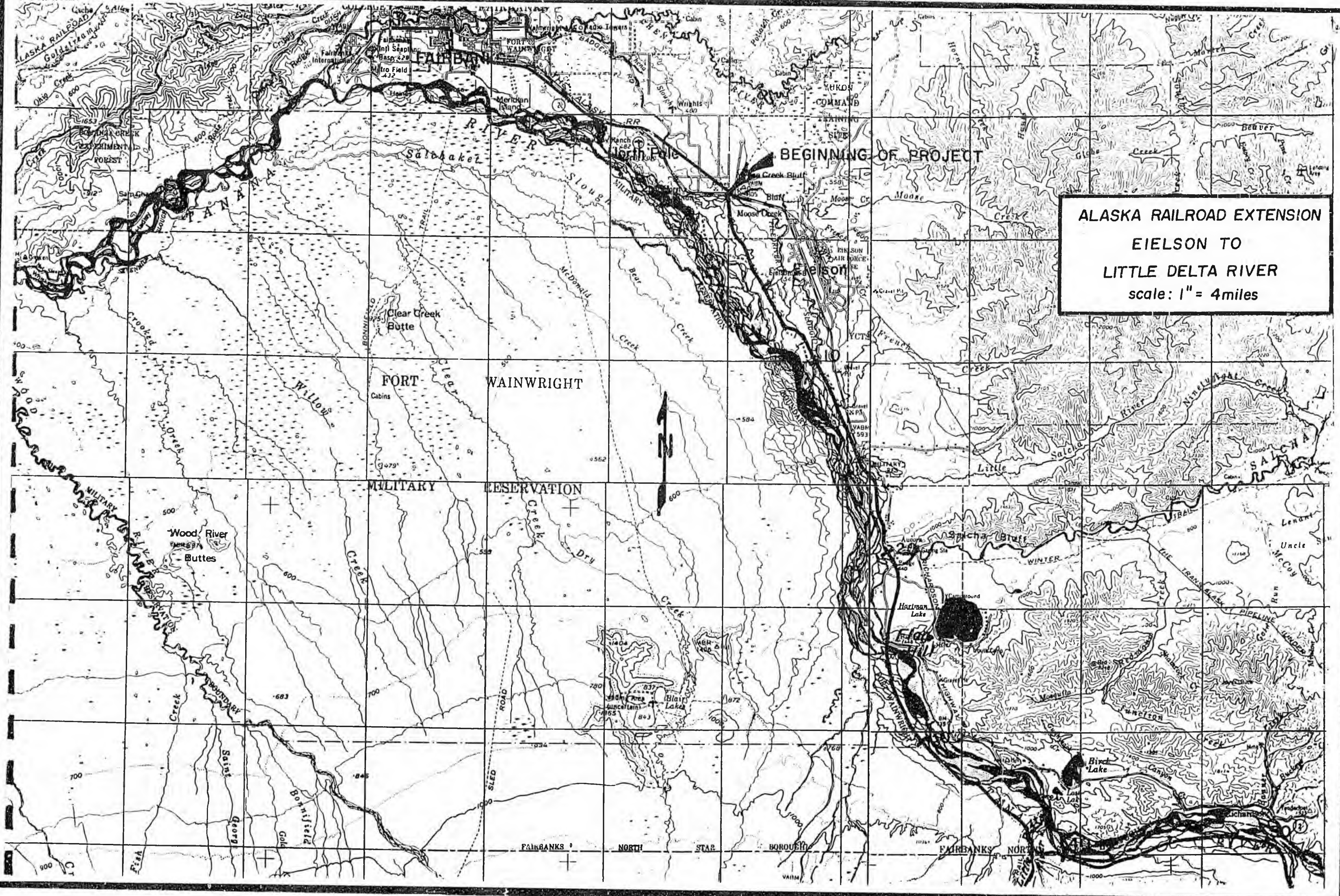


ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8179

HOUSE STATE AFFAIRS

444



ALASKA RAILROAD EXTENSION
EIELSON TO
LITTLE DELTA RIVER
scale: 1" = 4 miles

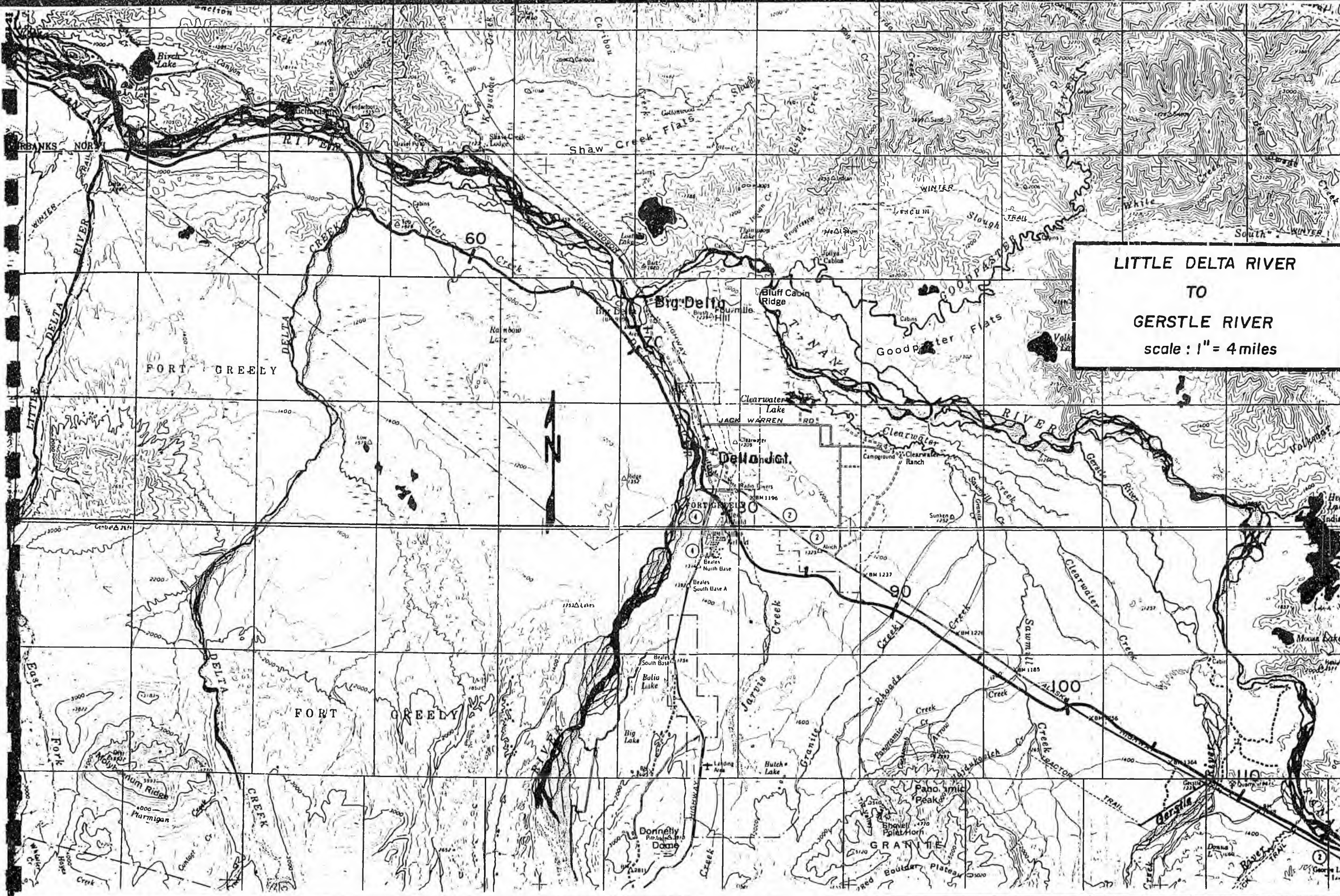
BEGINNING OF PROJECT

FORT WAINWRIGHT

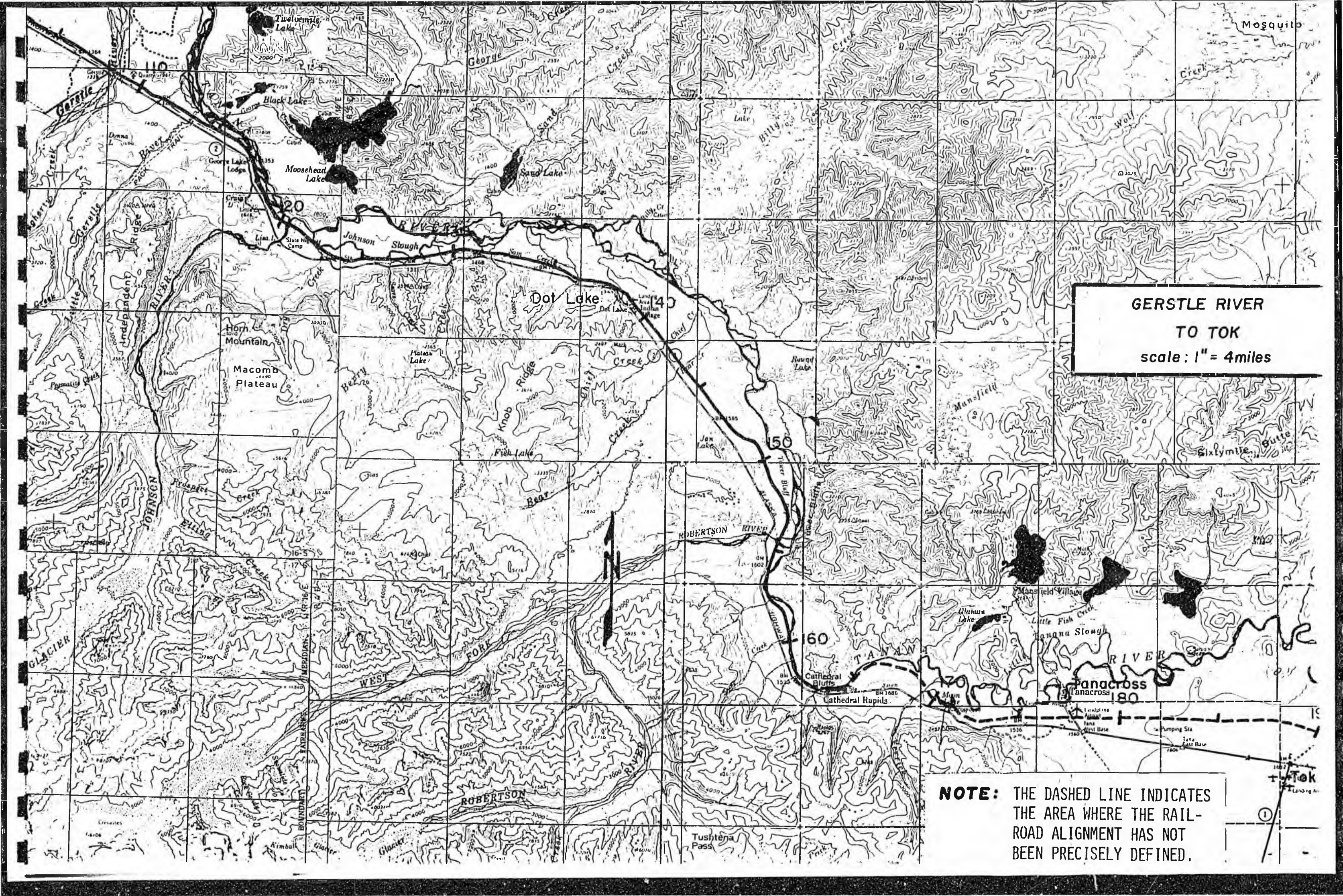
MILITARY RESERVATION

FAIRBANKS NORTH STAR BOROUGH

FAIRBANKS NORTH STAR BOROUGH

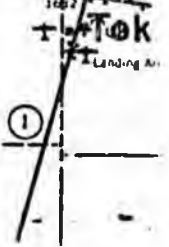


LITTLE DELTA RIVER
TO
GERSTLE RIVER
scale : 1" = 4 miles



**GERSTLE RIVER
TO TOK
scale: 1" = 4miles**

NOTE: THE DASHED LINE INDICATES THE AREA WHERE THE RAILROAD ALIGNMENT HAS NOT BEEN PRECISELY DEFINED.



SB

174



Official Business

Alaska State Legislature

SENATOR TIM KELLY

State Capitol
Juneau, AK 99801-1182

MEMORANDUM

TO: Representative Al Vezey, Chair
House State Affairs Committee

FROM: Senator Tim Kelly

DATE: April 19, 1993

RE: CS SB 174 (L&C) AM - Exempting Certain Taxicab Drivers from
Employment Laws

I would appreciate your scheduling SB 174 for a hearing before the House State Affairs Committee at the Committee's earliest convenience.

This legislation, introduced at the request of taxicab drivers, permit owners, dispatchers, and cab riders, would clarify the law to maintain the independent working status of taxi cab drivers who currently operate as independent contractors. (In fact, more than 177 drivers from Anchorage signed a petition or sent letters requesting this legislation. 291 drivers and cab rigers from Juneau, 15 drivers from Fairbanks, 20 drivers from Nome, and 16 drivers from Ketchikan.)

Specifically, SB 174 would amend existing law to clarify that taxicab drivers who receive compensation only from customers and whose relationship with permit owners, operators, or dispatch companies is based solely on a contractual flat fee payment by the driver, are exempt from the Alaska Wage and Hour Act, the Alaska Employment Security Act, and the Alaska Workers' Compensation Act. While taxicab drivers operating as "independent businessmen and women" have traditionally not been considered employees, this situation is threatened by recent findings and rulings from the Department of Labor. This bill would not affect those taxicab drivers who are compensated with a percentage of the drivers' receipts.

SB 174 was amended in the Senate Labor & Commerce Committee to incorporate two amendments suggested by the Department of Labor, as well as a severability provision and effective date. The committee substitute requires that the contractual arrangement between the driver and dispatcher or driver

Representative Al Vezey
Memorandum - CS SB 174 (L&C) AM
April 19, 1993
Page 2

and permit holder be in writing. In addition, it limits the retroactivity of the bill to investigations by the Employment Security Division in cases where a notice of determination has not yet been made.

This legislation was further amended on the floor of the Senate to stipulate that for a taxicab driver to be considered an independent operator exempt from the Wage & Hour Act, his or her contract with the permit owner, operator, or radio dispatch specifically provides that the contract places no restrictions on hours worked by the individual or on areas in which the individual may work except to comply with local ordinances.

My office has received overwhelming support from drivers, customers, dispatchers, and permit owners statewide for this legislation. CS SB 174 (L&C) will ensure independent taxicab drivers remain independent, prevent the lowering of compensation for all those involved in the taxicab industry, and maintain the availability of taxi service as an important mode of transportation.

For your reference I've attached an analysis and sectional, a legal opinion from Terry Cramer regarding the retrospective application of this bill, and a few sample letters from taxicab drivers indicative of their support for SB 174.

Thank you for your support.

M E M O R A N D U M

FROM: James T. Brennan

DATED: April 8, 1993

RE: Sectional Analysis of CS for SB 174, An Act Exempting Certain Taxicab Operators from Coverage Under the Alaska Wage and Hour Act, the Alaska Employment Security Act, and the Alaska Worker's Compensation Act; and Providing for an Effective Date

This bill was designed to correct unintended consequences resulting from agency and judicial interpretation of statutory definitions of "employee" in the context of taxicab drivers. These statutes have sometimes been construed to treat as "employers", subject to statutory employer obligations, individuals and businesses who pay no wage or other compensation to the taxicab drivers.

Section 1. This contains a statement of legislative intent to clarify the existing law regarding classification of taxicab drivers as independent contractors or employees, rather than to change the law from what the legislature previously intended it to mean. The statutory clarification contained in this bill is, in fact, consistent with substantial case law precedent from other states, as well as federal IRS treatment. The statute should therefore be viewed as a legislative correction to preclude misapplication of employer obligations upon taxicab companies, permit owners or operators who pay no compensation to drivers, and who share no set percentage of their receipts.

Section 2. Section 2 applies specifically to exempt certain described taxicab drivers from the Wage and Hour Act, by adding them to the existing exemption statute in that Act. The section provides a specific and strictly limited exemption from employee status, to only those taxicab drivers who are (1) exclusively compensated by customers, and not by a permit owner, operator, or dispatch company; and (2) who have written contracts, based upon flat contractual rates, e.g., a monthly lease rate or dispatch subscription fee, with the owners of the taxicab permits, vehicles, or dispatch services. By contrast, a taxicab company which shares 50% of a driver's receipts would be treated as an employer of the employee driver. By limiting application to the flat fee lease arrangement, there is no financial interest of the dispatch company or vehicle or permit owner in the driver's income, resulting in a pure independent contract relationship. The profits of the taxicab driver remain his business alone, and not that of the taxicab companies or permit owners or operators, where there is no right of these businesses to a set share of the driver's revenues.

Section 3. This adopts the same statutory definition as Section 2's for purposes of excluding the described taxicab drivers from the definition of "employment" for purposes of the Employment Security Act.

Section 4. This section includes within the "persons not covered" statute of the Worker's Compensation Act the taxicab drivers as described in Section 2.

Memorandum
April 8, 1993
page 3

Section 5. This section deletes a statutory exemption from the overtime statute of the Wage and Hour Act, which existed for an employee of an employer engaged in the business of operating taxicabs. That exemption would be superseded because it is treated more specifically by this bill.

Section 6. Under this section, if the Department of Labor, Employment Security Division has not yet made a notice of determination under AS 23.20.315 that an individual or business is an employer of a taxicab driver, then this statute will apply to all Employment Security Act determinations after the effective date of the statute, even if a particular employment status issue has already been the subject of an investigation. This bill would not, however, operate to set aside a notice of determination or other legal determination of employment status of taxicab drivers which has already been made before the effective date of this bill. In short, prior determinations of employer obligations for E.S.C. contributions, penalties, etc. would not be set aside. From the effective date of the bill forward, however, taxicab drivers satisfying the conditions of section 2 would henceforth be treated as independent contractors, for purposes of future employer obligations, even if such taxicab drivers had previously been held to be employees.

Memorandum
April 8, 1993
page 4

Section 7. This is to specifically reiterate the severability intent of the legislature, so that if any portion of this bill is held invalid, the remainder of the bill continues to be enforceable.

Section 8. Provides for an immediate effective date, consistent with the bill's intent to clarify existing law.

2753\031

FISCAL NOTE

No. 1

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO : Bill Version: SB 174

(S) Publish Date: 4-1-93

Revision Date:
Title: Exempting Cab Drivers from
Employment Law
Sponsor: Senators Kelly, Taylor
Requestor: Senate Labor & Commerce

Department Affected: Labor
BRU: Empl Sec, Work Comp, Labor Stnd & Saf
Component: Unemployment Insurance,
Workers' Compensation, Wage & Hour
COMPONENT SERIAL NO. 329, 344, 345

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
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 FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
-1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ None

<p>ANALYSIS: (Attach a separate page if necessary)</p>	<p>Changes in <u>CS SB 174(LAC)</u> have no fiscal impact. This fiscal note is appropriate.</p> <p style="text-align: center;"><u>4/1/93</u> date</p> <p style="text-align: center;"><u>APF</u> Comte Aide (initial)</p>
--------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Prepared by: Arbe Williams, Special Assistant Phone: 465-2700
Division: Commissioner's Office Date: 3/26/93

Approved by Commissioner: Charles W. Mahlen Date: 3/26/93
Agency: Department of Labor

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
For further distribution information call the Governor's Legislative Office

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

April 2, 1993

SUBJECT: Application of amendments to unemployment compensation law
(CSSB 174 (L&C) -- taxicab drivers)

TO: Senator Tim Kelly
Attention: Josh Fink

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have asked for a discussion concerning the retrospective application of the changes to unemployment compensation program in CSSB 174(L&C).

Section 3 of the bill amends AS 23.20.526(a), which lists exclusions from the definition of "employment" for the unemployment compensation program, to exclude certain taxicab operators. Section 6 of the bill applies that amendment to determinations concerning work done before the Act takes effect so long as the department has not issued a determination about whether the work should be treated as employment covered by the program. You have asked whether there are legal questions raised by applying the amendment in this fashion.

In my opinion, the bill would probably survive a legal challenge. AS 23.20.475 states

Sec. 23.20.475. AMENDMENT OR REPEAL. There may be no vested right of any kind against the state as the result of enactment, amendment, or repeal of this chapter.

I could not find any cases in which the Alaska Supreme Court interpreted or applied this provision. However, the courts in other states have applied similar language to give effect to amendments to the unemployment compensation program that were enacted after the employee had ended his or her employment but before the employee applied for unemployment compensation. In Moore v. Bureau of Unemployment Compensation, 56 N.E.2d 520 (Ohio 1943), the court applied the Ohio statute, which made the rights conferred by the state law "subject to the power of the general assembly to amend or repeal" the law at any time. The court found that a claimant who asserted a vested right to having benefits determined under the

Senator Tim Kelly

April 2, 1993

Page 2

law that existed at the time she had worked, and therefore made contributions to the system, was without merit because of the reservation of rights to the general assembly. See also In re Ohlbaum, 93 N.Y.S.2d 374 (1949) and Hagerty v. Administrator, Unemployment Compensation Act, 75 A.2d 406 (Connecticut, 1950).

In my opinion, the Alaska courts would apply the language of AS 23.20.475 to give effect to changes enacted by the legislature so long as rights to benefits had not actually been determined by the department.

Please let me know if I can be of further assistance.

TC:lmb

93-103.lmb

STEPHEN WRIGHT
P.O. BOX 210148
AUKE BAY, AK 99821

APRIL 9, 1993

AK STATE LEGISLATURE
STATE CAPITOL
JUNEAU, AK 99801

TO WHOM IT MAY CONCERN:

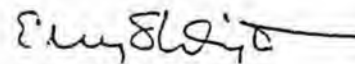
I AM WRITING TO EXPRESS MY SUPPORT FOR SENATE BILL 174 AND HOUSE BILL 233, WHICH WOULD EXEMPT INDEPENDENT TAXI CAB DRIVERS FROM BEING CLASSIFIED AS "EMPLOYEES" BY THE LABOR DEPARTMENT. THE PASSAGE OF THESE BILLS WILL STOP UNREASONABLE INVESTIGATIONS OF DISPATCH COMPANIES WHO HAVE INDEPENDENT CONTRACT DRIVERS AND ENSURE THE CONTINUED VIABILITY OF THE TAXI INDUSTRY.

I RECENTLY RELOCATED TO JUNEAU FROM DUTCH HARBOR FOR THE EXPRESS PURPOSE OF SETTLING DOWN AND STARTING MY OWN BUSINESS. I DECIDED TO PURCHASE A 1986 DODGE CARAVAN IN SEATTLE AND HAVE BROUGHT IT UP ON THE FERRY. I AM SUBSEQUENTLY APPLYING FOR MY BUSINESS LICENSE AND HAVE PROCURED THE NECESSARY PERMITS AND INSURANCE TO START UP MY BUSINESS AS AN INDEPENDENT CONTRACT DRIVER FOR TAKU GLACIER TAXI.

I HAVE TO DATE INVESTED SINCE JUNE OF 92, THE SUM TOTAL OF MY SAVINGS IN ORDER TO GO AHEAD WITH THIS PLAN BY THE END OF APRIL. THE FACT THAT CONTINUED FRICTION AND MISUNDERSTANDING BETWEEN THE LABOR DEPARTMENT AND THE TAXI CAB INDUSTRY MIGHT PRECLUDE MY BUSINESS AND FORCE MY RETURN TO DUTCH HARBOR IS I THINK UNJUST.

PLEASE UNDERSTAND HOW IMPORTANT THIS IS TO ME, AND TO THE MANY INDEPENDENT DRIVERS WHO HAVE SERVED YOU AND THE CITY OF JUNEAU FAITHFULLY OVER THE YEARS. I URGE YOUR IMMEDIATE SUPPORT AND THE SWIFT PASSAGE OF EITHER S.B. 174 OR H.B. 233. THANK YOU KINDLY FOR YOUR CONSIDERATION.

RESPECTFULLY,


STEPHEN WRIGHT

Cliff Walden
P.O. Box 34544
Juneau, Alaska 99803
(907) 789-7362
(907) 586-2772

March 10, 1993

Subject: The Department of Labor's attempt to establish an employer-employee relationship between the independent drivers and the radio dispatch service companies they choose to operate under.

To Whom It May Concern;

My name is Cliff Walden, my wife's name is Mary Anne Walden. As owner operators of two taxicabs, we have been in operation for approximately three years. We have chosen the taxi industry as a business for a number of reasons. These include:

1. We enjoy the opportunity to own our own business.
2. We have the flexibility to set our work schedules.
3. Our success is determined by our individual abilities and motivation.
4. Being independent operators instills pride in the appearance and condition of the equipment we own and operate.

Along with the other drivers in the Capital city, we want to remain independent operators and remain responsible for our individual businesses. Each of us has considerable amount of time and income invested. We are concerned for the future of our investments. If we became classified as employees, we are fearful that there would not be a radio dispatch service for our services. A necessary service to the community would be severely damaged. Therefore, we fully support legislation that would allow us to remain independent owners and operators. Your help and support would be greatly appreciated.

Sincerely,
Cliff Walden

We the undersigned, taxicab operators, support Senate Bill # 174 and House Bill # 233. As independent owners and operators we understand the purpose of this Act is to clarify existing law regarding the application of the Alaska Wage and Hour Act, the Alaska Employment Security Act, and the Alaska Workers' Compensation Act to taxicab drivers who receive compensation exclusively from customers and whose relationship with permit owners, operators, and dispatch companies is based solely on a contractual flat fee payment by the driver. We further understand that part-time baby-sitters, cleaning persons, entertainers on contract, and commercial fishermen are exempt from these acts, as they are independent contractors' as we have been, and would like to remain. We are asking for your help and support from you, our customers' and all Alaskans. Please help our industry by calling Senator Jim Duncan at 465-4766, Senator Dave Donley at 465-3892, Rep. Bill Hudson at 465-3744, Rep. Fran Ulmer at 465-4947, the Public Opinion Message line at 465-4648, or fax a message to 465-3756. We thank-you so much for your support.

Donn Eisenhower ZZF717, W. Allen Walton ZZF703, Gary Allen ZZF718, Chris Shipler ZZF733, Mike McRea ZZF723, George Carpenter ZZF737, Freeman Lafferty Jr. ZZF693, Neal Gabater ZZF675, Hank Mortell ZZF716, Paul J. Clark ZZF722, Dennis Brooks ZZF732, Mary C. Sabon ZZF722, Steve Baker ZZF715, Alfred W. Rugg ZZF725, Ray Webber ZZF655, Richard Conn ZZF738, Charles H. Brown ZZF693, Cliff Walden ZZF746, Allyn Moore ZZF698, Merrill L. Elkins ZZF639, Tim Howard ZZF729, Mary Anne Walden ZZF691, Ella Paddock ZZF721, Kenneth L. Jack ZZF728, David George ZZF721, John Ratigan ZZF745, Ernest P. Commodore ZZF630, Trey Capers ZZF660, Raymond D. Baker ZZF747, Gardener Doane ZZF740, Steve Phillips ZZF747, Troy S. Williams ZZF722, Bruce M. Hammond ZZF716, Kim M. Schaaf ZZF740, Emil Gary Buresh ZZF702, Dale Bean ZZF712, William Payne Jr. ZZF697, James L. Caudry ZZF738, Betty Leslie ZZF748, Darlene Carpenter ZZF748, Sarah Hottman ZZF748, Morgan Rasmussen ZZF740, AL BAKER ZZF735, Frank Tiffer ZZF731, Ray Winters ZZF626, Lloyd Dedrick ZZF701, Ron Laiti ZZF723, Glen Polzel ZZF721, Paul Leslie ZZF732

Ketchikan

WE, THE UNDERSIGNED WISH TO EXPRESS OUR SUPPORT FOR SENATE BILL 174 AND HOUSE BILL 233.

WE FULLY UNDERSTAND THE RAMIFACATIONS OF THIS LEGISLATION CONCERNING OUR RIGHTS.

WE OPERATE UNDER OUR OWN BUSINESS LICENSES. BUILD OUR OWN TRADE INDIVIDUALLY WITH THE PUBLIC. ARE PAID SOLEY BY THE PUBLIC, AND CONSIDER OURSELVES TO BE OUR OWN BOSSSES. PLEASE HELP US RETAIN OUR INDEPENDANT CONTRACTOR STATUS.

Peter Kennedy Jr

J. J. [unclear]

Hele N. Hull

Michael [unclear]

Gene A. Mullins

Doris S. DeChane

Erango Wallace

R.C. Feller

David [unclear]

Barney Olsen

Romay Olson

David J. Trail

Larry M. Long

Senator Tim Kelly
FAX 465-3756

April 9, 1993

Dear Senator:

I am an independent contractor of the taxi industry who is deeply troubled with the current turmoil going on between the Department of Labor and taxicab personnel.

We taxi people take great pride in being individual business operators and are especially proud of being a significant cog in providing sound community service and relations. Not to mention the actual impact we have on providing reliable tourist assistance and transportation when needed.

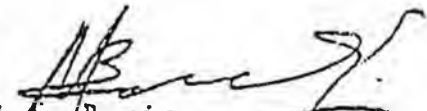
My forte has always been to work for myself, which I am presently able to do by independently contracting with a local taxicab owner/operator. I favor the status of handling my own business and desire it to remain so. I could care less about the benefits that employees get. Being able to only report to myself inspires me to excel in my daily actions, and I want to handle my own taxes and financial well-being.

Please don't let labor grab away our independent contractor status, which images the way of American democratic lifestyle mandated by our forefathers.

The passing of SB #174 will put an end to the problems we are currently experiencing in the taxi industry for all segments. We can then get back to doing business without disturbance, in our struggle to compete.

Your support of SB #174 would certainly be greatly appreciated.

Respectfully,



Mudy Borig
4343 San Ernesto #206B
3331644

March 25, 1993.

Senator Tim Kelly, Chairman
Senate Labor & Commerce Committee
Senate Capitol Room 101
Juneau AK 99801-1182

Dear Senator Kelly:

I have been driving Yellow Cab in Anchorage for the past twenty years. I remember some of my customers as Senator Stevens, Senator Murkowski and you dear Senator Kelly. In all of these years I have been an independent contractor leasing my taxicab from private owners. I do all my own finances and file Schedule C and SE with the IRS every year as a self employment taxed person.

I feel changing the present system of lessor/lessee into an employer/employee system will be cumbersome and unworkable as far as I am concerned. Other veteran cab drivers I have talked to express the same opinion.

I appreciate your time and concern Senator in helping us keep our livelihood as independent contractors.

Sincerely,



John Drescher
5901 E. 6th sp#243
Anchorage, AK 99504
333-7439

SB

186

HOUSE COMMITTEE REPORT

(7) [REDACTED]
 Date Referred: February 16, 1994

FURTHER REFERRAL [REDACTED]

Judiciary
Finance

Date of Committee Action: 3-8-94

The STATE AFFAIRS Committee considered:

SB 186 am

SENATE BILL NO. 186 am

STATE AGENCY PUBLICATIONS

"An Act relating to state agency publications."

RECOMMENDATIONS: the same title
 be replaced with HC 55B-186 (STA) a new title
 have attached amendments(s)
 do pass
 do not pass
 no recommendations
 individual recommendations
 additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____
 fiscal impact _____
 zero fiscal note _____

APPROVES PREVIOUS: (Dept/Date) _____
 fiscal note(s) _____
 zero fiscal note(s) ADM

SIGNING <u>DO PASS</u>	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				

[Signature]
 CHAIRMAN'S SIGNATURE

8-LS0973V
Bannister
3/4/94

HOUSE CS FOR SENATE BILL NO. 186()
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR FRANK

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to state agency publications."

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

3 * Section 1. AS 44.99.200 is repealed and reenacted to read:

4 Sec. 44.99.200. PRODUCTION OF PUBLICATIONS. The publications of a
5 state agency shall be produced at a facility located in the state when practicable, or if
6 at least three businesses in the state are capable of producing the publication. The
7 Department of Administration shall establish standards for the production of
8 publications by state agencies, except that the Board of Regents of the University of
9 Alaska shall establish the standards for the university. The standards shall be designed
10 to promote simplicity, low cost, and consistency. The standards shall also be designed
11 to promote the maximum use of private sector printing facilities located in the state.

12 * Sec. 2. AS 44.99.210 is amended to read:

13 Sec. 44.99.210. DISCLOSURES ON PUBLICATION. If [A PUBLICATION
14 OF A STATE AGENCY IS EXEMPTED UNDER AS 44.99.200(a) FROM BEING

1 PRODUCED AT A STATE-OPERATED FACILITY AND IF] the actual annual costs
 2 for a [THE] publication of a state agency that are paid from the general fund exceed
 3 \$1,500, the publication must include a statement that gives the name of the agency
 4 releasing the publication, the purpose of the publication, the cost for each copy of the
 5 publication, and the city and state where the printing was done. The statement must
 6 read: "This publication was released by . . . (name of state agency) . . . , produced at
 7 a cost of \$ per copy to . . . (statement of purpose) . . . , and printed in
 8 . (city and state where printed)." If the publication is required by law, the statement
 9 must also include: "This publication is required by . . . (appropriate citation to Alaska
 10 law)." The statement may include, if applicable, a declaration of the revenue raised
 11 by the sale of the publication or from the purchase of advertising in the publication.
 12 The statement shall be printed in one conspicuous place in the body of the publication
 13 in a type size that is not smaller than eight points and shall be placed in a box
 14 composed of at least one point rule. In this section, "cost for each copy" means the
 15 figure that results after dividing the total cost of producing the publication by the
 16 number of copies produced. This section does not apply to a publication that is
 17 intended primarily for foreign or other out-of-state use.

18 * Sec. 3. AS 44.99.240(2) is amended to read:

19 (2) "state agency" means
 20 [(A)] a department, institution, board, commission, division,
 21 authority, public corporation, or other administrative unit of the executive
 22 branch[, INCLUDING THE UNIVERSITY OF ALASKA] and the Alaska
 23 Railroad Corporation[;

24 (B) A COMMITTEE, DIVISION, OR ADMINISTRATIVE
 25 UNIT OF THE LEGISLATIVE BRANCH, INCLUDING THE ALASKA
 26 LEGISLATIVE COUNCIL, THE LEADERSHIP OF EACH HOUSE, AND
 27 THE OFFICE OF THE OMBUDSMAN;

28 (C) AN ADMINISTRATIVE UNIT OF THE JUDICIAL
 29 BRANCH, INCLUDING THE ALASKA JUDICIAL COUNCIL AND THE
 30 COMMISSION ON JUDICIAL CONDUCT].

31 * Sec. 4. AS 44.99.230 is repealed.



1-31-94

Dear Senator Frank,

This note is to inform you of our support of SB 186 with the following suggested change. Please delete line eleven (11) on page one (1) which reads, "When the use of Private sector printing facilities is the least expensive alternative." This portion of the bill allows publications to be overdesigned to the point that it is no longer economically feasible to print them in state. This bill would be much more effective if design standards were kept within the abilities of the printers in the state whenever possible.

Thank you for your support of this bill and your consideration of the private sector printing business.

Rob Nuss
General Manager
Northern Printing

CHAIRMAN, MEMBERS OF THE COMMITTEE, MY NAME IS RESA JERREL, AND I AM THE STATE DIRECTOR FOR THE NATIONAL FEDERATION OF INDEPENDENT BUSINESS - NFIB/ALASKA. I AM HAPPY TO BE HERE TODAY IN SUPPORT OF SB 186.

NFIB/ALASKA IS COMPRISED OF 4,400 SMALL AND INDEPENDENT BUSINESS OWNERS. THE LEGISLATIVE AGENDA OF NFIB/ALASKA IS DETERMINED BY OUR BALLOT. THE BALLOT IS OUR ANNUAL POLL OF OUR MEMBERS ON A SERIES OF ISSUES DEEMED CRITICAL TO SMALL BUSINESS. A MAJORITY VOTE, OF THE MEMBERS IN RESPONSE TO THE POLL, SETS OUR POLICY AND POSITION ON LEGISLATIVE ISSUES.

FOR THE RECORD THE FOLLOWING IS THE RESULT OF THE 1990 NFIB/ALASKA BALLOT QUESTION REGARDING GOVERNMENT COMPETITION:

Should legislation be passed that would restrict government agencies from competing with private business in Alaska?

Yes 83% No 6% Undecided 11%

CURRENT LAW REQUIRES PUBLICATIONS OF STATE AGENCIES TO BE PRODUCED AT A STATE OPERATED FACILITY WHENEVER POSSIBLE. THIS PUTS THE STATE IN DIRECT COMPETITION WITH SMALL BUSINESSES. IT ALSO, PUTS SMALL BUSINESSES AT A DISTINCT DISADVANTAGE IF THEY WANT TO DO BUSINESS WITH THE STATE.

SB 186 REPEALS THAT LAW AND SHIFTS THE PREFERENCE FROM STATE OPERATED PRINTING FACILITIES TO PRIVATELY OWNED BUSINESSES. NFIB/ALASKA BELIEVES THAT SB 186 WILL HELP LIMIT THE SIZE AND COST OF STATE GOVERNMENT AND FOSTER ECONOMIC GROWTH IN THE PRIVATE SECTOR.

ALTHOUGH IT DOES NOT ELIMINATE COMPETITION FROM OTHER STATE OR LOCAL AGENCIES WHOSE COMMERCIAL ACTIVITIES RANGE FROM GIFT SHOPS TO

DAY CARE AND VIDEO OUTLETS - IT IS CERTAINLY A BIG STEP IN THE RIGHT DIRECTION.

THANK YOU FOR THE OPPORTUNITY TO BE HERE TODAY AND TO SUPPORT THIS WORTHY LEGISLATION. I WOULD URGE YOU TO MOVE THE BILL OUT OF COMMITTEE SO WE CAN, HOPEFULLY, SEE IT BECOME LAW THIS YEAR. IF YOU HAVE ANY QUESTION, I WOULD BE HAPPY TO TRY AND ANSWER THEM.

HOUSE COMMITTEE REPORT

2/18/94

(7)

Date Referred: May 6, 1993

FURTHER REFERRALS:

State Affairs
Judiciary
Finance

Date of Committee Action: 2/17

The LABOR AND COMMERCE Committee considered:

SB 186 am

SENATE BILL NO. 186 am

STATE AGENCY PUBLICATIONS

"An Act relating to state agency publications."

RECOMMENDATIONS: the same title
be replaced with _____ a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal impact _____

fiscal note(s) _____

zero fiscal note Admin.

zero fiscal note(s) _____

SIGNING <u>DO</u> PASS	DP	<u>OTHER</u> RECOMMENDATIONS	DNP	NR	AM
<i>Bruce Porter</i> Porter	✓				
<i>Joe Sifton</i> Sifton	✓				
<i>Edon Mulder</i> Mulder	✓				
<i>Chris Green</i> Green	✓				
<i>Bill Hudson</i> Hudson	✓				
	(5)				

Bill Hudson Hudson
CHAIRMAN'S SIGNATURE

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 3, 1994

SUBJECT: Sectional summary of SB 186 (Work Order No. 8-LS0973\A)

TO: Senator Steve Frank
Attn: Allie
JB

FROM: Theresa L. Bannister
Legislative Counsel

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

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1. Requires state agency publications to be produced in the state when practicable. Directs the Department of Administration to establish standards for state agency production publication, except that the University of Alaska Board of Regents is directed to establish the standards for the university. Establishes criteria for the standards.

Section 2. Requires a state agency publication to contain certain disclosures if the actual annual costs of the publication that are paid from the general fund exceed \$1,500. Allows the publication to include in the disclosure statement a declaration of the revenue raised from the sale of the publication and the advertising in the publication. Establishes certain printing criteria for the disclosures. States that this section does not apply to a publication that is intended primarily for out-of-state use.

Section 3. Repeals the current statute relating to the standards for the production of state agency publications.

If I may be of further assistance, please advise.

TLB:gc
94-081.glc

GRAPHICNOTES

January 31, 1994

Senator Steve Frank
State Capitol
Mail Stop 3100
Juneau, Alaska 99811

Dear Senator Frank;

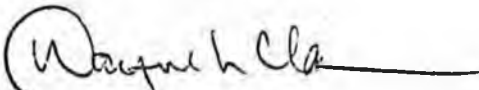
This letter is a follow up letter in support of Senate Bill 186 that changes the wording of the law so that private sector print shops are utilized first in printing state jobs. There has been a lot of public comment on this subject and I have yet to hear anyone in support of state operated print shops being more efficient or cost effective.

The operation of a print shop today is one of utilizing new technology and highly trained operators. In-plant shops across America are constantly being replaced because they are not cost efficient, so I certainly support the changing of the wording AS44.99.200 to "the publications of a state agency shall be produced at a private sector facility."

It is also my understanding that the original writers of the bill have stated that they support this change.

Thank you for your interest and support on this subject and if I can do anything else in support of this, please let me know.

Sincerely,


Wayne L. Clark



1-31-94

Dear Senator Frank,

This note is to inform you of our support of SB 186 with the following suggested change. Please delete line eleven (11) on page one (1) which reads, "When the use of Private sector printing facilities is the least expensive alternative." This portion of the bill allows publications to be overdesigned to the point that it is no longer economically feasible to print them in state. This bill would be much more effective if design standards were kept within the abilities of the printers in the state whenever possible.

Thank you for your support of this bill and your consideration of the private sector printing business.

Rob Nuss
General Manager
Northern Printing



NORSTAR

COLOR PREPRESS SERVICES

RECEIVED
Senator Steve Frank, Co-Chair
Senate Finance Committee
Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

2-1-94

Dear Senator Frank,

As a company doing business in the printing/graphic arts industry in Alaska, we are in general support of Senate Bill #186.

We do have concerns about the wording in some areas. The concept of line 11 suggests that we in the Alaskan private sector be awarded jobs only when it is "the least expensive alternative". This idea is a slap in the face of crafts people doing quality work in this state. As I'm sure you are aware, there should always be several factors involved in any buying decision. Price is only one.

The only reason our company purchases anything outside is if it is not available here. Anything that can be purchased locally is, because we understand the importance of "Buy Alaska" and we encourage the State to embrace this simple pro business theme.

Sincerely,

Michael D. Gifford
President/Owner Norstar Color

Advance Printing Company

2780 Elvira Avenue
North Pole, Alaska 99705
Phone: 488-2515 • Fax: 488-7245

January 31, 1994

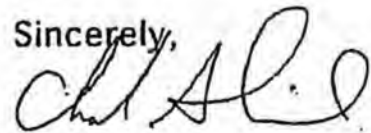
Senator Steve Frank
State Capitol
Mail Stop 3100
Juneau, Alaska 99811

Re: SB 186

Dear Senator Frank,

I congratulate you on your efforts to amend AS 44.99.200 repealing the section which mandates "State-operated printing facility preference" and replacing it with the language which gives high priority to private sector Alaskan printers. As you well know, free enterprise fuels this economy and small businesses create jobs. Competition and the open bidding system keeps pricing down and allows work to go to the low Alaskan bidder. Lets keep the government out of (the printing) business and let the private-sector free market system work (because it does work) the way it is intended. Keep up the good work and continue to fight the good fight.

Sincerely,



Charles A. Lincoln

the Print Shop

1025 Blair Road
Fairbanks, Alaska 99701
(907) 452-6540

1/31/94

SENATOR Frank:

With the passage of HB75 Alaskan businesses suffered. I am not a large printing company, but I noticed the drop from a small amount printing for the University to NO printing. I used to at least get to bid on projects that needed to be printed, and that has now completely stopped.

I am friends with some of the people who work at the University Print Shop and they tell be the politics in the plant are just about unreal. I have even had two of the individuals ask me if I had any job openings, even though I could not match the hourly salary and benefits they were ready to leave.

It is my feeling that SB186 will stabilize an already shaky printing economy. I sincerely hope you give all your support to get this bill through committee and then through the Senate.

Thank You,

Rich Jones
Rich Jones

SB

1900

FISCAL NOTE

No. 1

STATE OF ALASKA 1994 LEGISLATIVE SESSION

BILL 1

Bill Version: SB 190

(S) Publish Date: 2-28-94

Revision Date:

Use: Enforcement of Support Orders

Dept. Affected: Revenue

BRU: Child Support Enforcement Division

Component: Child Support Enforcement Division

Sponsor: Senate Judiciary Committee

Requestor: Senate Judiciary Committee

COMPONENT SERIAL NO. 111

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	71.6	147.3	104.5	0.0	0.0	0.0
TRAVEL				0.0	0.0	0.0
CONTRACTUAL	14.6	29.1	21.8	0.0	0.0	0.0
SUPPLIES	2.0	4.0	3.0	0.0	0.0	0.0
EQUIPMENT	20.8	41.5	31.2	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS				0.0	0.0	0.0
TOTAL OPERATING	109.0	221.9	160.5	0.0	0.0	0.0

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

REVENUE FUND SOURCE:	60.0	60.0	60.0	0.0	0.0	0.0
----------------------	------	------	------	-----	-----	-----

FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
4 GF	109.0	221.9	160.5	0.0	0.0	0.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other 1016 Fed Incent						
TOTAL	109.0	221.9	160.5	0.0	0.0	0.0

POSITIONS:

FULL-TIME	2	4	3	0	0	0
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: \$ 0.0

ANALYSIS: (Attach a separate page if necessary.)

Section 101 of the Family Support Act of 1988 (P.L. 100-485) requires that all child support orders issued by the courts after January 1, 1994 include a provision for immediate income withholding unless an exemption is granted by the court because there is good cause or an alternative written agreement by the parties and approved by the court. The intent of this provision of the Family Support Act is to provide the mechanism for collecting child support through wage withholding without applying for services from Child Support Enforcement Division (CSED). This requires CSED to provide payment only services for orders where neither party has applied for services or is receiving AFDC. This payment only processing and record keeping would require additional personnel to set up case files, process payments, audit cases and review cases for cost of living adjustments. The services required for these cases are not eligible for federal financial participation and must be funded by the state. The state may charge fees for his service and recover the full cost of administering the requirement. (continued)

Prepared by: Mary Gay, Director *Mary Gay (usa)*
 Division: Child Support Enforcement Division
 Approved by Commissioner: Darrel J. Rexwinkel *Darrel J. Rexwinkel*
 cy: Department of Revenue

Phone: 263-6270
 Date: 2/21/94
 Date: 2/21/94

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

or's Legislative Office

changes in CSM SB 190 (JIP)
 have no fiscal impact. This
 fiscal note is appropriate.
 2/25/94 *Re [Signature]*

FISCAL NOTE

No. 2

STATE OF ALASKA
1994 LEGISLATIVE SESSION

B

Bill Version: CSSB 190 (FIN)

(S) Publish Date: 4-6-94

Revision Date: April 4, 1994

Dept. Affected: Revenue

Title: Enforcement of Support Orders

BRU: Child Support Enforcement Division

Component: Child Support Enforcement Division

Sponsor: Senate Judiciary Committee

Requestor: Senate Finance Committee

COMPONENT SERIAL NO. 111

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	71.6	71.6	71.6	71.6	71.6	71.6
TRAVEL						
CONTRACTUAL	14.6	14.6	14.6	14.6	14.6	14.6
SUPPLIES	2.0	2.0	2.0	2.0	2.0	2.0
EQUIPMENT	20.8	20.8	20.8	20.8	20.8	20.8
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	109.0	109.0	109.0	109.0	109.0	109.0

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

REVENUE FUND SOURCE:	60.0	60.0	60.0	60.0	60.0	60.0
----------------------	------	------	------	------	------	------

FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	109.0	109.0	109.0	109.0	109.0	109.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other 1016 Fed Incent						
TOTAL	109.0	109.0	109.0	109.0	109.0	109.0

POSITIONS:

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

Estimate of current year (FY94) impact: \$ 0.0

ANALYSIS: (Attach a separate page if necessary.)
 Section 101 of the Family Support Act of 1988 (P.L. 100-485) required that all child support orders issued by the courts after January 1, 1994 include a provision for immediate income withholding unless an exemption is granted by the court because there is good cause or an alternative written agreement by the parties and approved by the court. The intent of this provision of the Family Support Act is to provide the mechanism for collecting child support through wage withholding without applying for services from Child Support Enforcement Division (CSED). This requires CSED to provide payment only services for orders where neither party has applied for services or is receiving AFDC. This payment only processing and record keeping would require additional personnel to set up case files, process payments, audit cases and review cases for cost of living adjustments. The services required for these cases are not eligible for federal financial participation and must be funded by the state. The state will charge fees for this service to recover partial costs of administering the requirement. (continued)

Prepared by: Mary Gav. Director
 Division: Child Support Enforcement Division
 Approved by Commissioner: Darrel J. Rexwinkel
 Agency: Department of Revenue

Phone: 262-6270

Date: 4/6/94

Date: 4/6/94

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

CORRECTION

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

FISCAL NOTE

No. 1

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL 1

Bill Version: SB 190

(S) Publish Date: 2-28-94

Revision Date:

Dept. Affected: Revenue

Title: Enforcement of Support Orders

BRU: Child Support Enforcement Division

Component: Child Support Enforcement Division

Sponsor: Senate Judiciary Committee

Requestor: Senate Judiciary Committee

COMPONENT SERIAL NO. 111

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	71.6	147.3	104.5	0.0	0.0	0.0
TRAVEL				0.0	0.0	0.0
CONTRACTUAL	14.6	29.1	21.8	0.0	0.0	0.0
SUPPLIES	2.0	4.0	3.0	0.0	0.0	0.0
EQUIPMENT	20.8	41.5	31.2	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS				0.0	0.0	0.0
TOTAL OPERATING	109.0	221.9	160.5	0.0	0.0	0.0

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

REVENUE FUND SOURCE:	60.0	60.0	60.0	0.0	0.0	0.0
----------------------	------	------	------	-----	-----	-----

FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
4 GF	109.0	221.9	160.5	0.0	0.0	0.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other 1016 Fed Incent						
TOTAL	109.0	221.9	160.5	0.0	0.0	0.0

POSITIONS:

FULL-TIME	2	4	3	0	0	0
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: \$ 0.0

ANALYSIS: (Attach a separate page if necessary.)

Section 101 of the Family Support Act of 1988 (P.L. 100-485) requires that all child support orders issued by the courts after January 1, 1994 include a provision for immediate income withholding unless an exemption is granted by the court because there is good cause or an alternative written agreement by the parties and approved by the court. The intent of this provision of the Family Support Act is to provide the mechanism for collecting child support through wage withholding without applying for services from Child Support Enforcement Division (CSED). This requires CSED to provide payment only services for orders where neither party has applied for services or is receiving AFDC. This payment only processing and record keeping would require additional personnel to set up case files, process payments, audit cases and review cases for cost of living adjustments. The services required for these cases are not eligible for federal financial participation and must be funded by the state. The state may charge fees for his service and recover the full cost of administering the requirement. (continued)

Prepared by: Mary Gay, Director *Mary Gay*
 Division: Child Support Enforcement Division
 Approved by Commissioner: Darrel J. Rexwinkel *Darrel J. Rexwinkel*
 Department of Revenue

Phone: 263-6270
 Date: 2/21/94
 Date: 2/21/94

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

Director's Legislative Office

changes in CSA SB 190 (JUP)
 have no fiscal impact. This
 fiscal note is appropriate.
2/25/94

PROFESSIONAL SERVICES:

The Division will need 9 additional positions over three years. The Division will need 2 positions in FY 95, 4 positions in FY 96 and 3 positions in FY 97. Positions required for FY 95:

One Accounting Clerk III to receipt payments.

One Clerk IV to set up and maintain case files.

CONTRACTUAL:

Additional cost of long distance telephone service, postage and space rent for the positions.

SUPPLIES:

Additional supplies for the additional positions to include paper, pens, folders, envelopes etc.

EQUIPMENT:

The following is a breakdown of equipment per new position:

Computer	\$5,760
Office Modular Furniture	\$3,435
Phone equip & service	<u>\$1,191</u>
Total	\$10,457

REVENUES:

It is planned that the Division, through regulation, would impose fees for this payment processing service. The suggested fee would be \$10 per month per case. At this time, it is estimated that the Division will receive approximately 500 new cases per year.

This legislation is required for federal approval of Alaska's State Plan for Child Support Enforcement. A delay in enactment of this legislation could result in cessation of federal reimbursement of expenditures for Alaska's child support program and possible financial sanctions to Alaska's Aid to Families with Dependant Children program.

FISCAL NOTE

No. 2

STATE OF ALASKA
1994 LEGISLATIVE SESSION

E

Bill Version: CSSB 190 (FIN)

(S) Publish Date: 4-6-94

Revision Date: April 4, 1994
 Title: Enforcement of Support Orders
 Sponsor: Senate Judiciary Committee
 Requestor: Senate Finance Committee

Dept. Affected: Revenue
 BRU: Child Support Enforcement Division
 Component: Child Support Enforcement Division

COMPONENT SERIAL NO. 111

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	71.6	71.6	71.6	71.6	71.6	71.6
TRAVEL						
CONTRACTUAL	14.6	14.6	14.6	14.6	14.6	14.6
SUPPLIES	2.0	2.0	2.0	2.0	2.0	2.0
EQUIPMENT	20.8	20.8	20.8	20.8	20.8	20.8
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	109.0	109.0	109.0	109.0	109.0	109.0
CAPITAL						
REVENUE FUND SOURCE:	60.0	60.0	60.0	60.0	60.0	60.0

FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	109.0	109.0	109.0	109.0	109.0	109.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other 1016 Fed Incent						
TOTAL	109.0	109.0	109.0	109.0	109.0	109.0

POSITIONS:

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

Estimate of current year (FY94) impact: \$ 0.0

ANALYSIS: (Attach a separate page if necessary.)
 Section 101 of the Family Support Act of 1988 (P.L. 100-485) required that all child support orders issued by the courts after January 1, 1994 include a provision for immediate income withholding unless an exemption is granted by the court because there is good cause or an alternative written agreement by the parties and approved by the court. The intent of this provision of the Family Support Act is to provide the mechanism for collecting child support through wage withholding without applying for services from Child Support Enforcement Division (CSED). This requires CSED to provide payment only services for orders where neither party has applied for services or is receiving AFDC. This payment only processing and record keeping would require additional personnel to set up case files, process payments, audit cases and review cases for cost of living adjustments. The services required for these cases are not eligible for federal financial participation and must be funded by the state. The state will charge fees for this service to recover partial costs of administering the requirement. (continued)

Prepared by: Mary Gav, Director
 Division: Child Support Enforcement Division
 Approved by Commissioner: Darrel J. Rexwinkel
 Agency: Department of Revenue

Phone: 263-6270
 Date: 4/6/94

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

(continuation of Fiscal Note)

PROFESSIONAL SERVICES:

The Division will need 2 additional positions for the next year. It is not known at this time if additional positions will be needed beyond FY95 as it is difficult to judge what the impact will be. Positions required for FY 95:

One Accounting Clerk III to receipt payments.

One Clerk IV to set up and maintain case files.

CONTRACTUAL:

Additional cost of long distance telephone service, postage and space rent for the positions.

SUPPLIES:

Additional supplies for the additional positions to include paper, pens, folders, envelopes etc.

EQUIPMENT:

The following is a breakdown of equipment per new position:

Computer & Software	\$5,760
Workstation Furniture	\$3,506
Phone equip & service	<u>\$1,191</u>
Total	\$10,457

REVENUES:

This legislation is required for federal approval of Alaska's State Plan for Child Support Enforcement. A delay in enactment of this legislation could result in cessation of federal reimbursement of expenditures for Alaska's child support program and possible financial sanctions to Alaska's Aid to Families with Dependant Children program.

Federal financial participation is not provided for payment processing services. Therefore, it is planned that the Division, through regulation, will impose fees. The suggested fee will be \$10 per month per case. At this time, it is estimated that the Division will receive approximately 500 NON-IV-D (payment processing only) cases per year.

The fees CSED will charge for payment collection/disbursement and record keeping for the NON-IV-D cases will be shared 50/50. CSED will also send both parties a notice, upon receipt of their order from the court, that payments will be processed by CSED and that there is a fee for the service. CSED would also advise that the service is to provide payment processing only. The fee will be added to the child support for the obligor and deducted from the payment to the obligee. The court could include the fee information during the process of establishing the child support order.

FISCAL NOTE

No. 5

Pill Version: CSSB 190 FIN

(S) Publish Date: 4-12-94

STATE OF ALASKA
94 LEGISLATIVE SESSION

BILL N

Revision Date: April 11, 1994
 Title: Enforcement of Support Orders
 Sponsor: Senate Judiciary Committee
 Requestor: Senate Finance

Dept. Affected: Revenue
 BRU: Child Support Enforcement Division
 Component: Child Support Enforcement Division
 COMPONENT SERIAL NO. 111

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	71.6	71.6	71.6	71.6	71.6	71.6
TRAVEL						
CONTRACTUAL	9.6	9.6	9.6	9.6	9.6	9.6
SUPPLIES	2.0	2.0	2.0	2.0	2.0	2.0
EQUIPMENT	20.8	20.8	20.8	20.8	20.8	20.8
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	104.0	104.0	104.0	104.0	104.0	104.0

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

REVENUE FUND SOURCE:	60.0	60.0	60.0	60.0	60.0	60.0
----------------------	------	------	------	------	------	------

FUNDING:

(Thousands of Dollars)

1003 Federal Receipts						
1003 GF Match						
1004 GF	109.0	109.0	109.0	109.0	109.0	109.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other 1016 Fed Incent						
TOTAL	109.0	109.0	109.0	109.0	109.0	109.0

POSITIONS:

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

Estimate of current year (FY94) impact: \$ 0.0

ANALYSIS: (Attach a separate page if necessary.)
 Section 101 of the Family Support Act of 1988 (P.L. 100-485) required that all child support orders issued by the courts after January 1, 1994 include a provision for immediate income withholding unless an exemption is granted by the court because there is good cause or an alternative written agreement by the parties and approved by the court. The intent of this provision of the Family Support Act is to provide the mechanism for collecting child support through wage withholding without applying for services from Child Support Enforcement Division (CSED). This requires CSED to provide payment only services for orders where neither party has applied for services or is receiving AFDC. This payment only processing and record keeping would require additional personnel to set up case files, process payments, audit cases and review cases for cost of living adjustments. The services required for these cases are not eligible for federal financial participation and must be funded by the state. The state will charge fees for this service to recover partial costs of administering the requirement. (continued)

Prepared by: Mary Gay, Director
 Division: Child Support Enforcement Division
 Approved by Commissioner: Darrel J. Rexwinkel
 Agency: Department of Revenue

Phone: 263-6270
 Date: 4/12/94

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

(continuation of Fiscal Note)

PROFESSIONAL SERVICES.

The Division will need 2 additional positions for the next year. It is not known at this time if additional positions will be needed beyond FY95 as it is difficult to judge what the impact will be. Positions required for FY 95:

One Accounting Clerk III to receipt payments.

One Clerk IV to set up and maintain case files.

CONTRACTUAL.

Additional cost of long distance telephone service, postage and space rent for the positions.

SUPPLIES.

Additional supplies for the additional positions to include paper, pens, folders, envelopes etc.

EQUIPMENT:

The following is a breakdown of equipment per new position:

Computer	\$5,760
Office Modular Furniture	\$3,435
Phone equip & service	\$1,191
Total	<u>\$10,457</u>

REVENUES:

This legislation is required for federal approval of Alaska's State Plan for Child Support Enforcement. A delay in enactment of this legislation could result in cessation of federal reimbursement of expenditures for Alaska's child support program and possible financial sanctions to Alaska's Aid to Families with Dependant Children program.

Federal financial participation is not provided for payment processing services. Therefore, it is planned that the Division, through regulation, will impose fees. The suggested fee will be \$10 per month per case. At this time it is estimated that the Division will receive approximately 500 NON-IV-D (payment processing only) cases per year.

The fees CSED will charge for payment collection/disbursement and record keeping for the NON-IV-D cases will be shared 50/50. CSED will al

This legislation is required for federal approval of Alaska's State Plan for Child Support Enforcement.

FISCAL NOTE

No. 3

Bill Version: CSSB 197 (FIN)

(S) Publish Date: 4-6-94

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Revision Date: _____
Title: An Act relating to income withholding
and other methods of enforcement for orders of child support
Sponsor: Senate Judiciary by request
Requestor: _____

Dept. Affected: Alaska Court System
BRU: Trial Courts
Components: _____
COMPONENT SERIAL NO. 768

EXPENDITURES/REVENUES (Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	31.7	31.7	31.7	31.7	31.7	31.7
TRAVEL						
CONTRACTUAL	2.0	2.0	2.0	2.0	2.0	2.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	33.7	33.7	33.7	33.7	33.7	33.7

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	33.7	33.7	33.7	33.7	33.7	33.7
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	33.7	33.7	33.7	33.7	33.7	33.7

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY 94) cost: \$ None

ANALYSIS: (Attach a separate page if necessary)
See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel *CSC* Phone: 284-8228
Agency: Alaska Court System Date: 03/15/94

Approved by: Arthur H. Snowden, II, Administrative Director *AS* *CSC* Date: 03/15/94
Agency: Alaska Court System

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

5-5-92
Court System
p. 2

SB-190 Fiscal Note

Although their cost has not been quantified in this fiscal note, the following sections of this bill will also cause unnecessary additional work for the court:

- Section 6 authorizes employers to send notice to the court when an employee terminates employment. This causes unnecessary additional filing for the court and appears to serve no purpose because the court does not do anything with this information.
- Section 8 similarly creates additional filing for the court by providing that obligors may file their required notice of current employment, etc. with the court. Again, the court would do nothing with this information.
- Section 8 also appears to require court hearings to review parties written agreements for alternative arrangements. Such hearings should not be required if the judge can decide this issue without a hearing.

The above sections, and others, cause unnecessary additional work for the court which could be eliminated by changes in the bill. These changes would not be inconsistent with federal requirements.

Alaska Court System
Fiscal Analysis
CSSB 190 (JUD)

The court system anticipates being able to implement this legislation by 7/1/94. The bill affects all child support orders issued starting 1/1/94 and will require review of all orders issued from 1/1/94 through 6/30/94. During 1993, 3,727 child support orders were issued. It is estimated that with the same rate of disposition, 1,864 orders will be issued during the first six months of 1994 and will require processing by the court system. This fiscal analysis divides the new responsibilities for the court system into two parts - retroactive work and on-going work. The court system has estimated the impact of the retroactive requirements, but cannot estimate at this time the on-going work costs.

Personal Services

	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
<u>Retroactive file processing required by legislation</u>			
Court Clerk II, range 10A, permanent part-time, 6 months, Anchorage	\$12,006	\$5,710	\$17,716
<i>Clerical staff will be required to pull and review an estimated 1,864 files issued from 1/1/94 through 6/30/94. An Anchorage divorce master estimates that 50% or 932 of the child support orders will require preparation and mailing of notices to both parties and a complete retyping of the child support order. This process is estimated to require 1/2 hour of clerical time for each child support order.</i>			
Pro Tem Superior Court Judge, fully vested, permanent part-time, 4 months, Anchorage	\$8,050	\$5,912	\$13,962

It is estimated that 50% of the 932 (above) or 466 child support orders will require a court hearing, lasting approximately 1/2 hour each. All 932 of the new child support orders will require judicial review and signature, which will take approximately 1/4 hour each.

Ongoing requirements of legislation

It is not possible to accurately estimate the additional resources needed for the on-going requirements of this legislation. However, judicial staff will be needed for each withholding order hearing. These hearings are estimated to last approximately 1/2 hour each. The legislation also will result in large amounts of paperwork for the court clerical staff to process and file. With the stringent time requirements of this legislation, court staff must be diverted from other duties to process child support matters. It is anticipated that the staff needed for the retroactive work will continue during the on-going period.

Contractual

Postage for mailing notices and notifying all attorneys of changes - retroactive period 2,000

Other Costs

The court system anticipates, but has not estimated, additional costs for designing and printing notices, meetings of the forms committee to design and develop new forms and procedures, and for mailing forms and notices to the parties to child support cases.

Estimated initial costs of the legislation

\$33,678

FISCAL NOTE

Bill Version: CS SB 190(FIN)

(S) Publish Date: 4-11-94

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Revision Date: 04/11/94 Dept. Affected: Alaska Court System
 Title: An Act relating to income withholding BRU: Trial Courts
and other methods of enforcement for orders of child support Components: _____
 Sponsor: Senate Judiciary by request
 Requestor: _____ COMPONENT SERIAL NO. 768

EXPENDITURES/REVENUES (Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1008 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY 94) cost: \$ None

ANALYSIS: (Attach a separate page if necessary)
No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel Phone: 264-8228
 Agency: Alaska Court System Date: 04/11/94

Approved by: Arthur H. Snowden, II, Administrative Director Date: 04/11/94
 Agency: Alaska Court System

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

Letter of Intent

OFFERED IN THE SENATE

BY SENATOR KELLY

TO: CSSB 190 (FIN) Draft 8-LS1001/U

Apart from the statutory changes enacted in this bill, the legislature wishes to convey its intent that the Child Support Enforcement Division distinguish between obligors, employers and others who voluntarily meet their support, withholding or other obligations under this chapter and those who do not. To the extent allowed by this chapter and federal law, this distinction should be actively reflected in all agency communications as well as in the nature, extent and timing of enforcement actions, subject to reasonable precautions to avoid uncollectability of funds necessary for support.

*Adopted by the Senate 4/11
4/14*

Region X
M/S ~~px~~-34
2201 Sixth Avenue
Seattle, WA 98121

APR 1 1993

MAR 30 1993

APR 28 1994

CSED

RECEIVED
APR 02 1993

CSED-DIRECTOR

Mary Gay, Director
Alaska Child Support
Enforcement Division
Revenue Division
550 West 7th, Suite 410
Anchorage, Alaska 99501-3556

Dear Ms. Gay:

We have received and reviewed the documentation submitted to our office dated September 30, 1992.

As noted on the enclosed preprint page 2.12-10-1: Review and Adjustment of Child Support Obligations, your submission has been given final approval in this area. We are unable to approve section 2.12-1: Wage Withholding. The reason we cannot approve this section is because Alaska CSED does not have statutes and procedures in this area as required by Section 101 (b) of the Family Support Act. As you know, Section 101 (b) of the Family Support Act amends Section 466 (a)(8) of the Social Security Act requiring states, as a condition of state plan approval, to enact laws requiring the use of procedures under which all child support orders issued in the state on or after January 1, 1994, will include appropriate language requiring Immediate Wage Withholding. Congress enacted this provision to ensure that Immediate Wage Withholding would be available to all custodial parents without the need of filing an application for child support services. The state clearly has in place provisions for immediate wage withholding generally.

However, Alaska Statute 25.27.062 (d) describes the method for contesting wage withholding, and, as the statute now stands it is unapprovable. Federal regulations require states to have procedures for contesting a wage withhold order only if there exist "mistakes of fact." Alaska Statute 25.27.062 (d) is in conflict with 45 Code of Federal Regulations § 303.100(b)(1)(iii) because it goes further than federal law intended by adding "...or any other legal defense."

LTR'S TO MARY GAY

Page 2

By adding this option for contesting a wage withholding order, the state is giving the non-custodial parent an opportunity to include areas not intended by federal regulations, in terms of contesting the wage withholding order.

It is my understanding that you have had telephone conversations with Phyllis Benton regarding your noncompliance with the Wage Withholding requirement. In that conversation you were able to resolve one of our concerns regarding whether or not the days referenced in Alaska's statutes and procedures are calendar days as required by federal requirements. According to federal policy, when days are stated in state statutes and procedures, as below 10 days, they are universally counted as working days. When days are listed as 10 days or more, they are counted as calendar days. I understand that this issue has been resolved and Alaska uses the federal policy when referring to days. I also understand that a bill will be introduced in the Alaska legislature by a legislator that will modify Alaska Statute 25.27.062. As of your last conversation with Ms. Benton you did not know when the bill would be written and introduced.

As Alaska's state plan now stands, it is not approvable. Failure to enact an appropriate revised statutory provision and to correct the areas we noted in your state plan submission may mean that your state plan is not approvable. This may result in the cessation of federal reimbursement of expenditures for your child support program and possible Title IV-A financial sanctions.

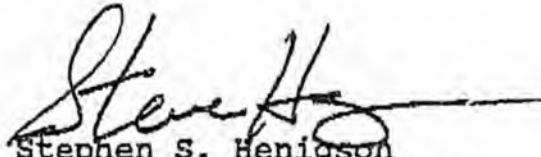
Based on information available at this time, my office will defer approval or disapproval of your state plan. We prefer to allow the state to pursue securing the necessary legislation. To that end we ask that Alaska submit its new statute 90 days after the legislative session ends, or by August 31, 1993, with a new transmittal sheet.

Again, the sole area of noncompliance that we are citing here is the state statutory provision enabling non-custodial parents to contest a wage withhold order, not only as to "mistake of fact," but also as to "any other legal defense."

Page 3 - Mary Gay

I hope this information has been helpful. My office is available to assist you in meeting your state Plan requirements. Please contact Phyllis Benton at (503) 553-0943 if you have any questions.

Sincerely,



Stephen S. Henigson
Regional Administrator

Enclosure

cc: Darrel J. Rexwinkel, Commissioner
Department of Revenue
Larry Lufkin, Area Audit Supervisor

SENT BY:

4-28-94 :11:58AM :CSED DIRECTOR OFFICE-

907 465 2828;# 2/ 6



DEPARTMENT OF HEALTH & HUMAN SERVICES

Administration for
Children and Families

RECEIVED
APR 27 1994

Region X
M/S____
2201 Sixth Avenue
Seattle, WA 98121

CSED-DIRECTOR

APR 26 1994

Mary Gay
Director
Child Support Enforcement Division
550 West 7th, 4th Floor
Anchorage, Alaska 99501-3556

Dear Ms. Gay:

Please advise me of the current status of your efforts to bring the Alaska State plan into compliance with federal requirements.

As we have previously advised you, the Alaska State plan is currently out-of-compliance with two federal requirements, as follows:

1. Federal Regulations at 45 CFR 303.100(d)(1)(iii) provide that the only defense for contesting wage withholding is a "mistake of fact". Whereas your state plan allows "any other legal defense."
2. Alaska has never implemented the provisions of Section 101 of the Family Support Act of 1988, effective January 1, 1994, which requires immediate wage withholding in all child support orders initially issued in the state which are not being enforced under Title IV-D of the Social Security Act.

Approval or disapproval of your state plan was deferred to allow the state to secure amendments to the Alaska State statute during this session which is scheduled to end on May 10, 1994.

As indicated in our previous correspondence, it is imperative that legislation addressing these areas of wage withholding be passed this legislative session. Should Alaska fail to enact this legislation we will have no other alternative but to recommend disapproval of your state plan to the Assistant Secretary for the Administration for Children and Families. At such time as the Assistant Secretary concludes that Alaska is not in conformance with these requirements, all Title IV-D funding to the state of Alaska will be suspended until such time as a IV-D state plan can be approved. In addition, Alaska would be subject to reductions in Title IV-A funding for failure to comply substantially with the requirements of Section 402(a)(27) of the Social Security Act. These reductions will be governed by Section 404(d) of the Act.

SENT BY:

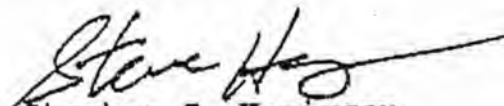
4-28-94 :11:59AM :CSED DIRECTOR OFFICE-

907 465 2828:= 3/ 6

Page 2 - Mary Gay

If you have any questions or if we can be of assistance, please contact Barry Morrisroe, Program Manager, OCSE, Region X, at (206) 615-2552.

Sincerely,


Stephen S. Henigson
Regional Administrator

Enclosure

cc: Darrel Rexwinkel
Commissioner, Department of Revenue
Margaret Lowe, M.Ed., Ed.S
Commissioner, Department of
Health and Social Services

CARR GOTTSTEIN

FOODS CO.

6411 A Street Anchorage, Alaska 99518
Ph: (907) 561-1944

April 28, 1994

TELEFAX: 465-2108

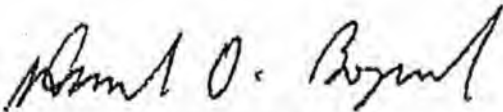
Representative Fran Ulmer
Alaska State Legislature
Room 403, State Capitol Building
Juneau, Alaska 99801

Re: Senate Bill 190
(Employer Reporting Provision)

Dear Representative Ulmer:

Carr-Gottstein Foods Co. is the largest private employer in the state of Alaska. The company reports to the Alaska Division of Child Support Enforcement information regarding the hiring of employees as detailed in AS 25.27.075 (copy enclosed). Carr-Gottstein Foods Co. understands the goal of this statute, which is to provide timely financial support to children. We have not experienced any difficulties complying with this law and expect none in the future.

Very truly yours,



David O. Bogard
Corporate Controller
DOB\
Enclosure:

CARR-GOTTSTEIN LTR

(c) The assignment made under court order has priority as against an attachment, execution or other assignment unless otherwise ordered by the court.

(d) An employer may not terminate an employee's employment because wages of the employee are subject to an order under this section. (§ 1 ch 251 SLA 1976; am § 22 ch 126 SLA 1977)

Revisor's notes. — Formerly AS 47.23.070. Renumbered in 1990.

Sec. 25.27.075. Employment information. (a) Upon notice by the agency and except as provided in (b) and (c) of this section, an employer doing business in the state shall report to the agency the

(1) hiring of a person who resides or works in this state to whom the employer anticipates paying earnings; and

(2) rehiring or return to work of an employee who was laid off, furloughed, separated, granted a leave without pay, or terminated from employment.

(b) An employer is not required to report the hiring of a person who the employer anticipates

(1) will be employed for less than one month's duration; or

(2) will be employed sporadically so that the employee will be paid for less than 350 hours during a continuous six-month period.

(c) An employer is not required to report under (a) of this section if the employer employs fewer than 20 employees.

(d) An employer required to report under (a) of this section may make the report by mailing the employee's copy of the W-4 form, transmitting magnetic tape in a compatible format, or by other means as mutually agreed by the employer and the agency that will result in timely reporting.

(e) An employer required to report under (a) of this section shall submit monthly reports regarding each hiring, rehiring, or return to work of an employee during the preceding month. The report must contain

(1) the employee's name, address, social security number, and date of birth; and

(2) the employer's name, address, and employment security reference number or unified business identifier number.

(f) The agency shall retain the information received under (a), (d), and (e) of this section for a particular employee only if the agency is responsible for establishing, enforcing, or collecting a support obligation of the employee. If the employee does not owe a support obligation, the agency may not create a record regarding the employee, and the information contained in the notice shall be promptly destroyed.

(g) An employer of the obligor or a labor union of which an obligor is a member shall provide to the agency information requested regard-

ing the obligor's employment, wages or salary, and location. The information required under this subsection is in addition to the information required under (a) of this section, if any.

(b) In addition to civil liability under AS 25.27.260, if applicable, or any other law, an employer of an obligor or a labor union of which an obligor is a member that knowingly violates this section is liable for a civil penalty of not more than \$1,000.

(i) Employers required to report under this section, may charge \$1 per new employee to cover the cost of reporting. (§ 9 ch 40 SLA 1985; am §§ 1, 2 ch 75 SLA 1991)

Revisor's notes. — Formerly AS 47.23.075. Renumbered in 1990.

Delayed amendment. — Effective January 1, 1995, under § 2, ch. 75, SLA 1991, this section is repealed and reenacted to read: "Sec. 25.27.075. Employment information. (a) An employer of an obligor or a labor union of which an obligor is a member shall provide to the agency information requested regarding

the obligor's employment, wages or salary, and location.

"(b) An employer of an obligor or a labor union of which an obligor is a member that knowingly violates this section is liable for a civil penalty of not more than \$1,000."

Effect of amendments. — The 1991 amendment, effective January 1, 1992, rewrote the section.

Sec. 25.27.080. Enforcement of support orders. (a) A court order requiring payment of child support shall be modified to order payments be made to the agency upon application.

(b) The agency on behalf of the custodian or the state shall take all necessary action permitted by law to enforce child support orders so entered, including petitioning the court for orders to aid in the enforcement of child support.

(c) The determination or enforcement of a duty of support is unaffected by any interference by the custodian of the child with rights of custody or visitation granted by a court. When the agency appears on behalf of a child in an action seeking to establish or enforce support, the court may not adjudicate custody, visitation, or property rights in the same action.

(d) An order of arrest may not be issued in the enforcement of child support unless the court has reason to believe that the obligor may flee the jurisdiction or unless the obligor has been ordered to appear in the action and has failed to do so. (§ 1 ch 251 SLA 1976; am § 23 ch 126 SLA 1977; am § 7 ch 144 SLA 1984)

Revisor's notes. — Formerly AS 47.23.080. Renumbered in 1990. In 1977 the term "obligor" was substituted for "obligee" in two locations in (d) of this section to correct a manifest error in ch. 126, SLA 1977.

Cross references. — For legislative findings and purpose in connection with the 1984 amendment of this section, see § 1, ch. 144, SLA 1984 in the Temporary and Special Acts.

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

P.O. BOX 110400
JUNEAU, ALASKA 99811-0400
TELEPHONE: (907) 465-2300
FACSIMILE: (907) 465-2389

April 20, 1994

The Honorable Al Vezey
Alaska State Legislature
State Capitol, Room 102
Juneau, Alaska 99801-1182

Dear Representative Vezey:

The Department has reviewed your concerns about an employer's liability should they fail to withhold child support payments. An employer who intentionally fails to withhold child support is liable to the Child Support Agency 100 percent of the amount of the lien. This provision, which is required by federal regulations, is intended to penalize employers who actively participate in aiding a non-custodial parent avoid paying child support that is due. The penalty amount is not forwarded to the obligee. The money is a penalty and reverts to the general fund. The non-custodial parent still owes the child support that was not collected.

Child Support Enforcement Division uses a Withhold and Deliver Order to accomplish income withholding for the payment of child support. The Order notifies the employer of the requirement and is accompanied by excerpts of the statutes which advise them of their responsibilities under the Order. The Order remains in effect until satisfied. When CSED learns that a terminated employee is subsequently rehired, a reminder letter concerning the requirement to withhold child support is sent to the employer. A satisfaction letter is sent to the employer when a child support order is satisfied. Examples of these letters are enclosed for your information.

Federal regulations require that all child support orders provide for immediate income withholding. SB 190 has been introduced to comply with this federal requirement. SB 190 can be amended to address your concern regarding an employer's responsibility for maintaining withholding orders after an employee has terminated. CSED suggests adding the following language as subsection (c) to AS25.27.260.

"An employer must maintain a withholding order for three years after the agency has been notified of the termination of an employee. If the employee is reemployed by the employer within the three year period the withholding order continues in effect."

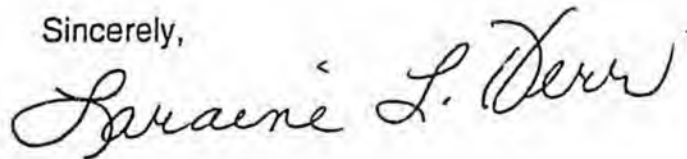
The Honorable Al Vezey
April 20, 1994
Page 2

The three years would mirror the record keeping requirement of other records of the employer and would ensure that withholding orders for seasonal employees would remain in effect without placing a burden on the agency to determine when their seasonal employment begins each year.

You also had concerns that a particular employer had been held liable for unpaid child support. CSED has only two cases involving the employer and neither case mentions any problem as a result of withholding. There is also no mention of the case being sent to the Department of Law for employer non-compliance. If you have additional information, I would be glad to research the issue further.

I appreciate the opportunity to provide this information. Please do not hesitate to call if you have additional questions.

Sincerely,

A handwritten signature in cursive script that reads "Laraine L. Derr".

Laraine L. Derr
Deputy Commissioner

94-077

Enclosures

STATE OF ALASKA
DEPARTMENT OF REVENUE
CHILD SUPPORT ENFORCEMENT DIVISION

133 WEST 7TH, 4TH FLOOR, MS
ANCHORAGE, AK 99501-3556
PHONE: (907) 275-3441
TOLL FREE ALASKA: 1-800-478-3300
FAX: (907) 283-6203

Case No:
Obligor:
SSN:

ORDER TO WITHHOLD AND DELIVER PROPERTY

Please take notice that pursuant to Alaska Statutes 47.23.250, the Child Support Enforcement Division (CSED) is hereby issuing to you an order to withhold and deliver property in the form of real or personal property (including money, deposits, or balances), wages, earnings, or other remuneration for employment due, owing, or belonging to the obligor named _____ whose last-known address was _____, as follows:

1. Real or Personal Property: Withhold 100% of said obligor's property which is now or will be in your possession. The withholding is not to exceed the total amount of arrearages, penalty, and interest listed below.
2. Wages and Earnings: Withhold _____ % of said obligor's disposable earnings immediately and at each succeeding interval of payment. See attached excerpts for federal regulations pertaining to allowable wage garnishment percentages. Arrearages are/are not more than twelve (12) weeks old. The initial withholding is not to exceed the total amount of arrearages, penalty, and interest listed below.
3. Unemployment Insurance Benefits: Withhold _____ % of said obligor's benefits immediately and at each succeeding interval of payment until such time as this division notifies you otherwise.

Arrearages, penalty, and interest have been calculated in the amount of _____ as of _____. Once all arrearages, interest and penalties are paid, the withheld amount will be reduced to the monthly obligation of _____.

The above named obligor was served a Notice of Liability in accordance with AS 47.23.150 on or before _____.

Please be advised that AS 47.23.250, 15 AAC 147.170 and 45 CFR 303.100 (excerpts of which are enclosed herewith) provide generally that:

- you shall make true answers under oath and in writing within fourteen (14) days to inquiries contained in this order or subsequently put;
- you shall withhold real or personal property immediately and shall deliver said property to the Division after fourteen (14) days of service of this notice;

Page 2 - Order to Withhold and Deliver

Obligor:
SSN:
Case No:

-you shall withhold wages or earnings no later than the first pay period following the date of service of this notice and shall deliver said wages or earnings to the Division;

-the requirements of this order are not satisfied until the entire amount of the debt (including on-going monthly support) stated in this Order to Withhold and Deliver has been withheld and delivered to CSED.

This order is binding until you receive a notice of satisfaction from the State of Alaska. If there is a break in employment, this order remains in effect for all subsequent employment periods.

You may be liable to this Division pursuant to AS 47.23.260 for the entire amount constituting this Order, together with costs, interest, and reasonable attorney fees if you fail to answer the inquiries contained herein; or fail or refuse to deliver the property, wages, or earnings in accordance with this order; or pay over, or release, sell, transfer or convey property, wages, or earnings subject to a lien to or for the benefit of the obligor or any other persons; or fail or refuse to surrender upon demand any property attached:

INQUIRY

Please be further advised that you are hereby required to make true answers to the inquiries set forth below under oath and in writing, within fourteen (14) days, to the Child Support Enforcement Division, 550 W. Seventh Avenue, 4th Floor, M/S , Anchorage, Alaska 99501-3556.

Describe each type of real or personal property in your possession which is due, owing, or belonging to the obligor and subject to this Order (example: bank account number, motor vehicle description, real property legal description, etc.) and state the value or sum of each such item or real or personal property in your possession less the amount of any outstanding lien or secured interest against said real or personal property.

Note: For any such individual item with a total net value exceeding the stated liability for support the answer may be stated as "value in excess of the stated liability" or words to that effect.)

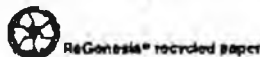
Ordered this
day of

Child Support Enforcement Officer

TO ASSIST YOU

An informational announcement on our KIDS Line (276-3441) explains how to process garnishment orders. To access it, press key number "1" (Announcements), followed by "2" (Enforcement Information), then "3" (For Employers). If you have further questions, you may leave a message for Team by pressing "3" from the first menu. Please identify yourself as an employer, giving the case number and obligor SSN (shown on the garnishment order). A case worker will return your call.

CSED-04-1860A
(rev 11/14/88) (90229.14:21)



State of Alaska
DEPARTMENT OF REVENUE
CHILD SUPPORT ENFORCEMENT DIVISION

550 W 7th Ave, 4th Floor MS _____
Anchorage AK 99501-3556
Phone: (907) 276-3441
Toll Free (Alaska): 800-478-3300
FAX: (907) 263-6203

To: _____

Date:
Case No.:
Obligor:
SSN:

We have been informed that the obligor named above has been re-employed. Our records indicate that a withholding order was served on _____
This order is still valid and should be honored until a Termination of Order Requirement has been received from this Division.

Please take the necessary payroll action and remit payment promptly.

If you have any questions, please contact our employer hotline at (907) 263-6207.

Dated this _____ day of _____, 19_____

Child Support Enforcement Representative

CONTINUOUS PRINTING OF ALASKA (907) 562-6448

STATE OF ALASKA
DEPARTMENT OF REVENUE
CHILD SUPPORT ENFORCEMENT DIVISION

550 W 7th, 4th Floor Team/MS _____
Anchorage, AK 99501-3556
PHONE: (907) 276-3441
TOLL FREE ALASKA: (800) 478-3300
FAX: (907) 263-6203

TO: _____

TERMINATION OF WITHHOLDING ORDER
AS 25.27.250
15 AAC 147.165(c)

NOTICE IS HEREBY GIVEN that the Child Support Enforcement Division terminates the Order to Withhold and Deliver issued to the above-named on or about _____, 19____, in the matter of:

CASE NO. _____

RE: _____
(Name)

(SSN)

Dated this _____ day of _____ 19 _____.

Child Support Enforcement Officer



STATE OF ALASKA
DEPARTMENT OF REVENUE
CHILD SUPPORT ENFORCEMENT DIVISION

550 West 7th Ave., 4th Floor MS____
Anchorage, AK 99501-3556
Phone: (907) 276-3441
Toll-free (Alaska): 800-478-3300
Employer Hotline: (907) 263-6207
FAX: (907) 263-6203

TO:

Obligor: _____

SSN: _____

Case #: _____

LETTER OF REMINDER
ANSWER TO INQUIRIES
AS 25.27.250

On _____, 19____, the Child Support Enforcement Division (CSED), Department of Revenue, State of Alaska, served you with an Order to Withhold and Deliver on the above named obligor.

Under AS 25.27.250, any person, political subdivision, or department of the State served with an Order to Withhold and Deliver is required to make true answers to the inquiries contained in the order under oath and in writing 14 days after service of the order. You must respond to CSED's withholding order even if you do not possess any money or property due, owing, or belonging to the obligor.

An Answer to Inquiries form (CSED 04-1861) was enclosed with the withholding order for your convenience. However, as of this date, CSED has not received your answer. Please provide the required response immediately. If you have any questions on this matter, please contact CSED at the telephone numbers listed above.

Failure to answer could result in liability to the Division for the total amount stated in the order, plus costs, interest, and reasonable attorney fees.

Child Support Enforcement Officer



EXCERPTS FROM

**ALASKA STATUTES
ADMINISTRATIVE CODE
&
CODE OF
FEDERAL REGULATIONS**

CHILD SUPPORT ENFORCEMENT

Alaska Department of Revenue

550 West 7th Avenue, 4th Floor
Anchorage, Alaska 99501
(907) 276-3441

**EMPLOYER HOTLINE
(907) 263-6207**

675 7th Avenue, Station G
Fairbanks, Alaska 99701
(907) 451-2830

1111 W. 8th St., Room 106
Juneau, Alaska 99811
(907) 465-2337

**Informational Attachment to CSED
Order to Withhold & Deliver**

Sec. 25.27.062. INCOME WITHHOLDING ORDER FOR SUPPORT.

(a) A judgment, court order, or order of the agency under this chapter providing for support must contain an income withholding order. An income withholding order under this section may not be enforced unless the obligor had notice of the order when it was made or an application for the order was served on the obligor in the manner provided for service of a summons under Rule 4, Alaska Rules of Civil Procedure.

(b) An income withholding order must direct the obligor, the obligor's employer, future employer, and any person, political subdivision, or department of the state to withhold money due or to be due the obligor and pay the money to the agency, in an amount determined under (i) of this section.

(c) If support payments are in arrears in an amount at least equal to support payable for one month, the agency, on behalf of an obligee or person or public agency designated to receive support payments, shall request an income withholding order against the obligor to take effect by filing a sworn statement with the court that alleges that the obligor is in arrears in an amount at least equal to the support payable for one month.

(d) If an application is filed with the clerk of court, notice shall be served upon the obligor by the agency in the manner provided by Rule 5, Alaska Rules of Civil Procedure or any other method permitted by law. The notice shall inform the obligor that the income withholding order will take effect 15 days after the date on which the notice is served unless the obligor requests a hearing within the 15 days after the notice is served. If the obligor requests a hearing, an income withholding order may not take effect until the conclusion of the hearing. The court shall hold a hearing requested under this section within 15 days after the date the obligor requests the hearing, to determine if there are any mistakes of fact that make the withholding order improper, if the amount to be withheld is incorrect, or if there are any other legal defenses. The court shall inform the obligor, either at the hearing or within 15 days after the hearing, whether or not the withholding will occur and of the date on which it is to commence. It is not a defense under this section that less than one full month's payment is due if at least one full month's payment was due on the date notice was served under this section.

(e) The obligee or person or public agency that requested the income withholding order shall immediately send a copy of the income withholding order, a copy of AS 25.27.260 and this section, and an explanation of the effect of the statutes by certified mail to persons who may owe money to an obligor. An income withholding order made under this section is binding upon a person, employer, political subdivision, or department of the state immediately upon receipt of a copy of the income withholding order. An employer shall begin withholding the specified amount from the employee's wages 14 days after the mailing date on the notice of withholding or on the first day of the next pay period, if earlier. The amount withheld shall be sent to the agency.

(f) An employer may not discharge, discipline, or refuse to employ an obligor on the basis of an income withholding order issued under this section. If an employer discharges, disciplines, or refuses to employ an obligor because of an income withholding obligation, the court, after notice and hearing, may order reinstatement or restitution to the obligor, or both. A person who violates this subsection or a regulation adopted to implement it, is liable for a civil penalty of not more than \$1,000.

(g) An income withholding order under this section has priority over all other attachments, executions, garnishments, or other legal process brought under state law against the same property unless otherwise ordered by the court. An income withholding order is not limited to the wages of an obligor but

may include all money owed to the obligor not otherwise exempt by law. Exemptions under AS 09.38 do not apply to income withholdings under this section.

(h) The court may order payment of all court costs that resulted from an income withholding proceeding under this section.

(i) An employer shall, to the extent permitted under 15 U.S.C. 1673(b), withhold the current support obligation from an obligor's wages. An employer shall withhold additional income, to the extent permitted under 15 U.S.C. 1673(b), from an obligor's wages for any support arrearage.

(j) An employer may combine into a single payment to the agency amounts withheld from more than one obligor if the employer specifies the portion of the payment attributable to each obligor.

(k) At the time an obligor terminates employment with an employer then in receipt of an unsatisfied income withholding order regarding the obligor, the employer shall immediately inform the agency of the obligor's name and last known address and the name and address of all other known employers of the obligor.

(l) An obligor may petition the court to terminate or modify an income withholding order if the obligor has made payments under the order for at least 12 months and all arrearages have been paid. Upon receipt of the petition under this subsection, the court may terminate or modify the income withholding order unless the court finds good cause to deny the petition due to the obligor's payment history or other grounds. The court may not terminate or modify an income withholding order solely on the ground that the obligor has paid all arrearages.

Sec. 25.27.140. AUTHORITY AND PROCEDURES TO ADMINISTRATIVELY ESTABLISH AND ENFORCE SUPPORT OBLIGATION. (a) If no support order has been entered, the agency may establish a duty of support utilizing the procedures prescribed in AS 25.27.160 - 25.27.220 and may enforce a duty of support utilizing the procedure prescribed in AS 25.27.230 - 25.27.270. Action under this subsection may be undertaken upon application of an obligee, or at the agency's own discretion if the obligor is liable to the state under AS 25.27.120(a) or (b).

(b) If a support order has been entered, the agency may enforce the support order utilizing the procedures prescribed in AS 25.27.150 and 25.27.230 - 25.27.270.

(c) A decision of the agency determining a duty of support shall include an income withholding order as provided under AS 25.27.062.

Sec. 25.27.150. INITIATION OF ADMINISTRATIVE ENFORCEMENT OF ORDERS; REQUIRED NOTICE. (a) Action to enforce a support order administratively under AS 25.27.230 - 25.27.270 is initiated by the agency serving a notice on the obligor of the obligor's liability under the support order. Notice under this subsection shall be served upon the obligor by the agency by certified mail to the last known address of the obligor. Service by mail is effected when the notice is properly addressed, certified, and mailed.

(b) Notice served under (a) of this section must state the amount of the obligor's liability under the support order and that the property of the obligor is subject to execution in that amount in accordance with the procedures prescribed in AS 25.27.230 - 25.27.270 at the expiration of 30 days from the date of service of the notice.

Sec. 25.27.230. ASSERTION AND RECORDING OF LIEN. (a) At the expiration of 30 days from either (1) the date of service of notice under AS 25.27.150, or (2) the date of service of a notice and finding of financial responsibility under AS 25.27.160, the agency may assert a lien upon the real or personal property of the obligor, in the amount of the obligor's liability.

(b) A lien recorded under this section has no effect against earnings, or bank deposits or balances, unless it states the

SENT BY:

4-19-94 : 4:30PM : CSED DIRECTOR OFFICE-

: 27/ 8

the lien is served in accordance with AS 25.27.240.

(c) The lien shall attach to all real and personal property of the obligor and be effective on the date of recording of the lien with the recorder of the recording district in which the property attached is located. A lien against earnings shall attach and be effective upon filing with the recorder of the recording district in which the employer does business or maintains an office or agent for the purpose of doing business.

(d) Whenever a lien has been recorded under this section and there is in the possession of any person, political subdivision, or department of the state having actual notice of the lien any property that may be subject to the lien, that property may not be paid over, released, sold, transferred, encumbered or conveyed unless

- (1) a written release or waiver signed by a representative of the agency has been delivered to the person, political subdivision, or department of the state; or
- (2) a decision has been made in a hearing held under AS 25.27.170 or by a superior court ordering release of the lien on the grounds that no debt exists or that the debt has been satisfied.

Sec. 25.27.240. SERVICE OF LIEN. (a) The agency may at any time after recording of a lien recorded under AS 25.27.230 serve a copy of the lien upon any person, political subdivision, or department of the state possessing earnings, or deposits or balances held in any bank account of any nature that are due, owing, or belonging to the obligor.

(b) A lien recorded under AS 25.27.230 shall be served upon a person, political subdivision, or department of the state personally or by registered, certified, or insured mail, return receipt requested.

Sec. 25.27.250. ORDER TO WITHHOLD AND DELIVER.

(a) At the expiration of 30 days from the date of service of notice under AS 25.27.150, or from the date of service of a notice and finding of financial responsibility under AS 25.27.160, the agency may issue to any person, political subdivision, or department of the state an order to withhold and deliver property.

(b) All real or personal property belonging to the obligor is subject to an order to withhold and deliver, including, but not limited to, earnings that are due, owing, or belonging to the debtor.

(c) The agency may issue an order to withhold and deliver when it has reason to believe that there is in the possession of a person, political subdivision, or department of the state property that is due, owing, or belonging to the obligor.

(d) The order to withhold and deliver shall be served upon the person, political subdivision, or department of the state possessing the property in the manner provided for service of liens under AS 25.27.240. The order must state the amount of the obligor's liability and must state in summary the terms of AS 25.27.260 and 25.27.270.

(e) Any person, political subdivision, or department of the state served with an order to withhold and deliver is required to make true answers to inquiries contained in the order under oath and in writing within 14 days after service of the order, and is further required to answer all inquiries subsequently put.

(f) If a person, political subdivision, or department of the state upon whom service of an order to withhold and deliver has been made possesses property due, owing, or belonging to the obligor, that person, subdivision, or department shall withhold the property immediately upon receipt of the order and shall deliver the property to the agency upon demand after the expiration of the 14 day period from the date of service of the order. The agency shall hold property delivered under this subsection in trust for application against the liability of the obligor under AS 25.27.130 or for return, without interest,

under this chapter. The agency may accept a good and sufficient bond conditioned upon final determination of liability in lieu of requiring delivering of property under this subsection.

(g) Delivery to the agency of the money or other property due, owing, or belonging to the obligor shall satisfy the requirement of the order to withhold and deliver. Delivery of money due and owing to the obligor under any contract of employment, express or implied, or made by any person, political subdivision, or department of the state, and subject to withdrawal by the obligor, shall be delivered by remittance payable to the order of the agency.

(h) The agency shall defend and hold harmless for such actions people withholding or delivering money or property to the agency in accordance with this section.

(i) An order to withhold and deliver under this section has priority over all other attachments, executions, garnishments, or other legal process brought under state law against the same property unless otherwise ordered by the court. Exemptions under AS 09.38 do not apply to proceedings to enforce the payment of child support under AS 25.27.230 - 25.27.270; however, net disposable earnings are exempt from execution as provided in 15 U.S.C. 1673 (b). In this subsection, "net disposable earnings" has the meaning given in 15 U.S.C. 1672.

15 USC 1673 (b) requires the amount withheld not exceed the following percentages:

- a. 50 percent of disposable earnings when the individual "is supporting his spouse or dependent child",
- b. 55 percent of disposable earnings when the individual "is supporting ..." and the debt is 12 weeks old,
- c. 60 percent of disposable earnings when the individual "is not supporting such a spouse or dependent child", and
- d. 65 percent of disposable earnings when the individual "is not supporting" ... and the debt is 12 weeks old.

Sec. 25.27.253. EARNINGS SUBJECT TO AN ORDER OR LIEN. (a) A person, political subdivision, or department of the state shall withhold the earnings of the obligor subject to an order or lien at each succeeding interval of payment until the entire amount of the debt stated in the order to withhold and deliver has been withheld.

(b) An order to withhold and deliver issued to the Department of Revenue remains in effect throughout the calendar year in which it is served. That order applies to any tax refund or other disbursements to which the obligor is entitled even if the tax refund or disbursement is issued more than 30 days after service of the order.

Sec. 25.27.260. CIVIL LIABILITY UPON FAILURE TO COMPLY WITH AN ORDER OR LIEN. If any person, political subdivision, or department of the state (1) fails to make an answer to an order to withhold and deliver within the time prescribed in AS 25.27.250; (2) fails or refuses to deliver property in accordance with an order issued under AS 25.27.250; (3) pays over, releases, sells, transfers, or conveys real property subject to a lien recorded under AS 25.27.230 to or for the benefit of the obligor or any other person; (4) fails or refuses to surrender upon demand property attached; (5) fails or refuses to honor an assignment of wages or an income withholding order under AS 25.27.062 presented by the agency, the person, political subdivision, or department of the state is liable to the agency in an amount equal to 100 percent of the amount constituting the basis of the lien, order to withhold and deliver, attachment, or withholding of wages or income, together with costs, interest, and reasonable attorney fees.

Sec. 25.27.270. JUDICIAL RELIEF FROM ADMINISTRATIVE EXECUTION. Any person against whose property a lien has been recorded under AS 25.27.230 or an order to withhold and deliver served in accordance with AS 25.27.250 may apply for relief to the superior court.

(a) The agency will issue an Order to Withhold and Deliver in accordance with AS 25.27.250 if

- (1) support payments are in arrears in an amount at least equal to the support payable for one month;
- (2) the obligor requests withholding;
- (3) the custodial parent requests withholding and the agency approves the request because the obligor's payments have been more than 10 days overdue more than one time in the preceding 12 months, or there is reason to believe that the obligor might withdraw assets to avoid payment of support; or
- (4) the support order was issued or modified after October 31, 1990.

(b) Notwithstanding (a) (4) of this section, the income of an obligor is not subject to immediate withholding if the obligor agrees to inform the agency of his or her current employer and the availability of any employment-related health insurance coverage and

(1) the court or agency has reviewed and approved a written agreement between both parties and, if support is assigned to the state, the agency, which provides for an alternative arrangement for immediate income withholding, and withholding has not been terminated previously and subsequently initiated; or

(2) one party demonstrates; and the court or agency finds, good cause not to require immediate income withholding because it would not be in the best interests of the child and, in a case involving the modification of a support order, the obligor has made voluntary support payments under a court or administrative order and has not been in arrears in an amount equal to the support payable for one month.

(c) Unless modified or terminated by the agency or the court, an order to withhold and deliver, except an order issued to the Department of Revenue, remains in effect until the support order is satisfied. Upon satisfaction of a support order, the agency will notify all persons served with the order to withhold and deliver. (Eff. 12/27/90, Register 116)

15 AAC 125.170. INCOME WITHHOLDING; EMPLOYER'S TRANSMITTAL OF MONEY TO AGENCY. An employer who is served by the agency with an income withholding order under AS 25.27.062, AS 25.27.250, or 15 AAC 125.195 shall send the amount ordered to be withheld to the agency within 10 days after the date the employee is paid. (Eff. 10/1/85, Reg. 95)

15 AAC 125.200. NOTICE TO EMPLOYER OF INCOME WITHHOLDING. The provisions of AS 25.27.062 (e) - (k) apply to an income withholding order based on a support order of another jurisdiction under 15 AAC 125.195 (a), an administrative establishment of support obligation under AS 25.27.160 - 25.27.220, and an administratively enforced support order under AS 25.27.250. (Eff. 10/1/85, Reg. 95)

8-LS1001M
Lauterbach
4/28/94

HOUSE CS FOR CS FOR SENATE BILL NO. 190(STA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE JUDICIARY COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to income withholding and other methods of enforcement for
2 orders of support; relating to medical support orders; amending Alaska Rule of
3 Civil Procedure 90.3(d); and providing for an effective date."

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

5 * Section 1. AS 25.27.020(a) is amended to read:

6 (a) The agency shall

7 (1) seek enforcement of child support orders of the superior courts of
8 the state in other jurisdictions and shall obtain, enforce, and administer the orders in
9 this state;

10 (2) adopt regulations to carry out the purposes of this chapter, including
11 regulations that establish

12 (A) schedules for determining the amount an obligor is liable
13 to contribute toward the support of an obligee under this chapter and under 42
14 U.S.C. 651 - 669 (Title IV-D, Social Security Act);

- 1 (B) procedures for hearings conducted under AS 25.27.170; and
2 (C) subject to AS 25.27.025 and to federal law, a uniform rate
3 of interest on arrearages of support that shall be charged the obligor upon
4 notice if child support payments are 10 or more days overdue or if payment is
5 made by a check backed by insufficient funds; however, an obligor may not be
6 charged interest on late payment of a child support obligation, other than a
7 payment on arrearages, if the obligor is
- 8 (i) employed and income is being withheld from the
9 obligor's wages under an income withholding order;
 - 10 (ii) receiving unemployment compensation and child
11 support obligations are being withheld from the obligor's unemployment
12 payments under AS 23.20.401; or
 - 13 (iii) receiving compensation for disabilities under
14 AS 23.30 and child support obligations are being withheld from the
15 obligor's compensation payments;
- 16 (3) administer and enforce AS 25.25 (Uniform Reciprocal Enforcement
17 of Support Act);
- 18 (4) establish, enforce, and administer child support obligations
19 administratively under this chapter;
- 20 (5) administer the state plan required under 42 U.S.C. 651 - 669 (Title
21 IV-D, Social Security Act) as amended;
- 22 (6) disburse support payments collected by the agency to the obligee,
23 together with interest charged under (2)(C) of this subsection;
- 24 (7) establish and enforce administratively under this chapter, or through
25 the superior courts of the state, child support orders from other jurisdictions pertaining
26 to obligors within the state;
- 27 (8) enforce and administer spousal support orders if a spousal support
28 obligation has been established with respect to the spouse and if the support obligation
29 established with respect to the child of that spouse is also being administered; and
- 30 (9) obtain a medical support order as part of a child support order if
31 health care coverage is available to the obligor at a reasonable cost: the agency shall

1 consider whether adequate health care is available to the child through the Indian
2 Health Service or other insurance coverage before it orders an obligor to provide
3 health care coverage through insurance or other means.

4 * Sec. 2. AS 25.27.060(c) is amended to read:

5 (c) In a court proceeding where the support of a minor child is at issue, the
6 court may order either or both parents to pay the amount necessary for support,
7 maintenance, nurture, and education of the child. The court shall issue a medical
8 support order as part of a child support order if health care coverage is available to the
9 obligor at a reasonable cost. The court shall consider whether the child is eligible
10 for services through the Indian Health Service or other insurance coverage before
11 ordering the obligor to provide health care coverage through insurance or other
12 means. Upon a showing of good cause the court may order the parents required to
13 pay support to give reasonable security for payments.

14 * Sec. 3. AS 25.27.062(a) is amended to read:

15 (a) A judgment, court order, or order of the agency under this chapter
16 providing for support must contain an income withholding order. Except as provided
17 in (m) of this section, the income withholding order must provide for immediate
18 income withholding if the support order is

19 (1) being enforced by the agency and was issued or modified on or
20 after the effective date of this Act; or

21 (2) not being enforced by the agency and was issued on or after the
22 effective date of this Act [AN INCOME WITHHOLDING ORDER UNDER THIS
23 SECTION MAY NOT BE ENFORCED UNLESS THE OBLIGOR HAD NOTICE OF
24 THE ORDER WHEN IT WAS MADE OR AN APPLICATION FOR THE ORDER
25 WAS SERVED ON THE OBLIGOR IN THE MANNER PROVIDED FOR SERVICE
26 OF A SUMMONS UNDER RULE 4, ALASKA RULES OF CIVIL PROCEDURE].

27 * Sec. 4. AS 25.27.062(b) is amended to read:

28 (b) An income withholding order must direct the obligor, the obligor's
29 employer, future employer, and any person, political subdivision, or department of the
30 state to withhold money due or to be due the obligor and pay the money to the agency,
31 in an amount determined under (i) of this section. A court that issues a support

1 order on or after the effective date of this Act shall send a copy of the order to
2 the agency.

3 * Sec. 5. AS 25.27.062(c) is repealed and reenacted to read:

4 (c) Income withholding under a support order that does not require immediate
5 withholding may be initiated under AS 25.27.150 if the support order is being enforced
6 by the agency, or under (d) of this section if the support order is not being enforced
7 by the agency, if

8 (1) the obligor requests withholding;

9 (2) the payments that the obligor has failed to make within 30 days of
10 the monthly due date specified in the support order are equal to or greater than the
11 support payable for one month; or

12 (3) the obligee requests withholding and

13 (A) the agency approves the request because all or part of the
14 monthly payment of the obligor has been more than 10 days overdue more than
15 one time in the preceding 12 months or there is reason to believe that the
16 obligor might withdraw assets to avoid payment of support; in this paragraph,
17 "10 days overdue" means occurring 10 days after the monthly due date
18 specified in a support order; or

19 (B) the court approves the request for good cause.

20 * Sec. 6. AS 25.27.062(d) is repealed and reenacted to read:

21 (d) Income withholding under a support order that does not require immediate
22 income withholding and that is not being enforced by the agency may be initiated by
23 filing a motion with the court and complying with applicable court rules. The court
24 shall order the beginning of income withholding under this subsection if the court finds
25 that any of the grounds in (c)(1), (c)(2), or (c)(3)(B) of this section is satisfied. It is
26 not a defense to a motion based on (c)(2) of this section that less than one full month's
27 payment is past due by 30 days if at least one full month's payment was past due by
28 30 days on the date the motion was filed. Notice to the obligor of income withholding
29 ordered under this subsection must be given in a manner that complies with court
30 rules. In this subsection, "past due by 30 days" means unpaid 30 days after the
31 monthly due date specified in the support order.

1 * Sec. 7. AS 25.27.062(e) is amended to read:

2 (e) The [OBLIGEE OR PERSON OR PUBLIC] agency or the person who
3 obtains an [THAT REQUESTED THE] income withholding order under this chapter
4 shall immediately send a copy of the income withholding order, a copy of the relevant
5 provisions of AS 25.27.260 and this section, and an explanation of the effect of the
6 statutes [BY CERTIFIED MAIL] to persons who may owe money to an obligor.
7 These items may be sent by first class mail or certified mail, return receipt
8 requested, or they may be served personally by a process server. An income
9 withholding order made under this chapter [SECTION] is binding upon a person,
10 employer, political subdivision, or department of the state immediately upon receipt
11 of a copy of the income withholding order. An employer shall begin withholding the
12 specified amount from the employee's wages (1) 14 working days after the mailing
13 date on the order [NOTICE] of withholding or 14 working days after the date on
14 which the order was personally served, whichever is applicable, or (2) on the first
15 day of the next pay period, if earlier. The amount withheld shall be sent to the agency
16 within 10 working days after the date the employee is paid. An employer may,
17 for each payment made under an order, deduct \$5 from other wages or salary
18 owed to the obligor.

19 * Sec. 8. AS 25.27.062(f) is amended to read:

20 (f) An employer may not discharge, discipline, or refuse to employ an obligor
21 on the basis of an income withholding order issued under this chapter [SECTION].
22 If an employer discharges, disciplines, or refuses to employ an obligor because of an
23 income withholding obligation, the court, after notice and hearing, may order
24 reinstatement or restitution to the obligor, or both. A person who violates this
25 subsection or a regulation adopted to implement it, is liable for a civil penalty of not
26 more than \$1,000.

27 * Sec. 9. AS 25.27.062(g) is amended to read:

28 (g) An income withholding order under this chapter [SECTION] has priority
29 over all other attachments, executions, garnishments, or other legal process brought
30 under state law against the same property unless otherwise ordered by the court. An
31 income withholding order is not limited to the wages of an obligor but may include

1 all money owed to the obligor not otherwise exempt by law. Exemptions under
2 AS 09.38 do not apply to income withholdings under this chapter [SECTION].

3 * Sec. 10. AS 25.27.062(h) is amended to read:

4 (h) The court may order payment of all court costs that resulted from an
5 income withholding proceeding under this chapter [SECTION].

6 * Sec. 11. AS 25.27.062(k) is repealed and reenacted to read:

7 (k) An employer who is withholding income of an obligor under an order that
8 provides that the withheld income shall be paid to the agency shall notify the agency
9 promptly when the obligor gives or receives notice of termination of employment and
10 provide to the agency the obligor's last known home address and the name and address
11 of the obligor's new employer, if known. The employer shall keep a record of the
12 order to withhold income from the obligor for three years after the employer notifies
13 the agency that the obligor has terminated employment. If, within that three-year
14 period, the obligor is reemployed by the former employer, the employer shall
15 immediately implement the order against the obligor's earnings unless the employer
16 has received notice from the agency that the order is no longer applicable to the
17 obligor. If the obligor is reemployed by the former employer after that three-year
18 period, the employer is not required to implement a withholding order against the
19 obligor's earnings until the employer receives a new order to withhold the obligor's
20 income under this chapter.

21 * Sec. 12. AS 25.27.062(l) is repealed and reenacted to read:

22 (l) Unless modified or terminated by the agency or the court, an order to
23 withhold income under this chapter remains in effect, except as provided in (k) of this
24 section, until the support order is satisfied. The agency or court may not terminate or
25 modify an income withholding order solely on the ground that the obligor has paid all
26 arrearages. Upon satisfaction of a support order, if the order is

27 (1) being enforced by the agency, the agency shall, within 15 working
28 days, notify all persons served by the agency with the income withholding order that
29 withholding is no longer required; if the agency receives money from an obligor under
30 an income withholding order after the underlying support order has been satisfied and
31 the agency was enforcing the support order at the time it became satisfied, the agency

1 shall immediately return the overpayment to the obligor; if the agency fails to return
2 an overpayment as required under this paragraph, the state is liable to the obligor for
3 the amount of the overpayment, plus interest at the rate imposed under AS 43.05.225,
4 and a person to whom the agency erroneously disbursed the overpayment is liable to
5 the state for the amount disbursed, plus interest at the rate imposed under
6 AS 43.05.225;

7 (2) not being enforced by the agency, the obligor shall file a motion
8 in court requesting termination of the withholding order and serve the motion on the
9 obligee; the court shall enter an order terminating the withholding order if the court
10 determines that the support order has been satisfied; the obligor may deliver a copy
11 of the termination order to persons who were served with the income withholding
12 order; when a termination order is entered, the obligee shall, upon request of the
13 obligor, notify the obligor of all persons who have been served with the income
14 withholding order by the obligee.

15 * Sec. 13. AS 25.27.062 is amended by adding new subsections to read:

16 (m) An income withholding order described in (a)(1) - (2) of this section is
17 not subject to immediate withholding if the support order is

18 (1) being enforced by the agency and the obligor agrees to keep the
19 agency informed of the obligor's current employer and the availability of employment-
20 related health insurance coverage for the children covered by the support order until
21 the support order is satisfied and

22 (A) the agency has entered into its record a written agreement
23 between the obligor and the obligee that provides for an alternative
24 arrangement and income withholding has not been terminated previously and
25 subsequently initiated; the agency must also be a party to an agreement under
26 this paragraph if support has been assigned to the state; or

27 (B) the obligor or obligee demonstrates and the agency, in
28 compliance with applicable federal law, finds good cause not to require
29 immediate income withholding because it would not be in the best interests of
30 the child and, in a case involving the modification of a support order, the
31 obligor has made voluntary support payments under a court or agency order

1 and has not been in arrears in an amount equal to the support payable for one
2 month; in this paragraph, "in arrears" means failing to make a support payment
3 within 30 days of the monthly due date specified in the order;

4 (2) not being enforced by the agency and the obligor agrees to keep the
5 obligee informed of the obligor's current employer and the availability of employment-
6 related health insurance coverage for the children covered by the support order until
7 the support order is satisfied and

8 (A) the court finds that (i) a written agreement exists between
9 the obligor and the obligee that provides for an alternative arrangement and (ii)
10 income withholding has not been terminated previously and subsequently
11 initiated; the agency must also be a party to an agreement under this paragraph
12 if support has been assigned to the state; or

13 (B) the obligor or obligee demonstrates, and the court, in
14 compliance with applicable federal law, finds good cause not to require
15 immediate income withholding because it would not be in the best interests of
16 the child and, in a case involving the modification of a support order, the
17 obligor has made voluntary support payments under a court or agency order
18 and has not been in arrears in an amount equal to the support payable for one
19 month; in this paragraph, "in arrears" means failing to make a support payment
20 within 30 days of the monthly due date specified in the order; or

21 (3) an order that involves an obligor who is receiving social security
22 or other disability compensation that includes regular payments to the children who are
23 the subjects of the support order, except to the extent that the payments to the children
24 do not equal the child support due each month.

25 (n) In calculating the amount of child support to be withheld under an income
26 withholding order, the agency shall give credit to the obligor for the cost to the obligor
27 of medical and dental insurance for the children and educational payments for the
28 children to the extent that the insurance coverage and educational payments are
29 required in the applicable child support order and are actually paid for by the obligor.

30 * Sec. 14. AS 25.27.100 is amended to read:

31 Sec. 25.27.100. ALL PERSONS MAY USE AGENCY; FEES FOR

1 SERVICES. The agency shall provide aid to any person due child support under the
2 laws of this state upon application. Subject to (b) of this section, the [THE] agency
3 may, by regulation, impose a fee for services provided under this chapter.

4 * Sec. 15. AS 25.27.100 is amended by adding a new subsection to read:

5 (b) To the extent allowed under federal law, for each payment made by the
6 agency to a custodian from money sent to the agency under an income withholding
7 order issued under this chapter, the agency shall impose a fee of \$5 on the custodian.
8 To the extent allowed under federal law, the agency shall subtract this fee from the
9 money it receives under the income withholding order before disbursing the balance
10 of the money to the custodian.

11 * Sec. 16. AS 25.27.140(b) is amended to read:

12 (b) If a support order has been entered, the agency may enforce the support
13 order utilizing the procedures prescribed in AS 25.27.062, 25.27.150, [AS 25.27.150]
14 and 25.27.230 - 25.27.270.

15 * Sec. 17. AS 25.27.150 is repealed and reenacted to read:

16 Sec. 25.27.150. INITIATED INCOME WITHHOLDING; REQUIRED
17 NOTICE AND HEARING. (a) In order to initiate income withholding for a support
18 order being enforced by the agency for which immediate income withholding is not
19 required under AS 25.27.062(a), the agency shall serve a notice of its intent to initiate
20 income withholding on the obligor. Notice under this subsection shall be served upon
21 the obligor by certified mail to the obligor's last known address, and service is
22 complete when the notice is properly addressed, certified, and mailed.

23 (b) The notice must state the amount of the overdue support that is owed, if
24 any, and the amount of income that will be withheld.

25 (c) The notice shall inform the obligor that the income withholding order will
26 take effect 15 days after the date on which the notice is served unless the obligor
27 requests a hearing within 15 days after the notice is served. If the obligor requests a
28 hearing, an income withholding order may not take effect until the conclusion of the
29 hearing.

30 (d) If the obligor requests a hearing, it shall be conducted under the
31 department's regulations for informal conferences and shall be held within 15 days of

1 the date of the request. The hearing may only be held to determine if there is a
2 mistake of fact that makes the income withholding order improper because the amount
3 of current or overdue support is incorrect, the identity of the obligor is inaccurate, or,
4 for initiated withholding based on AS 25.27.062(c)(3)(A), the alleged facts regarding
5 overdue payments or potential withdrawal of assets are incorrect. The order is not
6 subject to any other legal defenses. It is not a defense to an income withholding order
7 issued under AS 25.27.062(c)(2) that less than one full month's payment is past due
8 if at least one full month's payment was past due on the date notice was served under
9 this section.

10 (e) The appeals officer shall inform the obligor, either at the hearing or within
11 15 days after the hearing, whether or not the withholding will occur and of the date
12 on which it is to commence.

13 (f) If the appeals officer determines that withholding will occur, the obligor
14 may request a formal hearing, as provided in the department's regulations. The
15 income withholding order shall be issued and withholding shall begin under the
16 procedures in AS 25.27.062, whether or not the obligor requests a formal hearing,
17 unless the obligor posts security or a bond in the amount that would have been
18 withheld pending the outcome of a formal hearing.

19 * Sec. 18. AS 25.27.160(b) is amended to read:

20 (b) The notice and finding of financial responsibility served under (a) of this
21 section must state

22 (1) the sum or periodic payments for which the alleged obligor is found
23 to be responsible, calculated by taking in.o consideration the need of the alleged
24 obligee, the alleged obligor's liability to the state under AS 25.27.120 [AS 25.27.130]
25 if any, and the duty of support under the law;

26 (2) the name of the alleged obligee and the obligee's custodian;

27 (3) that the alleged obligor may appear and show cause in a hearing
28 held by the agency why the finding is incorrect, should not be finally ordered, and
29 should be modified or rescinded, because

30 (A) no duty of support is owed; or

31 (B) the amount of support found to be owed is incorrect;

1 (4) that if the person served with the notice and finding of financial
2 responsibility does not request a hearing within 30 days, the property and income of
3 the person will be subject to execution under AS 25.27.062 and 25.27.230 - 25.27.270
4 [IN ACCORDANCE WITH AS 25.27.230 - 25.27.270] in the amounts stated in the
5 finding without further notice or hearing.

6 * Sec. 19. AS 25.27.170(b) is amended to read:

7 (b) If a request for a formal hearing under (a) of this section is made, the
8 execution under AS 25.27.062 and 25.27.230 - 25.27.270 may not [AS 25.27.230 -
9 25.27.270 SHALL] be stayed unless the obligor posts security or a bond in the
10 amount of child support that would have been due under the finding of financial
11 responsibility pending the decision on the hearing [, OR THE DECISION OF A
12 COURT, IF APPEALED]. If no request for a hearing is made, the finding of
13 responsibility is final at the expiration of the 30-day period.

14 * Sec. 20. AS 25.27.170(d) is amended to read:

15 (d) The hearing officer shall determine the amount of periodic payments
16 necessary to satisfy the past, present, and future liability of the alleged obligor under
17 AS 25.27.120 [AS 25.27.130], if any, and under any duty of support imposable under
18 the law. The amount of periodic payments determined under this subsection is not
19 limited by the amount of any public assistance payment made to or for the benefit of
20 the child.

21 * Sec. 21. AS 25.27.170(f) is amended to read:

22 (f) If the alleged obligor requesting the hearing fails to appear at the hearing,
23 the hearing officer shall enter a decision declaring the property and income of the
24 alleged obligor subject to execution under AS 25.27.062 and 25.27.230 - 25.27.270
25 [IN ACCORDANCE WITH AS 25.27.230 - 25.27.270] in the amounts stated in the
26 notice and finding of financial responsibility.

27 * Sec. 22. AS 25.27.180(b) is amended to read:

28 (b) Liability to the state under AS 25.27.120 [AS 25.27.130] is limited to the
29 amount for which the obligor is found to be responsible under (a) of this section.

30 * Sec. 23. AS 25.27.230(a) is amended to read:

31 (a) At the expiration of 30 days from either (1) the date of distribution of an