D) retains the "decentralized" approach to program receipts (Governor version). Please also note that the sections which add new fee authority or increase existing authority and those which add a new activity where a fee could be charged are listed on page 2 of the February 14th memorandum.

The committee may wish to consider hearing testimony from the agencies impacted by these proposed changes (versions) so that we may better understand their significance.

Proposed Amendment - HB 87

pg. 2, line 11 -13

(7) adopt or revise the long-term financial plan annually submitted by the governor.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 23, 1989

SUBJECT: Long-term financial plan for the state
(CSHB 87(SA))

TO: Representative H. A. "Red" Boucher, Chair
House State Affairs Committee

FROM: Tamara Brandt Cook *TBC*
Director
Division of Legal Services

Here is the committee substitute you requested for HB 87, originally introduced by the Governor. Since the bill has been passed from committee, Dennis Burns requested no changes other than those acted upon by the committee and identified to me. We did make form and style changes in accordance with the drafting manual.

It seems to me, however, that the provision contained in existing law (AS 37.07.030(6)) appearing in section 2 of the bill may need to be changed from six to four years to conform to the change made in section 1 of the bill. The changes made in sec. 1 need to be reflected in AS 37.07.-020(c) and 37.07.040(2), which are not now dealt with in the bill.

In addition, I am concerned that the title may not adequately reflect the contents of the bill. The title is very narrow and addresses only the Governor's responsibilities with respect to the long-term financial plan. Sections 2 and 4 of the bill, though, deal with the legislature's responsibilities. To the extent that those sections are determined not to contain substantive changes, the existing title may be sufficient. But I fear that the changes to those sections may be substantive. If the additional change is made to section 2, altering the six to four years, and to the other nonconforming sections a title change will clearly be required.

Representative H.A. "Red" Boucher
Page 2
February 23, 1989

I suggest that you make this memorandum available to the next committee of reference, so they can look into these matters.

TBC:kb:gc
wkk2/042

Enclosure

existence between
l be appraised at
nent date for tax
, upon which
dential purposes
ppraised at its
date for tax
led after 1978 but
, full and true
adjusted.



LAWS OF ALASKA

1977

Source

Chapter No.

CSHB 117

66

AN ACT

Relating to the legislative appropriation process; and providing for an effective date.

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

* Section 1. AS 37.07.070 is amended to read:

Sec. 37.07.070. LEGISLATIVE REVIEW. The legislature shall consider the governor's proposed comprehensive program and financial plan, evaluate alternatives to the plan, make program selections among the various alternatives and determine, subject to available revenues, the level of funding required to support authorized state services. During each regular session of the legislature, legislative review of the plan shall be accomplished according to the following schedule:

(1) By the 45th legislative day, the legislature shall have established by concurrent resolution the total amount of state general funds that shall be available for appropriation for the budget year and the tentative allocation of the funds among program categories in both the operating and capital budgets. The resolution shall be introduced by the finance committee of the house in which the general appropriations bill was introduced.

(2) By the 90th legislative day, the house in which the general appropriations bill was introduced by the governor shall have calendared for second reading a version of the general appropriations bill. The bill shall be supported with documentation to explain the proposed appropriations and related statements of intent. In addition, a list of other appropriations or measures with fiscal implications pending before the legislature shall be included with the documentation for the calendared bill.

STATE OF ALASKA

THE LEGISLATURE

1978

Source

Legislative
Resolve No.

SCSHCR 97 am S

6

ate Legislature that it
1919 and urges the United
the earliest possible time.

be sent to the Honorable
f Health, Education, and
evens and the Honorable Mike
rable Don Young, U. S.
a delegation in Congress.



Establishing general funds available for appropriation for fiscal
year 1979 and making tentative allocations to program categories.

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

WHEREAS Chapter 66 of the 1977 Session Laws of Alaska re-
quires that by the 45th legislative day, the legislature shall
have established by concurrent resolution the total amount of
state general funds that shall be available for appropriation for
the budget year and the tentative allocation of the funds among
program categories in both the operating and capital budgets; and

WHEREAS the legislature finds that best available estimate
of unrestricted revenue for fiscal year 1979 is \$946,600,000
which is inclusive of the estimated \$18,100,000 to be deposited
in the renewable resources development fund; and

WHEREAS these estimates are predicated on no legislative
action on new revenue measures except for passage of either House
Bill No. 662 or Senate Bill No. 427 providing for refunding
unanticipated Alaska personal income tax increases resulting from
changes in the Federal tax code; and

WHEREAS the legislature finds that the best available
estimate of the liquid surplus general fund balance for June 30,
1979 is \$273,600,000;

BE IT RESOLVED by the Alaska State Legislature that the
total amount of state general funds including renewable resources
development funds that shall be available for appropriation for
the 1979 budget year operating and capital expenditures is
\$946,600,000; and be it

FURTHER RESOLVED that a tentative allocation of the
\$946,600,000 available for appropriation shall be made to the
various program categories in terms of the following percentages:

	Operating	Capital	Total
Education	44%	0%	44%
Social Services	7	0	7
Health	5	0	5
Natural Resources	7	1	8
Public Protection	2	0	2
Administration of Justice	9	0	9
Development	5	1	6
Transportation	13	0	13
General Government	6	0	6

and be it

FURTHER RESOLVED that these percentages are rounded to the nearest whole, and that 0 per cent is anything less than .5 per cent; and be it

FURTHER RESOLVED that if the legislature changes its policy regarding capital projects and makes a shift to fund a portion of total capital projects by direct appropriation from the general fund in order to supplant in part general obligation bonds, an additional amount may be directly appropriated for capital projects; provided that such appropriation shall not reduce the liquid general fund balances below \$250,000,000; and be it

FURTHER RESOLVED that this resolution may be amended.

Source

SCR 77

Relating to reap

BE IT RESOLVED

WHEREAS the sec. 3 of art. 1 of the constitution provides that the representatives immediately after the next decennial census shall be apportioned among the several counties on the basis of population as ascertained by the next decennial census; and

WHEREAS, a reapportionment as reapportionment as reasonable court

WHEREAS the legislative session fixed, is at first session, and a reliable technical

WHEREAS the evasion of the

WHEREAS a filed in the United States Civil Action A-reapportionment until reapportionment

WHEREAS the 1980; and

WHEREAS re

WHEREAS pr

HB

88

HOUSE COMMITTEE ON STATE AFFAIRS

**RECAP OF
HB 88**

Making Possession of Marijuana Illegal

Received January 18, 1989
by The State Affairs Committee

Heard January 31, 1989 (Work Session)
Heard February 21, 1989
Heard March 16, 1989
Heard April 4, 1989
Heard April 5, 1989

Committee Substitute adopted April 5, 1989

Passed Out of Committee April 5, 1989
5 Do Pass
1 No Recommendation

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HB 88: Making Possession of Marijuana Illegal

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- A.* CSHB 88 (SA) by The State Affairs Committee
- B.* Sectional Analysis, April 6, 1989
- C.* Letter of Intent
- D.* Fiscal Note and Analysis
- E.* Letter from Dr. Segal, March 31, 1989
- F.* Boucher Narrative

Item 2:

- A.* HB 88 by The State Affairs Committee
- B.* Sectional Analysis, March 12, 1989
- C.* Fiscal Notes and Analyses by Departments of Corrections, Law, and Public Safety
- D.* Memorandum from Dennis Burns, January 26, 1989
- E.* Response to Memorandum from Jack Chenoweth, January 30, 1989

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Public Safety
 Title: Making possession of marijuana
illegal BRU: Alaska State Troopers
 Sponsor: House State Affairs Component: Detachments, B.D.E. and
 Requestor: House Judiciary V.P.S.O.

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

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
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	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER/PROG RCPT						
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)

This bill makes possession of small amounts of marijuana (less than four ounces) a "violation", punishable by a fine. The "bail amount" (fine) will be set by the state supreme court by court rule.

It is anticipated that the majority of new criminal cases under this bill would arise from situations where a State Trooper contacts a person on another matter, and the use or possession of marijuana is discovered during the contact. For this reason, we believe the fiscal impact of these additional cases can be absorbed within existing resources.

Prepared by: Francis C. Allan
 Division: Alaska State Troopers
 Approved by Commissioner: D. H. Arthur English
 Agency: Department of Public Safety

Phone: 269-5691
 Date: 12/19/89
 Date: 1-8-90
 Page 1 of 1

12/22/89

HOUSE COMMITTEE REPORT

(5)

Date Referred: January 18, 1989

FURTHER REFERRALS: JUDICIARY

Date of Committee Action: _____

The STATE AFFAIRS Committee recommends that:

HOUSE BILL NO. 88 [MAKING POSSESSION OF MARIJUANA ILLEGAL]
"An Act amending the definition of the offense of misconduct involving a controlled substance in the seventh degree to make possession of less than four ounces of marijuana illegal as a violation, and relating to the disposition of offenses of misconduct involving a controlled substance in the seventh degree."

[X] be replaced with CS HB 88(SA) [] the same title
[X] a new title

[] have attached amendment(s)

[X] do pass
[] do not pass
[] no recommendation
[] individual recommendations
[X] additional referral to the Finance Committee

ADOPTS: House State Affairs letter of intent

ATTACHES NEW FISCAL NOTE(S):

[X] fiscal impact w/analysis by Dept of Law
[] zero fiscal note
[] zero with analysis

APPROVES PREVIOUS:

[] fiscal note(s) published:

[] zero fiscal notes(s) published:

SIGNING DO PASS:

SIGNING OTHER THAN DO PASS:
(Do Not Pass, No Recommendation, Amend)

Dece Hales

Jim ...

Edgar P. MacLean

D.C. ...

...

Al. Spil "PASS ONLY WITH
FUNDING FOR LAW ENFORCEMENT,
DRUG RESEARCH AND PREVENTION
+ INTERVENTION PROGRAMS FOR
FAMILIES AND YOUTH"

D.C. ...
Chairman's signature

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

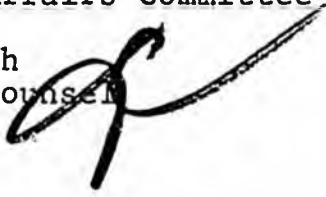
MEMORANDUM

April 6, 1989

SUBJECT: CSHB 88 (State Affairs), relating to
marijuana -- sectional analysis

TO: Representative H.A. "Red" Boucher, Chair
House State Affairs Committee

FROM: Jack Chenoweth
Legislative Counsel



CSHB 88 (State Affairs), adopted by the committee, addresses the subject of possession of marijuana in small quantities. Possession of marijuana in quantities of less than four ounces in other than a public place is not now subject to state criminal law. */ Under the principal changes proposed in this bill, possession of one ounce or more up to four ounces would be

*/ Under current law,

-- possession of eight ounces or more of marijuana anywhere is a class A misdemeanor; AS 11.71.050(a)(3);

-- possession of four ounces or more of marijuana is a class B misdemeanor; AS 11.71.060(a)(4);

-- possession in a public place of one ounce or more but less than four ounces of marijuana is also a class B misdemeanor; AS 11.71.060(a)(1).

Also, under current law, possession of less than one ounce of marijuana in a public place constitutes "misconduct involving a controlled substance in the seventh degree," a violation. AS 11.71.070. A "violation" is an offense that is not a crime. For conviction of a violation, no jail sentence may be imposed. See AS 11.81.900(a)(56). A fine may be

made a class B misdemeanor, while possession of less than one ounce would be defined as an offense and treated as a "violation."

Principal provisions of CSHB 88 (State Affairs):

The bill's title and purpose section, bill section 1, provide a summary of the principal features of the legislation.

Bill sections 2 - 5 directly relate to the disposition under state criminal law of possession of small amounts of marijuana.

Bill section 2 redefines possession and makes it an element of the offense of "misconduct involving a controlled substance in the sixth degree," a class B misdemeanor, if one "uses, displays, or possesses" one or more ounces but less than four ounces of marijuana. For a person's first offense of use, display, or possession of between one and four ounces (and for a minor's first offense of use, display, or possession of any amount less than four ounces), imposition of a term of imprisonment is not authorized. Rather, bill section 3 directs that, for these first offenses, the court may require participation in a drug abuse treatment program or performance of community service.

Bill section 4 redefines possession, adds to it the elements of "use" and "display," and makes those three the elements of the offense of "misconduct involving a controlled substance in the seventh degree," a violation, if one uses, displays, or possesses less than one ounce of marijuana. For committing that violation, bill section 5 authorizes imposition of a fine of not more than \$300 (repealing the

imposed. While, generally, the maximum fine for a violation may not exceed \$300, AS 12.55.035(b)(5), under current law applicable to possession of small amounts of marijuana, the fine may not exceed \$100. AS 11.71.-070(b).

Finally, because there is no statute that declares it illegal, possession of less than four ounces of marijuana other than in a public place is not currently defined as a criminal offense.

Representative H.A. "Red" Boucher
Page 3
April 4, 1989

current maximum fine of \$100 applicable to violations involving possession of marijuana).

Bill sections 6 and 7 authorize and direct the use of citations as the means of handling and disposing of violations under AS 11.71.070. Bill section 6 adds a new section, AS 11.71.075, to authorize the use of citations (rather than arrest warrants) for these offenses. Bill section 7 amends AS 12.25.190(c) by adding this proposed AS 11.71.075, which relates to the offenses that constitute misconduct involving controlled substances in the seventh degree, to the list of the types of complaints that may be resolved and disposed of through the use of citations. The net effect of this pair of changes is that persons who possess less than one ounce of marijuana may be cited (rather than arrested), and may dispose of their citations by payment of bail in lieu of fine in an amount determined in a bail schedule by court rule.

Finally, bill sections 8 and 9 make technical changes to two existing sections that contain references to prosecutions brought under those statutes that define crimes of misconduct involving controlled substances. The changes are necessary because of the addition of new material in proposed AS 11.71.075.

*

As this measure was developed, I thought it useful to try to summarize within the text of the bill the elements of it that relate to the change in the treatment of small amounts of marijuana proposed by this bill. To do that, I included bill section 1. That section briefly notes the significant change in the treatment accorded possession of a small amount of marijuana made by bill sections 2 and 4, the violation penalty amendment made by bill section 5, and the use of citations, authorized by bill sections 6 and 7 as a primary means of enforcement of that change in treatment.

JBC:kb
wkk3/071

Enclosure

Item 1C



Alaska State Legislature

HOUSE OF REPRESENTATIVES

Official Business

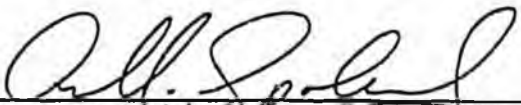
P.O. Box V
State Capitol
Juneau, Alaska 99811

April 5, 1989

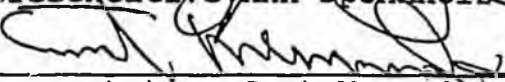
HOUSE STATE AFFAIRS COMMITTEE

LETTER OF INTENT For CSHB 88(SA)

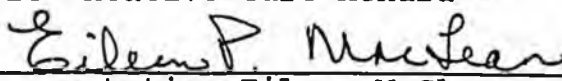
Compared to other states, Alaska rates high in the use of marijuana and other drugs by youth. Expert testimony and research reveals, however, that legislation alone cannot solve this drug problem. The House State Affairs Committee respectfully requests that the legislature, in considering the passage of legislation to criminalize the use and possession of marijuana, adequately fund drug enforcement agencies, drug research activities, and state programs providing drug prevention/ intervention to families and youth victimized by drug abuse.



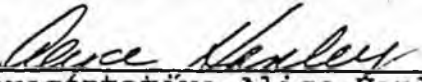
Representative Ann Spoonholz



Representative Curt Menard



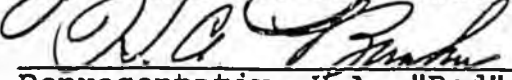
Representative Eileen MacLean



Representative Alice Hanley



Representative Jim Zawacki



Representative H.A. "Red" Boucher
Chair, House State Affairs

FISCAL NOTE

REQUEST:

Revision Date: April 3, 1989
Title: "AN ACT AMENDING...OFFENSES...
involving a controlled substance..."
Sponsor: House State Affairs
Requestor: House State Affairs

Agency Affected: Department of Law
BRU: Prosecution
Components: Third District, Fourth
District, Crim. Appeals & Spl. Prosc.,
Criminal Justice Litigation

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		133.6	137.6	141.7	146.0	150.4
TRAVEL		3.6	3.7	3.8	3.9	4.0
CONTRACTUAL		72.7	74.9	44.3	45.6	47.0
SUPPLIES		10.8	7.4	7.6	7.8	8.0
EQUIPMENT		12.5	-0-	-0-	-0-	-0-
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	233.2	233.6	197.4	203.3	209.4

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	233.2	233.6	197.4	203.3	209.4
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	2	2	2	2	2
PART-TIME	-0-	1	1	1	1	1
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Please see the attached analysis.

Richard I. Pegues
Prepared by: Richard I. Pegues, Director Phone: 465-3672
Division: Administrative Services Date: April 3, 1989
Richard I. Pegues / FOR
Approved by Commissioner: Douglas B. Bailw Attorney General Date: April 3, 1989
Agency: Department of Law

Distribution (by preparer):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 88

The committee substitute for HB 88 recriminalizes the possession and use of small amounts of marijuana. The bill would make possession of one ounce or more but less than four ounces of marijuana a class B misdemeanor, and the bill would make possession of less than one ounce of marijuana a violation. The maximum penalty for such a violation would be raised from \$100 to \$300. The legislature is also considering a joint resolution proposing a constitutional amendment at the next general election in November of 1990, which would provide that an individual's right to privacy does not extend to the possession or use of controlled substances. The bill would be effective 90 days after it becomes law, or sometime during the summer of 1989, if it is approved.

The passage of CSHB 88 will have a fiscal impact on the Department of law in three general areas: (1) the cost of processing additional new criminal cases; (2) the cost of educating the public about the new law; (3) approval of the proposed constitutional amendment will have the effect of repealing the Alaska Supreme Court's decision in Ravin. However, because the bill would be effective about 18 months before the constitutional amendment would become effective, it is anticipated that the bill will come under a vigorous constitutional challenge.

1. New Criminal Cases

Much of the behavior that the bill would classify as either a class B misdemeanor or a violation is not now an offense of any kind. In the past, some law enforcement officers who work primarily in the drug enforcement area indicated that recriminalizing marijuana could potentially result in "thousands" of new criminal cases a year. The police now doubt this but, nonetheless, a large number of the new cases would arise from situations where law enforcement officers now commonly discover small amounts of marijuana (as when an officer responds to a domestic disturbance call and sees some marijuana plants in a person's home, or when a person is arrested for a minor offense and a routine search for weapons reveals some marijuana cigarettes in the person's pocket, for example). Incidents of this sort occur frequently now, but do not generally result in any criminal prosecution for the marijuana possession. Many of these cases are likely to be referred for criminal prosecution if CSHB 88 becomes law because police officers will not ignore evidence of wrongdoing that is in plain view. Many of these defendants are middle-class people who can be expected to vigorously resist having a criminal record. Class B misdemeanors entitle a defendant to a jury trial and court-appointed counsel. Although the bill provides that possession of less than one ounce of marijuana will be handled as a violation, some unknown yet substantial number of these lesser offenses can be expected to be disputed, requiring attorney time to prosecute.

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 88

Prosecutors generally predict a substantially lesser number of new potential criminal cases under CSHB 88 than the "thousands" that were once predicted. Once the public becomes aware of the new law, some people are likely to become more careful about not allowing marijuana or smoking paraphernalia to be exposed in plain view in their homes; for example. Judging from the number of minor marijuana offenses prosecuted prior to the Ravin decision in 1975, prosecutors still expect at least a "few hundred" new criminal cases a year. Possession of small amounts of marijuana for personal use has been legal since the Ravin decision in 1975. Consequently, there is no accurate way to predict the number of new offenses that will occur when this current behavior is outlawed. Nor is there any accurate means to determine, in advance, the number of new offenses that will constitute class B misdemeanors, as opposed to violations. All of the department's prosecution offices are working at maximum capacity. Past budget cuts have left little time available to handle minor offenses, and the department has had to focus its remaining resources on major offenses, particularly crimes of violence. Prosecution of a whole new block of crime, although relatively minor, simply cannot be undertaken without some additional resources. The department's current estimate of a "few hundred" offenses is very conservative. The actual number of new cases may be significantly higher. It certainly will not be less.

Class B misdemeanor cases and disputed violations which are accepted for prosecution will require attorney time both at trial and in preparation for trial (i.e., preparation of search warrants, response to defense motions, evaluation of results of laboratory analysis, pretrial witness preparation, etc.). To handle screening of the expected case referrals, and to prosecute the additional misdemeanors and disputed violations, the criminal division will require the addition of at least one Attorney III position and one Legal Secretary I position in Anchorage. It is anticipated that a half-time attorney will also be needed in the Fairbanks District Attorney's office.

2. Public Education

In order to inform the public of the changes in the law, the Department of Law will develop and disseminate public notices explaining the new law. These notices will include newspaper ads and brochures, and will be modeled upon the public education notices which were distributed statewide in connection with the new drug law in 1982 and the new DWI and drinking age laws in 1983. Based upon experience with these earlier notices, approximately \$25,000 will be needed to cover the costs of writing, layout, typesetting, publication, and distribution.

In addition to the costs explained above, it is anticipated that the passage of this bill will result in increased costs to other components of the criminal justice system, including law enforcement, the courts, the public defender agency, the Office of Public Advocacy, and corrections.

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 88

3. Defending the New Law

In 1975 the Alaska Supreme Court in the case of Ravin v. State, 537 P.2d 497 (Alaska 1975), ruled that under Art. I, Sec. 22 of the Alaska Constitution the state could not prohibit possession of marijuana by adults in their own homes for personal use. The court held that the state had not demonstrated the existence of a legitimate state interest which was strong enough to justify the regulation of this conduct.

Since passage of CSHB 88 would make it a crime for an adult to possess any amount of marijuana anywhere, including in his or her own home, the constitutionality of the new law is certain to be challenged. An appellate court will have to decide whether the state has proved that there is a "compelling state interest" in the prohibition of the use of marijuana which is sufficient to outweigh an individual's right to privacy under the state constitution. It is extremely important, therefore, that the legislature's consideration of this bill include extensive public hearings, debate on the social policy merits of the proposal, and the collection of the results of the most recent scientific, medical, and pharmacological studies regarding the physical, emotional, and social effects of marijuana usage.

In addition to the necessary legislative hearings, evidentiary hearings at the trial court level can be expected when a challenge to the new law is filed. Challenges to the new law will most likely arise in the context of a defendant's pretrial motion to dismiss a criminal prosecution. When responding to such a defense motion, the prosecutor would, in essence, have to convince a court to reverse the ruling in the Ravin case. In order to demonstrate that the result in Ravin is no longer correct, the prosecutor would have to present convincing, scientifically accurate, evidence that the effects of marijuana usage are so injurious to a person's mental and physical health as to justify the legislative decision to totally prohibit use of marijuana by anyone at any time (as opposed to use by minors or use by a person who is operating a motor vehicle--both of which are already prohibited under current law).

The presentation of this convincing evidence will require the prosecution to present expert testimony from authorities who have conducted recent research in this area. Out-of-state witnesses in medical and scientific fields charge a fee for their services. These fees will vary from individual to individual, but are expected to average at least \$150 per hour. This would include services for consultation, witness preparation and actual testimony. Costs will be incurred for expert witness transportation, food and lodging, and other incidental expenses. Additionally, there will be some costs for preparation of exhibits and written reports. To the extent possible, the Department of Law would attempt to present written testimony in situations where it is not feasible to fly a person to Alaska to testify

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 88

in person. We estimate that a minimum of six expert witnesses will be required to attempt to successfully defend the new law at the trial court level.

Hearings at the trial court level can reasonably be expected to take several days. A substantial commitment of attorney time will be required for scientific and legal research in preparation for the hearings, actual court time, legal briefing, and the preparation of proposed findings of fact. Since prosecutions under the new law will occur statewide, defense challenges may be raised at the same time in different parts of the state. The extensive hearings described above may have to be held in more than one judicial district in the state.

Regardless of which side prevails at the trial court level, the lower court ruling would almost certainly be followed by an appeal. At a minimum, such an appeal (or appeals) would require additional legal research, a thorough review of the record, the drafting of briefs, and oral argument before the appellate court and the Supreme Court.

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 88

Fiscal Analysis - (cont'd)

1. New Criminal Cases

Third Judicial District - Anchorage

<u>Total</u>	<u>Atty III (PFT)</u>	<u>Legal Sec I (PFT)</u>	<u>Total</u>
Personal Services	63.8	32.9	96.7
Travel - Witness travel subsistence, atty. travel	1.8	-0-	1.8
Contractual Services			
office commo. equip. repai	2.4	1.2	3.6
copy - postage	1.2	1.2	2.4
Office Space rent/lease	4.0	2.2	<u>6.2</u>
			12.2
Commodities - Ongoing			
office consumables	1.8	1.2	3.0
Law library	1.2	-0-	1.2
Commodities - one time			
New position materials	1.2	1.2	<u>2.4</u>
			6.6
Equipment - one time			
New position equipment	2.0	8.5	10.5
	<hr/>	<hr/>	<hr/>
	79.4	48.4	71.1

Costs beyond FY 90 include a 3% inflation factor, less one-time items.

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 88

Fiscal Analysis - (cont'd)

Fourth Judicial District - Fairbanks

	Atty. III <u>(PPT)</u>	<u>Total</u>
Personal Services	36.9	36.9
Travel - Witness travel subsistence, Atty. travel	1.8	1.8
Contractual Services		
office commo., equip. repair	2.4	2.4
copy - postage	1.2	<u>1.2</u>
		3.6
Commodities - Ongoing		
office consumables	1.8	1.8
Law library	1.2	1.2
Commodities - one time		
New position materials	1.2	<u>1.2</u>
		4.2
Equipment - one time		
New position equipment	2.0	2.0
		<hr style="width: 100%; border: 0.5px solid black;"/>
		48.5

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 88

Fiscal Analysis - (cont'd)

2. Public Education

Criminal Justice Litigation Component/Prosc. BRU

<u>Object</u>	<u>Total</u>
Contractual Services - one time writing, layout, typesetting, publication and distribution of public notices and information brochures describing the changes in the law.	25.0
	25.0

3. Defending the New Law

Criminal Appeals & Special Prosecution Component/Prosc. - BRU

<u>Object</u>	<u>Total</u>
Contractual Services - Professional fees scientific experts 120 hrs. X \$150 =	\$18,000
Experts' staff support, preparation of exhibits, written testimony 50 hrs. X \$60 =	3,000
Experts' travel to attend hearings and offer testimony 6 trips X 4 days X \$80 = \$1,920 subsistence 6 trips X \$1,500 = \$9,000 travel	1,920 9,000
	\$31,920

This amount will be required for both FY 90 and FY 91, to cover both trials and appeals.

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 88

Summary of Expenses (All Components)

	<u>Defending the new Law</u>	<u>New Criminal Cases</u>	<u>Public Education</u>	<u>Total</u>
Personal Services		133.6		133.6
Travel		3.6		3.6
Contractual	31.9	15.8	25.0	72.7
Commodities		10.8		10.8
Equipment		12.5		12.5
	<u>31.9</u>	<u>176.3</u>	<u>25.0</u>	<u>233.2</u>

Position Title Attorney III		No. of Positions 1	Range/Step 22A	Barg. Unit PX
Time Status PFT	Staff Months 12	Location EBA - Anchorage		Election District 8
Type of Expenditure		Amount		
1	2	3		
Salary	49,140			
Benefits	14,657			
Premium Pay				
Other				
Total Personal Services		63,797		
Travel		1,800		
Contractual		7,600		
Commodities		4,200		
Equipment		2,000		
Other				
Total Cost		79,397		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	79,397		
I-A Receipts	1006			
CIP Receipts	1061			
Other				
Justification This full-time attorney position is required at Anchorage to handle the influx of new cases that will result when marijuana possession or use is recriminalized. Prosecutors expect that at least a few hundred such offenses will occur each year as a result of the enactment of this bill. This position will be responsible for prosecuting those new cases that are brought in the Third Judicial District and handling appellate briefs and appeals hearings. Because these new cases will be classed as misdemeanor offenses and violations, allocation of the position to the Attorney III level is appropriate.				

**Request For
New Position**

Agency Department of Law
BRU Prosecution
Component Third Judicial District.

Page 1 of 3
Revised Date

FY 90

Position Title Legal Secretary I		No. of Positions 1	Range/Step 10B	Harg. Unit GGU	
Time Status PFT	Staff Months 12	Location Anchorage		Election District 8	
Type of Expenditure		Justification			
Amount		<p>This Legal Secretary I position will be needed to handle the paperwork and scheduling requirements for the influx of new trials that will occur when the possession or use of small amounts of marijuana is outlawed. At the least a "few hundred" new offenses are expected. This estimate is very conservative, and the actual number of new cases may be somewhat higher. It certainly will not be any less. The support staff in the Anchorage District Attorney's Office was cut severely in FY 87, and any additional caseload will require an increase in support staff. Allocation to the Legal Secretary I level is appropriate because of the legal and trial documentation necessary to try these cases.</p>			
1	2				3
Salary	22,716				
Benefits	10,220				
Premium Pay					
Other					
Total Personal Services					32,936
Travel					-0-
Contractual					4,600
Commodities					2,400
Equipment		3,500			
Other					
Total Cost		48,436			
Funding Source for Total Cost					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004	48,436			
I-A Receipts	1006				
CIP Receipts	1061				
Other					

**Request For
New Position**

Agency Department of Law
 BRU Prosecution
 Component Third Judicial District.

Page 2 of 3
 Revised Date _____

FY 90

Position Title Attorney III		No. of Positions ;	Range/Step 22A	Bar# Unit FX
Time Status PPT	Staff Months 12	Location JBA - Fairbanks		Election District 16
Type of Expenditure		Justification		
		This permanent part-time position at Fairbanks is required to handle the influx of new cases that will result when the use or possession of small amounts of marijuana is recriminalized. Prosecutors expect that at least a few hundred offenses will occur each year as a result of the enactment of this bill. This position will be responsible for prosecuting those new cases that are brought in the Fourth Judicial District. Because these new cases will be classed as misdemeanor and violation offenses, allocation of the position to the Attorney III level is appropriate.		
Amount				
1	2	3		
Salary	28,122			
Benefits	8,826			
Premium Pay				
Other				
Total Personal Services		36,948		
Travel		1,800		
Contractual		3,600		
Commodities		4,200		
Equipment		2,000		
Other				
Total Cost		48,548		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	548		
I-A Receipts	1006			
CIP Receipts	1061			
Other				

**Request For
New Position**

Agency Department of Law
 BRU Prosecution
 Component Fourth Judicial District

Page 3 of 3
 Revised Date

FY 90



UNIVERSITY OF ALASKA, ANCHORAGE

3211 Providence Drive
Anchorage, Alaska 99508

CENTER FOR ALCOHOL
AND ADDICTION STUDIES

March 31, 1989

Rep. Red Boucher
House State Affairs Committee
PO Box V
Juneau, AK 99811

ATT: Dennis Burns

Dear Rep. Boucher:

I am writing to thank you for your efforts to combat drug abuse in the State of Alaska. The rationale viewpoint with which you have approached the problem will help to create an atmosphere in the state to eradicate the problem.

To this extent I would like to express my full support for the Letter of Intent that accompanies House Bill 88. The requests are more than reasonable, and without appropriate funds the problem will continue unabated. The direction set fourth in the letter are very appropriate, and you can count on me to assist in any way possible to help to reduce the problem of drug abuse in the state.

Very truly Yours,

A handwritten signature in cursive script, appearing to read "Bernard Segal".

Bernard Segal, Ph.D., Director
Health Sciences, and The Center for
Alcohol and Addiction Studies

RECEIVED

MAR 10 1989

Proposed Committee Substitute for HB 88: Making Possession of Marijuana Illegal

Representative H.A. "Red" Boucher

Findings

There is no Alaska law that makes possession of 4 ounces or less of marijuana (VIA controlled substance) in the home a crime. As such, the public perception is that possession of marijuana in the home is legal in Alaska. Technically, possession of marijuana anywhere is illegal by federal law. That difference in state and federal law creates confusion -it sends the wrong message to adults, youth and children in Alaska and elsewhere that we condone its use.

Sub-Committee Preliminary Report

The sub-committee on HB 88 (Item 1A) - composed of Representatives Hanley, Spohnholz, Swackhammer, Shirley Warner (APOA) and a public member Sandy Spargo - have met and discussed with Legislative Legal Services attorney Jack Chenoweth the issues outlined at the "work session" held on January 31, 1989. Our focus has centered on three questions:

- 1) Should small quantities of marijuana be illegal?
2) If we make small quantities illegal, what is the appropriate penalty?
3) Does Alaska's Constitution preclude prohibition of small quantities of marijuana?

In our discussions and review of the provisions in HB 88, we have tentatively come to the conclusion that HB 88 may not go far enough in addressing the concerns of the subcommittee and the testimony we have heard to date. Consequently we are considering a committee substitute based on the following considerations:

Small Quantities

Testimony has shown that one ounce of marijuana is roughly equal to 40 or 50 joints with a street value of between \$250 and \$300. Possession of 4 ounces of marijuana has an estimated street value of \$1400 in Juneau. Like most products, however, value is dependent upon availability.

Taking into consideration current Alaska law regarding possession of less than one ounce in a public place (treated as a 7th degree violation) and the street value of this substance, defining a "small quantity" of marijuana as less

than one ounce seems reasonable.

The subcommittee generally agreed that possession of one to four ounces of marijuana, in other than a public place, should not be viewed as a "small quantity" as defined above.

Appropriate Penalty

Item 3D compares current law with HB 88 and a proposed committee substitute (Item 3C). This comparison was prepared by Jack Chenoweth and modified for the purpose of this memorandum. As Jack Chenoweth notes, the committee substitute combines a criminal provision for possession of one to 4 ounces (a class B misdemeanor) with a non-criminal provision for possession of less than one ounce (a violation), and it eliminates the public/private distinction.

Constitutional Issues

The committee substitute (Item 3C) discussed above does not include a comprehensive set of medical findings as are found in SB 18 and HB 22 (Item 2A,B). It is my understanding that we must demonstrate a need based on proof that the public health or welfare will suffer if controls are not applied to marijuana's use. While I personally believe there are sufficient social and medical/health reasons to recriminalize marijuana, it is not clear we are yet at a point where "findings" could withstand a court test - findings such as those listed in SB 18 and HB 22.

You will also note there is a companion bill - a constitutional amendment (Item 3A) - which proposes to amend article I, section 22 of the Alaska Constitution to exclude from the right to privacy a person's possession or use of marijuana. This would allow the legislature to regulate without the concern for a violation of the constitutional right to privacy. The effective date of the proposed committee substitute (Item 3C) is tied to passage of the constitutional amendment.

Penalties For Possession Of Marijuana

Place	Amount	Classification	Penalty Up To
<u>Current Law</u>			
Anywhere	> 8 oz	A misdemeanor	\$5,000/1 yr
Anywhere	> 4 < 8 oz	B misdemeanor	\$1,000/90 days
Public	> 1 < 4 oz	B misdemeanor	\$1,000/90 days
Public	< 1 oz	7th degree violation	\$100
Private	< 4 oz		no penalty

HB 88

Anywhere	> 8 oz	A misdemeanor	\$5,000/1 yr
Anywhere	> 4 < 8 oz	B misdemeanor	\$1,000/90 days
Anywhere	up to 4 oz	7th degree violation	\$100/citation

Note: possession of up to 4 oz. of marijuana anywhere is a violation, enforceable only by a fine, using a citation system

Proposed CSHB 88

Anywhere	> 8 oz	A misdemeanor	\$5,000/1 yr
Anywhere	> 4 < 8 oz	B misdemeanor	\$1,000/90 days
Anywhere	> 1 < 4 oz	B misdemeanor	\$1,000/no jail time for first offense *
Anywhere	< 1 oz	7th degree violation	\$300/citation

Note: this approach combines a criminal provision for possession of 1 to 4 oz. - class B misdemeanor - with a non-criminal provision for possession of less than 1 oz. - a violation - and eliminating the public/private distinction

* subsequent offenses may result in jail time up to 90 days, drug treatment/community work service at the discretion of the court

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY


MEMORANDUM

January 12, 1989

HB 88

SUBJECT: Work order ~~6-0469A~~ -- sectional analysis

TO: Representative H.A. "Red" Boucher, Chair
House State Affairs Committee

FROM: Jack Chenoweth
Legislative Counsel 

The work draft addresses the subject of possession of marijuana in small quantities. Possession of marijuana in quantities of less than four ounces in other than a public place is not now subject to state criminal law. Under one of the changes proposed in this bill, that possession would be made an offense and treated as a "violation."

Other sections provide for the disposition of offenses involving possession of small amounts of marijuana that are classed as violations.

Background:

The following information may be useful.

Under current Alaska law, a person's possession of less than one ounce of marijuana in a public place constitutes misconduct in the seventh degree. Misconduct in the seventh degree is an offense, specifically a violation.

An offense is defined or regarded as a "violation" when it carries no jail sentence and is punishable wholly by payment of a fine. AS 11.81.900(a)(56). State law sets a maximum fine for a violation of \$300. AS 12.55.035(b)(5). However, under AS 11.71.070(b), the maximum fine for a violation involving marijuana is set at \$100.

A person's possession of less than four ounces of marijuana in a place other than a public place is not a crime.

Representative H.A. "Red" Boucher
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Principal provisions of the bill:

Bill section 2 affects the status of possession of marijuana. That section redefines possession and makes it an element of the offense of "misconduct involving a controlled substance in the seventh degree", a violation, if one possesses less than four ounces of marijuana in other than a public place.

Bill sections 3 and 4 authorize and direct the use of citations as the means of handling and disposing of violations under AS 11.71.070.

Bill section 3 adds a new section, AS 11.71.075, to authorize the use of citations (rather than arrest warrants) for these offenses. Bill section 4 amends AS 12.25.190(c) by adding this proposed AS 11.71.075, which relates to the offenses that constitute misconduct involving controlled substances in the seventh degree, to the list of the types of complaints that may be resolved and disposed of through the use citations.

The net effect of these changes is that persons who possess less than one ounce of marijuana in a public place or who possess less than four ounces of marijuana in other than a public place may be cited (rather than arrested), and may dispose of their citations by payment of bail in lieu of fine in an amount determined in a bail schedule by court rule.

Finally, bill sections 5 and 6 make technical changes to two existing sections that contain references to prosecutions brought under those statutes that define crimes of misconduct involving controlled substances. The changes are necessary because of the addition of new material in proposed AS 11.71.075.

*

As this measure was developed, I thought it useful to try to summarize within the text of the bill the elements of it that relate to the change in the treatment of small amounts of marijuana proposed by this bill. To do that, I included bill section 1. That section briefly notes the significant change in the treatment accorded possession of a small amount of marijuana made by bill section 2, and the use of citations, authorized by bill sections 3 and 4, as a primary means of enforcement of that change in treatment.

*

Representative H.A. "Red" Boucher
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If this memorandum or the bill to which it relates prompts questions, please contact me.

Enclosure

JC:gc:kb
WKG5/080

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: HB 88
PUBLISH DATE: _____

FISCAL NOTE
REQUEST:

Revision Date: _____
Title: Making possession of marijuana
illegal
Sponsor: House State Affairs
Requestor: House State Affairs

Agency Affected: Public Safety
BRU: Alaska State Troopers
Component: Detachments, C.I.B. and
V.P.S.O.

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

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

This bill makes possession of small amounts of marijuana (less than four ounces) a "violation", punishable by a fine. The "bail amount" (fine) will be set by the state supreme court by court rule.

It is anticipated that the majority of new criminal cases under this bill would arise from situations where a State Trooper contacts a person on another matter, and the use or possession of marijuana is discovered during the contact. For this reason, we believe the fiscal impact of these additional cases can be absorbed within existing resources.

Prepared by: Francis C. Allan
Division: Alaska State Troopers

Phone: 269-5691
Date: 01/27/89

Approved by Commissioner: Arthur English
Agency: Department of Public Safety

Date: 1/30/89

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: "An Act amending the definition of the
 _____ offense of misconduct."
 Sponsor: State Affairs Committee
 Requestor: _____

Agency Affected: Department of Corrections
 BRU: _____
 Components: _____

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
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

This legislation will have no fiscal impact on the Department of Corrections.

Susan E. Knighton

Prepared by: Susan E. Knighton, Director Phone: 465-3376
 Division: Administrative Services Date: 2-1-89

Approved by Commissioner: Susan Humphrey - Barnett Date: 2-1-89
 Agency: Department of Corrections

Distribution (by preparer):

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

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Department of Law
 Title: "An Act ... making possession of
less than four ounces of marijuana illegal... BRU: Prosecution
 Sponsor: House State Affairs Components: All
 Requestor: House State Affairs

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-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see the attached analysis.

Prepared by: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: January 30, 1989
 Approved by Commissioner: Grace Berg Schaible, Attv. Gen. Date: January 30, 1989
 Agency: Department of Law

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 88

This bill amends AS 11.71 by making the personal possession of less than four ounces of marijuana illegal as the offense of misconduct involving a controlled substance in the seventh degree. Misconduct involving a controlled substance in the seventh degree is, under current state law, a violation punishable by a fine. The bill also provides that a law enforcement officer who stops or contacts a person for possession for a small amount of marijuana may issue a citation for that offense, and the person who receives the citation may waive a court appearance and remit a payment as satisfaction of the offense. This bill will not have a fiscal impact on the Department of Law because prosecution of violations does not usually involve the department's staff resources.