

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8776 HOUSE STATE AFFAIRS

If you or your staff have any questions about this amendment or HB 96, please call me at 465-4998 or my staff (Dan Austin) at 465-3768.

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: HB 96

Page 2, line 4, after "adjust the":

Delete "taxes"

Insert "tax rate"

line 7, after "for":

Delete "the second half of"

line 8, after "year.":

Delete "The semiannual index for the second half of"

Insert "the index for"

line 10, after "nearest":

Delete "dollar."

Insert "cent"

Walt:

Department of Revenue has prepared a fiscal note that reflects a net revenue increase of approximately \$20 million. It is on its way from the administration. I will check to make sure you have it as soon they release it. Call if you have any questions.

Dan, 465-3768.

**ALASKA STATE LEGISLATURE
HOUSE BILL NO. 96**

HISTORY IN THE HOUSE

HISTORY IN THE SENATE

1995
1/19

Read first time and referred to:
STA JUD FIN

_____ RPT CS() _____ New Title
 _____ DP _____ DNP _____ NR _____ AM
 _____ FN _____ OFN _____ Previous FN

_____ RPT CS() _____ New Title
 _____ DP _____ DNP _____ NR _____ AM
 _____ FN _____ OFN _____ Previous FN

_____ RPT CS() _____ New Title
 _____ DP _____ DNP _____ NR _____ AM
 _____ FN _____ OFN _____ Previous FN

Read second time
 CS() Adopted

Amended

Advanced

Read third time

Return to second for specific amendment

PASSED EFD Same ___ or
 Yeas Yeas
 Nays Nays
 Excused Excused
 Absent Absent

_____ Intent adopted

Reconsideration
 Reconsideration not taken up

PASSED ON RECON. EFD Same ___ or
 Yeas Yeas
 Nays Nays
 Excused Excused
 Absent Absent

_____ Intent adopted

Reported correctly engrossed
 Signed by Speaker, to the Senate

Chief Clerk of the House

19

Read first time and referred to:

_____ RPT(____) CS ___ DP ___ NR ___ DNP ___ AM
 _____ New Title _____ Same Title _____ Previous FN
 _____ FN ___ OFN _____ To _____

_____ RPT(____) CS ___ DP ___ NR ___ DNP ___ AM
 _____ New Title _____ Same Title _____ Previous FN
 _____ FN ___ OFN _____ To _____

_____ RPT(____) CS ___ DP ___ NR ___ DNP ___ AM
 _____ New Title _____ Same Title _____ Previous FN
 _____ FN ___ OFN _____ To _____

_____ Rules Calendar(____) CS ___ AM ___ Other
 _____ New Title _____ Same Title _____ Previous FN
 _____ FN ___ OFN _____

Read second time

_____ CS Adopted (____) _____ New Title
 _____ Amended _____ Advanced

Read third time

_____ Letter of Intent adopted
 _____ Return to second for specific amendment

PASSED EFD Same ___ or
 Yeas Yeas
 Nays Nays
 Excused Excused
 Absent Absent

Reconsideration
 Reconsideration not taken up

PASSED EFD Same ___ or
 Yeas Yeas
 Nays Nays
 Excused Excused
 Absent Absent

Reported correctly engrossed
 Signed by President, to the House

Secretary of the Senate

HOUSE-SENATE HISTORY Continued

19

Received from the Senate _____

Concur in Senate amendment
Y ___ N ___ E ___ A ___
_____ Efd same or Y ___ N ___ E ___ A ___

Failed to concur Senate amendment, ask Senate recede
Y ___ N ___ E ___ A ___

Senate failed to \ recede from amendment
Y ___ N ___ E ___ A ___

CC appointed by House _____ Chair

CC appointed by Senate _____ Chair

(H) Granted Limited Powers of Free Conference

(S) Granted Limited Powers of Free Conference

19

(H) Adopted CC Rpt _____
Y ___ N ___ E ___ A ___
_____ Efd same or Y ___ N ___ E ___ A ___

(S) Adopted CC Rpt _____
Y ___ N ___ E ___ A ___
_____ Efd same or Y ___ N ___ E ___ A ___

To enrolling
Reported enrolled and sent to Governor

_____ By Governor

Chapter Number _____

Filed with Lieutenant Governor

HB

106



February 3, 1995

Representative Jeannette James
Chair,
House State Affairs Committee
The Alaska Legislature
State Capitol, Room 102
Juneau, Alaska 99801-1182

Dear Representative James:

I am writing on behalf of the Alaska State Council on the Arts to express the Council's unanimous opposition to House Bill 106 (An Act relating to art in public places requirements and art in public places fund.) Here is an outline of the Council's position.

HB 106 would negatively effect the two constituencies the Percent for Art program is designed to serve: the public and artists. Public Art is an aesthetic enrichment of the public environment that comments on who we are as Alaskans, and what it means to live, work, and study in this place. The biggest public impact of the repeal would be on Alaska's schools and children. In FY93, every project was in either a school or university building. Artists would also be severely effected. The program is a vital means of supporting the development Alaskan artists' skills and careers. It means work for artists (about 875 Alaskan artists are on the Council's Percent for Art mailing list).

The Council considers Percent for Art an ideal program, and a fiscally conservative program. The amount of Percent for Art activity is tied directly to eligible projects in the capital budget. ASCA records indicate that in FY95, the Percent for Art program has eight active and pending projects totaling \$948,862. Each project includes from four to eight separate art commissions. These projects include appropriations dating back to at least FY91. It often takes months or years after the budget is passed for Percent for Art Projects to be announced.

According to the Department of Transportation and Public Facilities, repeal of the Percent for Art program would not affect the Capital budget. One percent is not added to the cost of capital projects, rather, once appropriated, it is dedicated to public art. If the program is repealed, this percent will be absorbed in other costs associated with the project.

Percent for Art operates without direct administrative expense. Every dollar spent in the Percent for Art program goes directly to the art project. The program has no staff. Responsibility for compliance is that of the department constructing the building or facility. Departments are required to consult with ASCA (35.27.020 [b] and [e]). Until 1986, the Council's Visual Arts Coordinator provided Percent for Art program services (due to budget cuts the position was eliminated in 1986). Although the Council has a strong interest in the prudent operation of the program, we do not have management authority over projects. Every department, agency, or school district maintains the authority to develop public art appropriate for their building.

Alaska State Council on the Arts

411 West 4th Avenue, Suite 1E, Anchorage, Alaska 99501-2343 (907) 269-6610 Fax: (907) 269-6601

Art commissioned and installed under AS 35.27 becomes a permanent part of the building or facility. Amortized over the life of a building, the cost of public art is a modest investment in the enhancement of the public environment and the quality of life in Alaska.

The Art in Public Places Fund has a balance of approximately \$38,500. As you know, under AS 35.27, a building or facility with an estimated construction cost of less than \$250,000, and/or a building or public facility without substantial public use, is exempt from the Percent for Art Program. For these buildings or facilities, AS 44.27.060 (Art in Public Places Fund) established a fund with which the ASCA can purchase art for permanent installation or loan. The balance of the fund is not a reflection of current spending, but the accrual of projects dating back to 1987.

Today, there are over one hundred public percent for art programs in the United States. The Federal government, twenty-nine states, and scores of cities operate percent for art programs. Anchorage is the only city in Alaska to operate a municipal program, and it is managed by a full-time position at the Anchorage Museum of History and Art. Public art has been commissioned since the antiquities. Public art is one of the important ways in which we can come to know and understand civilization. Try to picture Rome, London, or Washington, DC without public art. Public Art is a legacy to the leaders and cultures that produced it.

The art produced in the Percent for Art program becomes a testament to what we value as a state and as a people. It speaks to the Alaskan spirit, tells our history, and inspires our dreams. The Alaska Percent for Art program is a legacy for Alaska's future.

If you have an questions, or would like additional information, please direct your inquiries to the Council's Executive Director, Tim Wilson. If I can be of further assistance, don't hesitate to call.

Sincerely,



Carol Y. Heyman, Chair, for:

Gloria Marinacci Allen, Anchorage
Wanda Chin, Fairbanks
Joann Congdon, Anchorage
Rose Atuk Fosdick, Nome
Dale Hanson, Sitka
Joan Bugbee Jackson, Cordova

Gary Klopfer, Anchorage
Shannon McDade, Anchorage
Sister Carolyn A. Roeber, O.P., Fairbanks
Tisket Seslar, Juneau

enclosure

cc: Pat Pourchot, Legislative Director, Office of the Governor
Commissioner Jerry Covey, DOE
Commissioner Joseph Perkins, DOTPF

Fax Transmission

No. of pages incl. this one: 2

To: Representative Jeannette James

Fax number: 465-2186 Voice: 465-3743

From: Patricia J. Petrivelli *Pat*

Date: Thursday, February 9, 1995

If you do not receive all pages, please contact:

Institute of Alaska Native Arts
P. O. Box 70769
Fairbanks, AK 99707
907-456-7491/907-451-7268

Subject: HB 106

Attached is testimony that I would like to present to the House State Affairs committee. If you have any questions please let me know.

*Please read testimony into record per her request
HB 106*



Institute of Alaska Native Arts, Inc.

P.O. Box 70769 • Fairbanks, Alaska 99707
(907) 456-7491 • FAX (907) 451-7268

Testimony on HB 106

Madame Chair and other members of the House State Affairs Committee, I am Patricia Petrivelli, executive director of the Institute of Alaska Native Arts, a statewide organization formed in 1976 to provide services to Alaska Native artists and the general public. I would like to address HB 106, a bill that would repeal Alaska's Percent for Art program and deplete the Art in Public Places Fund. The following text is almost exactly what I submitted as testimony last year to HB 411, legislation that would have done what HB 106 proposes. The situation has not changed, art is still an integral portion of many Alaskan's lives and both of these programs still serve the valuable functions of providing support to artists and providing public access to the work of Alaska's artists. Without these programs, the work of today's Alaskan artists will be limited to private collectors and museums, and in today's economic climate, the acquisition budgets of most museums are declining.

The Percent for Art program still costs the State of Alaska less than a penny for every dollar spent on construction because rural schools get just one-half percent for art. In the schools, by spending this penny, children in Alaskans are exposed to outstanding examples of art made especially for their environment. When I attended the WWII reunion in Unalaska, in June 1992, many of the events were held in the newly remodeled high school. The art in the school gave a warmth and identity to the otherwise empty building. By filling schools and other public places with the work of today's artists, we send a message to children emphasizing creativity and opportunity. Empty buildings would send a very different message.

I strongly urge you not take any action on HB 106; and wherever possible, please maintain the current level of support for art programs throughout the state. Thank you for your attention.

Alaska State Legislature



While in Session:
State Capitol Building
Juneau, Alaska 99801-1182
907-465-3719

Interim:
119 N. Cushman
Suite 211
Fairbanks, Alaska 99701
907-456-5081

Representative Al Vezey

MEMORANDUM

DATE: January 26, 1995

TO: Representative Jeanette James

FROM: Representative Al Vezey

SUBJECT: Hearing HB 106

I request that you hear my bill, HB 106-Repeal Art in Public Places, at your earliest convenience, in your House State Affairs Committee.

Alaska State Legislature



While in Session:
State Capitol Building
Juneau, Alaska 99801-1182
907-465-3719

Interim:
119 N. Cushman
Suite 211
Fairbanks, Alaska 99701
907-456-5081

Representative Al Vezey

SPONSOR STATEMENT

January 26, 1995

"An Act relating to the art in public places requirements for state-owned and state leased buildings and facilities."

This is a simple bill. It merely removes the existing mandate that one percent of the appropriation for state buildings and facilities go to the Arts Council for the procurement of art. This bill does not prohibit the legislature and/or other appropriating bodies from appropriating any it deems appropriate for the procurement of art. Nor does it prohibit public agencies of political subdivisions from allocating any amount they deem appropriate for are for any public facility.

It is the intent of this legislation that the decision as much is spent on art be determined on individual projects rather than a statutory mandate.

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 106

Revision Date: _____

Department Affected: Education

Title: Repeal Art in Public Places Requirement

BRU: School Finance

Component: Educational Facilities Support

Sponsor: Representative Vezey

Requestor: Representative Vezey

COMPONENT SERIAL NO. 1957

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
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:						
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FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
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 (FY95) impact: \$ 0.0

ANALYSIS: (Attach a separate page if necessary.)

All Capital Improvement Projects issued by the Department of Education have a contractual obligation to comply with the art in public places requirement. Any savings derived by this legislation would be based on future capital appropriations.

Prepared by: Duane Guilev 

Phone: 465-8679

Division: School Finance

Date: January 24, 1995

Approved by Commissioner: Jerry Covey 

Date: January 24, 1995

Agency: Education

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

For further distribution information call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA

BILL NO. HB 106

1995 LEGISLATIVE SESSION

Revision Date: Introduced 1/20/95 Dept. Affected: DOT&PF
 Title: An Act relating to art in public places requirements and BRU: Engineering & Operations/Design & Construc
the art in public places fund. Component: Commissioners Office
 Sponsor: Rep. Vezey
 Requester: _____ COMPONENT SERIAL NO. 530

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE

(Thousands of Dollars)

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

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

The savings of capital monies resulting from cancellation of the "one percent for art" funds (about \$50,000) would be redirected towards the inclusion of higher quality materials or the construction of additional amenities.

Prepared by: Rod Wilson, Architect
 Division: Engineering and Operations
 Approved by Commissioner: *[Signature]*
 Agency: Department of Transportation & Public Facilities

Phone: 465-2960
 Date: 01/25/95
 Date: 1/30/95

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FISCAL NOTE

STATE OF ALASKA

BILL NO. HB 106

1995 LEGISLATIVE SESSION

Revision Date: _____

Department Affected: Education

Title: Repeal Art in Public Places Requirement

BRU: School Finance

Component: Educational Facilities Support

Sponsor: Representative Vezey

COMPONENT SERIAL NO. 1957

Requestor: Representative Vezey

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
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						
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REVENUE FUND SOURCE:						
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FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
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 (FY95) impact: \$ 0.0

ANALYSIS: (Attach a separate page if necessary.)

All Capital Improvement Projects issued by the Department of Education have a contractual obligation to comply with the art in public places requirement. Any savings derived by this legislation would be based on future capital appropriations.

Prepared by: Duane Guilev 

Division: School Finance

Approved by Commissioner: Jerry Covey

Agency: Education

Phone: 465-8679

Date: January 24, 1995

Date: January 24, 1995

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HB

110

9-LS0490F ✓
Ford
3/11/96

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 110(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES BARNES, Green

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the confidentiality of certain information in motor vehicle
2 records; and providing for an effective date."

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

4 * Section 1. AS 28.05 is amended by adding a new section to read:

5 Sec. 28.05.065. DISCLOSURE OF PERSONAL INFORMATION
6 CONTAINED IN DEPARTMENT RECORDS. (a) Notwithstanding AS 44.99.300
7 and except as provided in this section, the department may not disclose personal
8 information contained in the records of the department.

9 (b) Personal information shall be disclosed for use in connection with matters
10 of motor vehicle or driver safety or theft; motor vehicle emissions; motor vehicle
11 product alterations, recalls, or advisories; performance monitoring of motor vehicles
12 and dealers by motor vehicle manufacturers; and removal of nonowner records from
13 the original owner records of motor vehicle manufacturers as required by federal law.

14 (c) Personal information may be disclosed if the requesting person

1 demonstrates, in a form and manner the department prescribes, that the requesting
2 person has obtained the written consent of the person who is the subject of the
3 information.

4 (d) Personal information may be disclosed by the department upon proof of
5 the identity of the person requesting a record and representation by the requesting
6 person that the use of the personal information is strictly limited to one or more of the
7 following uses:

8 (1) for use by a government agency, including a court or law
9 enforcement agency, in carrying out its functions, or a private person or entity acting
10 on behalf of a government agency in carrying out its functions;

11 (2) for use in the normal course of business by a legitimate business
12 or an agent, employee, or contractor of the business, but only

13 (A) to verify the accuracy of personal information submitted by
14 an individual to the business or an agent, employee, or contractor of the
15 business; and

16 (B) if the information submitted is not correct, to obtain the
17 correct information, but only for the purposes of preventing fraud by pursuing
18 legal remedies against, or recovering on a debt or security interest against, an
19 individual;

20 (3) for use in connection with a civil, criminal, administrative, or
21 arbitration proceeding in a court or government agency or before a self-regulatory
22 body, including the service of process, an investigation in anticipation of litigation, and
23 the execution or enforcement of a judgment or court order;

24 (4) for use in research activities, or in producing statistical reports, if
25 the personal information is not published, redisclosed, or used to contact an individual;

26 (5) for use by an insurer or insurance support organization, or by a self-
27 insured entity, or an agent, employee, or contractor of an insurer, in connection with
28 claims investigation activities, anti-fraud activities, rating, or underwriting;

29 (6) for use in providing notice to the owners of towed or impounded
30 vehicles;

31 (7) for use by a licensed private investigative agency or licensed

1 security service for a purpose permitted under this section;

2 (8) for use by an employer or an agent or insurer of an employer to
3 obtain or verify information relating to a holder of a commercial driver's license that
4 is required under 49 U.S.C. 31101 - 31162 (Commercial Motor Vehicle Safety Act);

5 (9) for use in connection with the operation of private toll
6 transportation facilities;

7 (10) for bulk distribution for surveys, marketing, or solicitations if the
8 department has implemented methods and procedures to ensure that

9 (A) persons are provided an opportunity, in a clear and
10 conspicuous manner, to prohibit uses; and

11 (B) the information will be used, rented, or sold solely for bulk
12 distribution for surveys, marketing, and solicitations, and that surveys,
13 marketing, and solicitations will not be directed at those individuals who have
14 requested in a timely fashion that the material not be mailed to them; and

15 (11) for any other purpose specifically authorized by law that is related
16 to the operation of a motor vehicle or related to public safety.

17 (e) Personal information contained in an individual record may be disclosed,
18 without regard to the intended use of the personal information, if the department
19 provides in a clear and conspicuous manner on forms for issuance or renewal of
20 operator's or driver's licenses, registrations, titles, or identification documents notice
21 that personal information collected by the department may be disclosed to a person
22 making a request for an individual record, and has provided in a clear and conspicuous
23 manner on the forms an opportunity for a person who is the subject of a record to
24 prohibit disclosure.

25 (f) In this section,

26 (1) "disclose" means to engage in a practice or conduct that makes
27 available or makes known personal information contained in records of the department
28 about a person to another person, organization, or entity by any means of
29 communication;

30 (2) "individual record" means a record containing personal information
31 about a designated person who is the subject of the record, as identified in a request

1 for information;

2 (3) "personal information" means information that identifies a person,
3 including an individual's photograph or computerized image, social security number,
4 driver identification number, name, address, telephone number, and medical or
5 disability information, but does not include information on vehicular accidents, driving-
6 or equipment-related violations, driver's license or registration status, or a zip code.

7 * Sec. 2. AS 28.05.061(c) is repealed:

8 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

9-LS0490AG ✓
Ford
3/13/96

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 110(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES BARNES, Green

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the confidentiality of certain information in motor vehicle
2 records; and providing for an effective date."

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

4 * Section 1. AS 28.10 is amended by adding a new section to read:

5 Sec. 28.10.505. DISCLOSURE OF PERSONAL INFORMATION
6 CONTAINED IN MOTOR VEHICLE RECORDS. (a) Notwithstanding AS 44.99.300
7 and except as provided in this section, the department may not disclose personal
8 information contained in motor vehicle records maintained by the department under
9 this chapter.

10 (b) Personal information shall be disclosed for use in connection with matters
11 of motor vehicle or driver safety or theft; motor vehicle emissions; motor vehicle
12 product alterations, recalls, or advisories; performance monitoring of motor vehicles
13 and dealers by motor vehicle manufacturers; and removal of nonowner records from
14 the original owner records of motor vehicle manufacturers as required by federal law.

1 (c) Personal information may be disclosed if the requesting person
2 demonstrates, in a form and manner the department prescribes, that the requesting
3 person has obtained the written consent of the person who is the subject of the
4 information.

5 (d) Personal information may be disclosed by the department upon proof of
6 the identity of the person requesting a record and representation by the requesting
7 person that the use of the personal information is strictly limited to one or more of the
8 following uses:

9 (1) for use by a government agency, including a court or law
10 enforcement agency, in carrying out its functions, or a private person or entity acting
11 on behalf of a government agency in carrying out its functions;

12 (2) for use in the normal course of business by a legitimate business
13 or an agent, employee, or contractor of the business, but only

14 (A) to verify the accuracy of personal information submitted by
15 an individual to the business or an agent, employee, or contractor of the
16 business; and

17 (B) if the information submitted is not correct, to obtain the
18 correct information, but only for the purposes of preventing fraud by pursuing
19 legal remedies against, or recovering on a debt or security interest against, an
20 individual;

21 (3) for use in connection with a civil, criminal, administrative, or
22 arbitration proceeding in a court or government agency or before a self-regulatory
23 body, including service of process and the execution or enforcement of a judgment or
24 court order;

25 (4) for use in research activities, or in producing statistical reports, if
26 the personal information is not published, redisclosed, or used to contact an individual;

27 (5) for use by an insurer or insurance support organization, or by a self-
28 insured entity, or an agent, employee, or contractor of an insurer, in connection with
29 claims investigation activities, anti-fraud activities, rating, or underwriting;

30 (6) for use in providing notice to the owners of towed or impounded
31 vehicles;

1 (7) for use by an employer or an agent or insurer of an employer to
2 obtain or verify information relating to a holder of a commercial driver's license that
3 is required under 49 U.S.C. 31101 - 31162 (Commercial Motor Vehicle Safety Act);

4 (8) for use in connection with the operation of private toll
5 transportation facilities;

6 (9) for bulk distribution for surveys, marketing, or solicitations if the
7 department has implemented methods and procedures to ensure that

8 (A) persons are provided an opportunity, in a clear and
9 conspicuous manner, to prohibit uses; and

10 (B) the information will be used, rented, or sold solely for bulk
11 distribution for surveys, marketing, and solicitations, and that surveys,
12 marketing, and solicitations will not be directed at those individuals who have
13 requested in a timely fashion that the material not be mailed to them; and

14 (10) for any other purpose specifically authorized by law that is related
15 to the operation of a motor vehicle or related to public safety.

16 (e) Personal information contained in an individual record may be disclosed,
17 without regard to the intended use of the personal information, if the department
18 provides in a clear and conspicuous manner on forms for issuance or renewal of
19 registrations, titles, or identification documents notice that personal information
20 collected by the department may be disclosed to a person making a request for an
21 individual record, and has provided in a clear and conspicuous manner on the forms
22 an opportunity for a person who is the subject of a record to prohibit disclosure.

23 (f) In this section,

24 (1) "disclose" means to engage in a practice or conduct that makes
25 available or makes known personal information contained in records of the department
26 about a person to another person, organization, or entity by any means of
27 communication;

28 (2) "individual record" means a record containing personal information
29 about a designated person who is the subject of the record, as identified in a request
30 for information;

31 (3) "personal information" means information that identifies a person,

1 including a name, address, telephone number, and medical or disability information,
2 but does not include information on vehicular accidents, driving- or equipment-related
3 violations, driver's license or registration status, or a zip code.

4 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).



Official Business

COMMITTEES
Natural Resources
Legislative Council

Alaska State Legislature

Office of World Trade And State/Federal Relations

REPRESENTATIVE
RAMONA L. BARNES
District 22

Anchorage
P.O. Box 103382
Anchorage, AK 99510
(907) 337-7737
(907) 258-8163

State Capitol
Juneau, AK 99801-1182
(907) 465-3438

SPONSOR STATEMENT SS HB 110

This legislation was introduced at the request of two of my constituents who had experienced stalking by persons who had obtained their addresses from DMV through license plate information. Additionally, in 1994, confidentiality of license plate information was included in the President's Crime Package.

The intent of the federal legislation (18 U.S.C. 2721) was to protect the personal privacy of persons licensed by states to drive a motor vehicle or persons who register a motor vehicle by prohibiting disclosure of information on drivers maintained by the state. This information is only to be disclosed under permissible uses.

If Alaska is not in compliance with the federal law by September 13, 1997, the DMV could be liable for civil fines of \$2,500.00 per day and the state could be subject to fines of \$5,000.00 per day until compliance is reached.

This bill is supported by the Council on Domestic Violence and Sexual Assault and the Anchorage Police Department.

I appreciate your consideration of this bill and request your support.

HB 210
10/2/97

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO: SSHB 110

Revision Date: 03/06/96 Dept. Affected: Public Safety
 Title: An Act relating to confidentiality of information BRU: Motor Vehicles
motor vehicle records... Component: Field Services
 Sponsor: Representative Barnes
 Requestor: H. STA. COMPONENT SERIAL NO. 0502

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

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL	1.4					
CONTRACTUAL	2.5					
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	3.9	-0-	-0-	-0-	-0-	-0-
CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ()	(50.0)	(50.0)	(50.0)	(50.0)	(50.0)	(50.0)
<small>Revenue Code</small>						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	3.9					
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	3.9	-0-	-0-	-0-	-0-	-0-

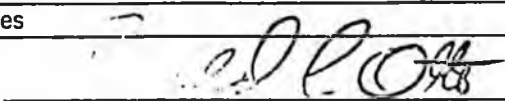
Estimate of current year (FY 95) impact: \$ _____

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

SEE ATTACHED

Prepared By: Juanita M. Hensley Phone: 465-2650
 Division: Motor Vehicles Date: 03/06/96
 Approved by Commissioner:  Date: _____
 Agency: Ronald L. Otte, Dept. of Public Safety

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO: SSHB 110

Revision Date: 03/06/96 Dept. Affected: Public Safety

ANALYSIS CONTINUED

In 1994 the State received approximately \$150.0 for the sale of vehicle records. This was for individual records at \$5.00 each and for the sale of master file updates to two major vendors at a cost of \$50.00 per 1,000 records. The main use of these records was to determine the address of the individual or, in case of major vendors, to generate mailing lists. It is estimated that \$50.0 of this revenue annually will be lost if the addresses are confidential. It is anticipated that one vendor will not be able to get the records because they make their data base available to everyone and this will be a loss of \$25.0. It is estimated that an additional \$25.0 will be lost from the walk-in customers who will have no legitimate purpose for obtaining the record.

This bill will require the Department to promulgate regulations regarding the release of motor vehicle records. Public hearings will be held in Anchorage, Fairbanks, Soldotna/Kenai and Juneau. Travel = \$980.00 Airfare from Juneau to Anchorage, Anchorage to Fairbanks, Fairbanks to Soldotna/Kenai and return to Juneau. Per-diem = \$336.00, Car Rental in Anchorage, Fairbanks and Soldotna = \$75.00. Total of travel expenses = \$1.4.

Contractual. Publishing cost to publish notice of regulations and public hearings 2 times in 6 different newspapers = \$2.1, Cost of contracting with the Legislative Information Office to hold public hearings are \$25.00 an hour, 4 hours in each location = \$.04. Total cost of contractual is \$2.5.

SEC. 300002. PROHIBITION ON RELEASE AND USE OF CERTAIN PERSONAL INFORMATION FROM STATE MOTOR VEHICLE RECORDS.

(a) In General.--Title 18, United States Code, is amended by inserting after chapter 121 the following new chapter:

CHAPTER 123--PROHIBITION ON RELEASE AND USE OF CERTAIN PERSONAL INFORMATION FROM STATE MOTOR VEHICLE RECORDS

Sec. 2721. Prohibition on release and use of certain personal information from State motor vehicle records

(a) In General.--Except as provided in subsection (b), a State department of motor vehicles, and any officer, employee, or contractor, thereof, shall not knowingly disclose or otherwise make available to any person or entity personal information about any individual obtained by the department in connection with a motor vehicle record.

(b) Permissible Uses.--Personal information referred to in subsection (a) shall be disclosed for use in connection with matters of motor vehicle or driver safety and theft, motor vehicle emissions, motor vehicle product alterations, recalls, or advisories, performance monitoring of motor vehicles and dealers by motor vehicle manufacturers, and removal of non-owner records from the original owner records of motor vehicle manufacturers to carry out the purposes of the Automobile Information Disclosure Act, the Motor Vehicle Information and Cost Saving Act, the National Traffic and Motor Vehicle Safety Act of 1966, the Anti-Car Theft Act of 1992, and the Clean Air Act, and may be disclosed as follows:

(1) For use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a Federal, State, or local agency in carrying out its functions.

(2) For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles, motor vehicle parts and dealers; motor vehicle market research activities, including survey research; and removal of non-owner records from the original owner records of motor vehicle manufacturers.

(3) For use in the normal course of business by a legitimate business or its agents, employees, or

contractors, but only--

“(A) to verify the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors; and

“(B) if such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual.

“(4) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a Federal, State, or local court.

“(5) For use in research activities, and for use in producing statistical reports, so long as the personal information is not published, redisclosed, or used to contact individuals.

“(6) For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, rating or underwriting.

“(7) For use in providing notice to the owners of towed or impounded vehicles.

“(8) For use by any licensed private investigative agency or licensed security service for any purpose permitted under this subsection.

“(9) For use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2710 et seq.).

“(10) For use in connection with the operation of private toll transportation facilities.

“(11) For any other use in response to requests for individual motor vehicle records if the motor vehicle department has provided in a clear and conspicuous manner on forms for issuance or renewal of operator's permits, titles, registrations, or identification cards, notice that personal information

collected by the department may be disclosed to any business or person, and has provided in a clear and conspicuous manner on such forms an opportunity to prohibit such disclosures.

“(12) For bulk distribution for surveys, marketing or solicitations if the motor vehicle department has implemented methods and procedures to ensure that--

“(A) individuals are provided an opportunity, in a clear and conspicuous manner, to prohibit such uses; and

“(B) the information will be used, rented, or sold solely for bulk distribution for surveys, marketing, and solicitations, and that surveys, marketing, and solicitations will not be directed at those individuals who have requested in a timely fashion that they not be directed at them.

“(13) For use by any requester, if the requester demonstrates it has obtained the written consent of the individual to whom the information pertains.

“(14) For any other use specifically authorized under the law of the State that holds the record, if such use is related to the operation of a motor vehicle or public safety.

“(c) Resale or Redisclosure.--An authorized recipient of personal information (except a recipient under subsection (b)(11) or (12)) may resell or redisclose the information only for a use permitted under subsection (b) (but not for uses under subsection (b) (11) or (12)). An authorized recipient under subsection (b)(11) may resell or redisclose personal information for any purpose. An authorized recipient under subsection (b)(12) may resell or redisclose personal information pursuant to subsection (b)(12). Any authorized recipient (except a recipient under subsection (b) (11)) that resells or rediscloses personal information covered by this title must keep for a period of 5 years records identifying each person or entity that receives information and the permitted purpose for which the information will be used and must make such records available to the motor vehicle department upon request.

“(d) Waiver Procedures.--A State motor vehicle department may establish and carry out procedures under which the department or its agents, upon receiving a request for personal information that does not fall within one of the exceptions in subsection (b), may mail a copy of the request to the individual about whom the information was requested, informing

Motznik Computer Services, Inc.

8301 Briarwood, Suite 100 Anchorage, Alaska 99518
(907) 344-6254

March 9, 1995

Rep. Jeannette James
State Capitol, Room 501
Juneau AK 99801-1182

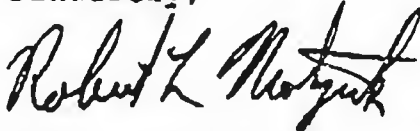
Dear Rep. James:

I will be out of town for the next 2 weeks and I have not had time to write a comprehensive letter in opposition to HB110. Attached is my letter from last March in opposition to 1994 HB526. That bill was almost identical to HB110.

The Department of Motor Vehicles has been trying to make the motor vehicle file confidential for several years. Currently they almost keep it confidential by charging \$45,000 for a copy of the file. I understand that my company and the Polk Directory are the only ones that purchase copies. We put the file on-line as part of our Public Information Access System. There are currently 400 to 500 daily DMV inquiries processed on our system. An inquiry by name on our system costs the customer about 80 cents by using their PC over a phone line to our computer. DMV charges \$5.00 and you have to travel to their office.

If the bill is still in your committee when I return, I will provide more information. Thank you for your time.

Sincerely,



Robert L Motznik

Motznik Computer Services, Inc.

8301 Briarwood Street, Suite 100
Anchorage, Alaska 99518-3332
(907) 344-6254 FAX (907) 344-1759

TO: HOUSE STATE AFFAIRS COMMITTEE

MARCH 16, 1994

FROM: ROBERT MOTZNIK

RE: HOUSE BILL 526

This letter is to register my opposition to House Bill 526. This bill calls for making addresses confidential in the motor vehicle file. The bill also mentions making the phone number confidential, but DMV does not even have a space on the registration form for phone number. There is no phone number in the file to be made confidential.

For six years we have purchased the motor vehicle file and made it available on our Public Information Access System. Hundreds of companies and government agencies access the file daily. A common use of the motor vehicle file is to find addresses.

Attorneys need to find witnesses that have moved; title companies are required to search public files for the last known address of interested parties before foreclosing; towing companies need to notify owners/lienholders before auctioning impounded vehicles; larger companies want to make sure the car left overnight in their parking lot doesn't belong to the boss before they have it towed; community patrols send letters to owners of vehicles that stop at suspected drug houses; companies/government agencies use it to locate people that have bounced checks or have not paid bills. These are some of the exceptions that DMV will have to allow for. DMV does not have the staff or the inclination to help people. The ten dollar fee to register a car in person was designed to keep people out of their office.

HOUSE BILL 526 SHOULD BE REJECTED FOR THE FOLLOWING REASONS:

1. IT WILL NOT DISCOURAGE CRIMINAL ACTIVITY

This bill would make it harder for attorneys, process servers, investigators, banks, title companies and government agencies to perform their jobs. Criminal activity requires privacy. The way to discourage criminal activity is to increase the probability of them being caught.

A criminal at the DMV counter will not be instantly rehabilitated when he is denied the address. He can either choose another victim, or if he is stalking an acquaintance, locate the victim through a different method (friends, relatives, job site, phone directory).

2. PRIVACY WILL HINDER VICTIMS

This bill could prevent stalking victims from finding out in a timely manner who is following them.

3. COSTS WILL INCREASE TO DMV AND THE PUBLIC

If a criminal comes in with a plate number of someone he wants to victimize, he may lie to the clerk as to why he needs the information (some criminals are untruthful). Since there are so many valid reasons for needing the information, how would the requests be screened? Lie-Detectors? Stack of bibles?

DMV will need more clerks to screen information requests.

The civil process will become slower and more expensive.

4. THERE IS AN ALTERNATIVE

When a subscriber performs a lookup by plate number in our system, the transaction is logged and the subscriber is warned that the log file will be made available to any law enforcement agency that requests it.

It is my understanding that DMV makes no record of plate numbers that are requested. Checking identification and recording plate inquiries would discourage criminals. DMV could be doing this now.

Thank you for your time. Please call me with your questions.

Sincerely,



Robert L. Motznik

AlaskaUSA

Federal Credit Union

HB 110

March 8, 1996

The Honorable Jeannette James
Alaska State House of Representatives
State Affairs Committee
Juneau, Alaska 99801-1182

Dear Chair James:

We are writing with concerns regarding HB 110 which restricts access to certain records of the Department of Motor Vehicles.

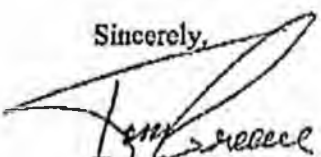
As you know, most financial institutions use DMV records as a source of information to verify automobile ownership, to locate lienholders, and to expedite the financing and titling of automobiles for consumers. Without being substantially more specific, we believe that HB 110 will have three adverse effects. First, it will increase the cost of automobile financing, which is ultimately passed on to the consumer in the form of higher interest rates; second, it will make automobile financing considerably more inconvenient for the consumer since access to immediate information could be delayed; and, thirdly, it could inundate the already strained resources of the Department of Motor Vehicles with individual requests for information.

We recognize that access may still be provided for "legitimate interest;" however, such a phrase leaves too much to interpretation and regulatory prerogative. Responsibly owning and operating a motor vehicle is a privilege, not a right. The use or misuse of a vehicle has substantial impact on a variety of "legitimate interests," including property owners, pedestrians, lienholders, sellers and purchasers. It seems appropriate that each of these interests should be able to rely on the personal accountability of the owner/operator. At a minimum, this accountability should include the ability to contact the responsible individual. It is difficult to imagine a regulation which could anticipate all the "legitimate" uses for this information, or a system which could be efficiently implemented to evaluate such "legitimacy."

We appreciate the sponsors' interest in protecting individuals' privacy; however, the accountability associated with automobile ownership carries a greater public policy interest. Until sufficient clarification is incorporated into the text of the proposed statute, we believe it is premature for the Committee to advance the proposal.

Thank you for the opportunity to comment.

Sincerely,



Tom Greene
Senior Vice President,
Consumer Lending

HB

122

**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

March 9, 1995

SUBJECT: House Bill 122, sharing marine motor fuel tax proceeds with municipalities -- sectional analysis (Work Order No. 9-LS0515A)

TO: Representative Carl Moses
ATTN: Cheryl Sutton

FROM: Jack Chenoweth 
Legislative Counsel

The measure adapts the municipal revenue sharing formula of the current fisheries business license program (AS 43.75) as a mechanism by which to distribute a portion of the proceeds of the tax on motor fuel used in boats and watercraft ("marine motor fuel tax," AS 43.40.010) to municipal governments.

Bill section 1 amends AS 43.40.010(f) to authorize use of the proceeds of the marine motor fuel tax deposited and held in the special watercraft fuel tax account in the general fund for payment to municipalities. This proposed use of the tax proceeds would be in addition to their use for water and harbor facilities.

Bill section 2, adding a proposed new section, AS 43.30.150, sets out the distribution formula applicable to the sharing of motor fuel tax receipts with municipalities. Under proposed AS 43.40.150(a), up to 50 percent of receipts collected within a municipality from the motor fuel taxes levied on boats and watercraft would be subject to sharing under a formula that takes into account the municipality's status (city/borough/unified government) and location (within or outside an organized borough). Subsection (b) sets out an alternative, transitional sharing formula applicable to boroughs that are newly-incorporated out of the state's unorganized borough applicable to the five year-period immediately following the borough's incorporation.

Bill section 3 gives the measure a July 1, 1995, effective date, tying the start of revenue sharing to the beginning of the next state fiscal year.

JBC:glc
95-206.glc

Bill Analysis

This bill amends motor fuel tax statutes to provide for sharing of motor fuel taxes levied on boats and watercraft (marine fuel). Under this bill, Department of Revenue would share 50% of marine fuel tax revenue with municipalities in which marine fuel taxes were collected.

This bill takes effect July 1, 1995.

Operating Costs

This bill will add new reporting requirements for motor fuel taxpayers (qualified dealers) by requiring them to report marine fuel sales by location. Currently, qualified dealers report monthly their motor fuel activity on a statewide basis and do not report the location of their motor fuel sales. Location information will be required for the Department to share taxes to municipalities.

This bill may cause new reporting requirements by persons other than qualified dealers, such as fuel resellers, if they resell fuel in a location different from where they purchased it. Resellers do not currently report to the Department because motor fuel taxes attributable to their fuel purchases are covered under their qualified dealer's motor fuel return.

This bill will require that the Department monthly data capture the additional information reported by qualified dealers and resellers. Reports from resellers will cause additional work because the Department will have to track movement of fuel to different locations and make accounting adjustments to records of each of the affected municipalities.

This bill will require an additional position, Accounting Technician I, Range 12 located in Juneau, to process returns and account for marine fuel tax information by municipality. The position will be responsible for verifying that the tax was collected, compiling tax data by municipality, reconciling tax revenue and issuing warrants to municipalities at the end of each fiscal year. Since this will be a new filing requirement for distributors and resellers, additional funds will be needed in FY 96 to educate them and print forms. There will be a one-time cost in FY 96 for computer equipment and furniture for the new position.

Marine fuel tax collections for FY 94 were approximately \$8.2 million. Accordingly, up to \$4.1 million may be shared to municipalities under this bill.

Revenue

Marine fuel tax collections will net to 50% of total collections after amounts are shared to municipalities. The amount to be shared to municipalities is reflected as an operating cost under "Grants, Claims" in this fiscal note.

Alaska State Legislature

Representative Carl E. Moses

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Rep. Jeannette James

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HOUSE SPECIAL COMMITTEE FISHERIES

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DEPT. OF PUBLIC SAFETY

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PHONE: (907) 465-4451
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716 W. 4TH AVE. #630
ANCHORAGE, AK 99501-2133
PHONE: (907) 258-8167
FAX: (907) 258-8468

MEMORANDUM

TO: Representative Jeannette James, Chair
House State Affairs Committee

FROM: Representative Carl E. Moses, Chairman *C E M*
House Rules Committee

DATE: March 8, 1995

RE: Scheduling of House Bill 122

I would like to request a scheduling of House Bill 122 for Thursday, March 16. I have attached a sponsor statement and will provide the fiscal note and other materials to you as the Department of Revenue completes their work.

Thank you for consideration of my request.

Alaska State Legislature

Representative Carl E. Moses

CHAIRMAN
HOUSE RULES COMMITTEE

CHAIRMAN
HOUSE SPECIAL COMMITTEE FISHERIES

MEMBER FINANCE SUBCOMMITTEES ON
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ANCHORAGE, AK 99501-2133
PHONE (907) 258-8167
FAX (907) 258-8468

SPONSOR STATEMENT

House Bill 122

An Act authorizing payment of a portion of the motor fuel tax on boats and watercraft as refunds to municipalities.

House Bill 122 would provide a mechanism for distributing back to municipalities a portion of the marine fuel taxes sold within the various municipalities for expenditures on water and harbor facilities. Fifty percent of the collected tax revenue will be distributed.

In many coastal communities the dependence on harbor facilities is the economic engine driving the economy. With dwindling general funds, the maintenance and development of public facilities is unheeded. The private sector seafood industry has developed many port facilities and has invested millions of dollars in coastal communities' infrastructure. HB 122 would provide some assistance to local governments for additional development of docks and harbors and for the maintenance and development of existing public facilities.

Revision Date: _____ Dept. Affected: Revenue
 Title: Marine Motor Fuel Tax BRU: Audit Operations/Shared Taxes
 Component: Income and Excise Audit
 Sponsor: Rep. Moses, Grussendorf, Mackie
 Requestor: (H) STA COMPONENT SERIAL NO. 113

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	40.6	42.0	43.5	45.0	46.6	48.2
TRAVEL						
CONTRACTUAL	3.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	5.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS	4,100.0	4,100.0	4,100.0	4,100.0	4,100.0	4,100.0
MISCELLANEOUS						
TOTAL OPERATING	4,149.6	4,143.0	4,144.5	4,146.0	4,147.6	4,149.2

CAPITAL						
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REVENUE FUND SOURCE: GF	0.0	0.0	0.0	0.0	0.0	0.0
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	4,149.6	4,143.0	4,144.5	4,146.0	4,147.6	4,149.2
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	4,149.6	4,143.0	4,144.5	4,146.0	4,147.6	4,149.2

POSITIONS:

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

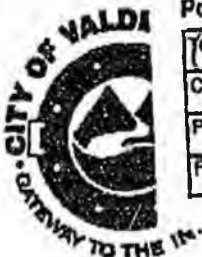
Estimate of current (FY95) impact \$ 0.0

ANALYSIS: (Attach a separate page if necessary)

(See Attached Analysis)

Prepared by: Robert N. Bartholomew, Deputy Director *Robert N. Bartholomew* Phone: 465-2320
 Division: Income and Excise Audit Date: 3/9/95
 Approved by Commissioner: *[Signature]* Date: 3/9/95
 Agency: Department of Revenue

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Co./Dept.	()	Co.	VALDEZ		
Phone #		Phone #			
Fax #		Fax #			

March 17, 1995

Representative Carl E. Moses
State Capital Building
Juneau, Alaska 99801-1182

Attn: Cheryl Sutton

Sent via FAX: 465-3445
Original Letter Mailed

RE: SUPPORT FOR HB 122

Dear Representative Moses:

Thank you for sponsoring HB 122, "An Act authorizing payment of a portion of the motor fuel tax on boats and watercraft as refunds to municipalities". The City of Valdez heartily supports passage of this legislation and wishes to work to see it enacted this year. Please insure that these comments are made part of the record for a hearing on this bill scheduled for March 18 before the State Affairs Committee.

As you mention in your "Sponsor Statement", harbor and port facilities represent vital infrastructure for Alaska's coastal communities. As the State of Alaska seeks to diversify and stabilize its economy the development, operation, and maintenance of harbor and port facilities will become even more important.

Most, if not all, of the State of Alaska harbors operated by municipalities are in disrepair due to lack of maintenance and the inability to generate enough revenues to stay on top of maintenance demands. I do not believe this maintenance deficit is for lack of trying. Most harbors do generate considerable income from slip rental fees and associated harbor services. But the costs of maintaining harbor facilities is enormous, particularly in Alaska. The brutal weather (wind and snow), the corrosive effects of a salt water environment, and the wear from larger boats and inexperienced boat handlers (increased sport boating/fishing) make Alaska's harbors voracious consumers of maintenance dollars. As a city manager seeking to meet too many needs with not enough money, I always shutter when I sit down with my Harbormaster to talk about harbor construction or maintenance projects. My "rule of thumb" has become to figure what I think a project should cost and then triple it. Even then, I am sometimes on the low side. Maintenance problems also open a municipality up for liability claims from falls and other accidental injury at the harbor.

Representative Carl Moses
March 17, 1995
page 2

Ports and docks also suffer from the maintenance dilemma. These facilities provide jobs and support the fishing, tourism, and transportation industries. But damage due to weather, wear, accident, and age also presents a maintenance challenge for tight municipal budgets. Valdez has two docks and each has sustained accident damage this winter. The City Has recovered some reimbursement from one of the accidents. Damage cannot always be attributed to a particular vessel and recovery of full reimbursement for repairs is far from certain. It often comes down to a cost of doing business.

The reduction of State Revenue Sharing and Municipal Assistance by about 55% over the last ten years has taken its toll. The sharp decline in State spending on maintenance for harbors has been felt and can be seen all along the coast of Alaska. Ports and harbors are local government concerns that help build and sustain a large part of Alaska's economy, yet the funding for providing this important service is restricted. The only positive development in meeting port and harbor maintenance needs has been the Capital Matching Grant program.

HB 122 seeks to direct money to local governments so it can have another source of funding for the maintenance and operation of vital marine facilities. It is not clear to me that these shared taxes would need to be directed to harbor and port maintenance, however, it would be my intent to recommend to my City Council the commitment of these dollars for that purpose even if it is not required. I believe those that pay these taxes are a lot more understanding and supportive of paying if the taxes are directed back to develop or maintain critical marine infrastructure.

Thank you again for sponsoring this bill. I hope it is favorably considered and enacted. I will be happy to answer any questions you may have.

Sincerely,


Doug Griffin
City Manager

cc: Valdez Mayor John Harris
Valdez City Council Members
Senator Georgianna Lincoln
Representative Gene Kubina
Representative Jeannette James, Chair of House State Affairs
Pat Pourchot, Legislative Liaison, Governor's Office
Kevin Ritchie, Executive Director, Alaska Municipal League
Tim Lopez, Valdez Harbormaster/Port Director

03/18/95

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PARTICIPANT LIST (ALL PARTICIPANTS)

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SCHEDULED FOR: 03/18/95 10:00 TO 12:00

FOR: BET

PUBLIC HEARING

HOUSE STATE AFFAIRS

LOCATION: BETHEL

HB 122

WILLIAM_J.

HUNTER

CITY OF BETHEL

TESTIFY

address - phone #



MAR 17 1995

217 Second Street, Suite 200 ■ Juneau, Alaska 99801 ■ Tel (907) 586-1325, Fax (907) 463-5480

March 16, 1995

TO: Representative Carl Moses

FROM: Kevin C. Ritchie
Executive Director

RE: House Bill 122 - Payment of a portion of the motor fuel tax on boats and watercraft as refunds to municipalities

The Alaska Municipal League is writing in support of HB 122, which would provide a portion of the motor fuel taxes collected by the state to be refunded to municipalities.

The statute now requires a substantial part of the state-collected aviation fuel taxes be refunded to any municipality operating an airport where the fuel taxes were collected. Similarly, the tax proceeds from marine fuels should be refunded to each municipality which bears the burden.

Under the Transportation Section of the Alaska Municipal League's 1995 Policy Statement, this issue is addressed as follows:

"The League supports amendment of the statute on marine fuel taxes (AS 43.40) so that marine fuel taxes collected in any municipality which the state has required to take over responsibility for harbor and dock expenses, or where the municipality holds existing responsibilities for these expenses, must be refunded to that municipality."

If you have any questions, please feel free to call me at 586-1325.

A M E N D M E N T

OFFERED IN THE HOUSE

TO: HB 122

- 1 Page 1, line 1:
- 2 Delete "motor fuel tax on boats and"
- 3 Insert "tax on motor fuel used in and on"

- 4 Page 1, lines 5 - 6:
- 5 Delete "boats and"
- 6 Insert "or on" [BOATS AND]

- 7 Page 2, line 2:
- 8 Delete "boats and watercraft"
- 9 Insert "motor fuel used in and on watercraft of all descriptions"

- 10 Page 2, line 5:
- 11 Delete "boats and watercraft"
- 12 Insert "motor fuel used in and on watercraft of all descriptions"

- 13 Page 2, line 10:
- 14 Delete "boats and watercraft"
- 15 Insert "motor fuel used in and on watercraft of all descriptions"

- 16 Page 2, line 14:
- 17 Delete "boats and watercraft"
- 18 Insert "motor fuel used in and on watercraft of all descriptions"

- 19 Page 2, line 21:

- 1 Delete "boats and watercraft"
- 2 Insert "motor fuel used in and on watercraft of all descriptions"

- 3 Page 3, line 2:

- 4 Delete "boats and watercraft"
- 5 Insert "motor fuel used in and on watercraft of all descriptions"

A M E N D M E N T

OFFERED IN THE HOUSE

TO: HB 122

1 Page 1, line 2, after "municipalities":

2 Insert ", and imposing a reporting requirement on certain sales or transfers of
3 that motor fuel"

4 Page 3, after line 14:

5 Insert a new subsection to read:

6 "(d) If a person sells or transfers motor fuel used in or on a watercraft of any
7 description within a municipality other than the municipality in which the motor fuel
8 was purchased or stored, the person shall submit to the department a statement
9 disclosing the motor fuel sales or transfers that the person made during the preceding
10 calendar month outside the municipality in which the motor fuel was purchased or
11 stored."

A M E N D M E N T

OFFERED IN THE HOUSE

TO: HB 122

1 Page 3, after line 14:

2 Insert a new subsection to read:

3 "(d) In this section, "tax revenue collected," as used with reference to a
4 municipality, means the revenue derived from the tax levied on motor fuel used in and
5 on watercraft of all descriptions under this chapter that is collected in the municipality
6 in which the final sale or transfer occurred."

HB

127



Alaska State Legislature

House

Official Business

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

Date: February 2, 1995.

To: Representative Jeannette James
Chair: House State Affairs Committee

From: Representative Pete Kelly

Re: Hearing Request for House Bill 127

PK

Please schedule a hearing of HB 127:

"An Act Increasing the minimum term of imprisonment for assaults in the fourth degree committed against a peace officer, fire fighter, correctional officer, emergency medical technician, paramedic, ambulance attendant or other emergency responders."

HB 127 sends a clear message to individuals that once the police arrive the disturbance must stop. Alaska is not sending in a "tag team" to continue the fracas.

Additional backup materials have been requested.



Alaska State Legislature

House

Official Business

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

Representative Pete Kelly

Sponsor Statement

House Bill 127

Bill: "An Act increasing the minimum term of imprisonment for assaults in the fourth degree committed against a peace officer, fire fighter, correctional officer, emergency medical technician, paramedic, ambulance attendant, or other emergency responders."

It is the intent of this bill to enhance a serious tool for police officers and others on the front line. It will increase the severity of punishment for acts committed against a police officer while in the performance of official duties.

This bill sends a clear message to individuals that once the police arrive the fight must stop. Alaska is not sending in our "tag team blue" for the next round. Expanding the fracas to include a police officer will result in jail time.

This bill also discourages an officer from "engaging in a fair fight." There is no reason for such a fight to continue, and this bill makes that quite clear.

Although initially intended as a tool for police, it has even more meaning when applied to individuals with even less training or expectation of dealing with persons physically. Volunteers responding to a medical emergency, or fire are neither equipped nor trained to handle assault or violence directed against their persons.

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

January 30, 1995

SUBJECT: Sectional Summary of HB 127. (Work Order No. 9-LS0501A)

TO: Representative Pete Kelly

FROM: Gerald P. Luckhaupt *JEL*
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, please note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill - the bill itself is the best statement of its contents.

Section 1 of the bill increase the mandatory minimum jail term for assault in the fourth degree committed against a "peace officer, fire fighter, correctional officer, emergency medical technician, paramedic, ambulance attendant, or other emergency responder" from 30 days to 120 days.

Section 2 of the bill provides an applicability section.

GPL:glc
95-098.glc

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE KELLY

Introduced:

Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act increasing the minimum term of imprisonment for assaults in the fourth
2 degree committed against a peace officer, fire fighter, correctional officer, emergency
3 medical technician, paramedic, ambulance attendant, or other emergency responders."

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

5 * Section 1. AS 12.55.135(d) is amended to read:

6 (d) A defendant convicted of assault in the fourth degree upon a uniformed or
7 otherwise clearly identified peace officer, fire fighter, correctional officer, emergency
8 medical technician, paramedic, ambulance attendant, or other emergency responder who
9 was engaged in the performance of official duties at the time of the assault shall be
10 sentenced to a minimum term of imprisonment of 120 [30] days.

11 * Sec. 2. This Act applies to all offenses committed on or after the effective date of this Act.

Alaska State Legislature

REPRESENTATIVE
PETER KELLY

Mailing Address:
119 N. Cushman, Suite 203
Fairbanks, Alaska 99701
(907) 456-8161



White & Juneau
State Capitol
Juneau, Alaska
99801-0182
(907) 465-2327

House District 31

House Of Representatives

February 14, 1995

House State Affairs Committee
The Honorable
Jeannette James, Chairman

HB 127

Fiscal Note Summary:

<u>Department</u>	<u>Dollars</u>
Corrections	64.2
Law	0
Public Safety	0
Total	64.2

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 127

Revision Date: _____ Dept. Affected: Corrections
 Title: An Act increasing the minimum termassult on BRU: Statewide Operations
...peace officers.... Component: All Institutions
 Sponsor: Rep. Kelly
 Requester: Rep. Kelly COMPONENT SERIAL NO. _____

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS	64.2	64.2	64.2	64.2	64.2	64.2
TOTAL OPERATING	64.2	64.2	64.2	64.2	64.2	64.2

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

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

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
1002 Federal Receipts						
1003 GF Match						
1004 GF	64.2	64.2	64.2	64.2	64.2	64.2
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	64.2	64.2	64.2	64.2	64.2	64.2

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill would increase the minimum sentence for assault defined in AS 12.55.135 (d) from 30 to 120 days imprisonment.

Because this offense involves assault on a clearly identified peace officer, fire fighter or other justice or emergency personnel, these individuals would serve their enhanced sentence in a correctional facility at a cost of \$107.00 per day. Allowing for good time accounting, each inmate affected would serve an additional 60 days at \$107 per day or \$6,420.00. Data concerning assaults on this group are not kept separate from other assaults, however, contacts with the Dept. of Law and Dept. of Public Safety indicate the number is small; perhaps 10 to 12.

$60 \times 10 \times \$107 = \$64,200.00$ annual cost of increase in minimum sentence.

Prepared by: Jerry Shriner
 Division: Commissioner's Office
 Approved by Commissioner: *Harriet M. Pugh*
 Agency: Department of Corrections

Phone: 465-4640
 Date: 2/8/95
 Date: 2/8/95

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 127

Revision Date: _____ Dept. Affected: Department of Law
 Title: "...assaults in the fourth degree committed against BRU: Prosecution
a peace officer, fire fighter, correctional officer..." Component: All
 Sponsor: Representative Kelly
 Requester: Representative Kelly COMPONENT SERIAL NO. 0085-0090

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
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 EXPENDITURES						
----------------------	--	--	--	--	--	--

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 12.55.135(d) to increase the minimum term of imprisonment from 30 days to 120 days for a person convicted of assault in the fourth degree for assaulting a peace officer, fire fighter, correctional officer, emergency medical technician, paramedic, ambulance attendant, or other emergency responder who was engaged in the performance of official duties at the time of the assault., This is a sentencing provision that will not have a fiscal impact on the Department of Law.

Prepared by: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Division Date: 2/13/95
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 2/13/95
 Agency: Department of Law

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FISCAL NOTE

STATE OF ALASKA

BILL NO: HB 127

1995 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Public Safety
 Title: "An Act increasing the minimum term of imprisonment for assaults against a peace officer..." Alaska State Troopers
 Component: Detachments
 Sponsor: Representative Kelly
 Requestor: (H) State Affairs COMPONENT SERIAL NO. 0799

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

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ()	-0-	-0-	-0-	-0-	-0-	-0-
<small>Revenue Code</small>						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 95) impact: \$ -0-

POSITIONS:

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

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

Prepared By: Francis C. Allan Phone: 269-5691
 Division: Alaska State Troopers Date: 02/02/95
 Approved by Commissioner: *Del Smith* Date: 2/10/95
 Agency: Ronald L. Otte, Dept. of Public Safety

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HB

130

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 130

Revision Date: _____
 Title: Regulation Adoption Procedures and Review

Department Affected: Commerce and Economic Development
 BRU: Banking, Securities and Corporations
 Component: Banking, Securities and Corporations

Sponsor: Representative Kelly
 Requestor: _____

COMPONENT SERIAL NO. 1233

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ()	0	0	0	0	0	0
------------------------	---	---	---	---	---	---

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

Estimate of current year (FY 95) cost: \$ _____

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Willis F. Kirkpatrick, Director
 Division: Banking, Securities and Corporations

Phone: 465-2521
 Date: _____

Approved by Commissioner: William L. Hensley
 Agency: Commerce and Economic Development

Date: 2/19/95

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 130

Revision Date: _____ Department Affected: Office of the Governor
 Title: "A Act relating to agency review of public comment on the BRU: Executive Operations
adoption, amendment, repeal of regulations; ..." Component: Office of the Lieutenant Governor
 Sponsor: Representative Kelly
 Requestor: _____ COMPONENT SERIAL NO. 0011

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 96	FY 97	1. 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

CHANGE IN						
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FUND SOURCE

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY95) cost: _____

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

Prepared by: John Lindback, Chief of Staff *John Lindback* Phone: 465-4081
 Division: Office of the Lieutenant Governor Date: 2/2/95

Approved by Commissioner: Lieutenant Governor Fran Ulmer *Fran Ulmer* Date: 2/2/95
 Agency: Office of the Governor

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 130

Revision Date: _____ Dept. Affected: Fish and Game
 Title: An Act relating to agency review of regulations BRU: Administration and Support
 Component: Administrative Services
 Sponsor: Representative Kelly
 Requester: (H) State Affairs COMPONENT SERIAL NO. 479

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	64.5	66.6	69.0	71.4	73.9	76.5
TRAVEL	5.0	5.0	5.0	5.0	5.0	5.0
CONTRACTUAL	3.0	3.0	3.0	3.0	3.0	3.0
SUPPLIES	0.5	0.5	0.5	0.5	0.5	0.5
EQUIPMENT	5.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	78.0	75.1	77.5	79.9	82.4	85.0

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	78.0	75.1	77.5	79.9	82.4	85.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	78.0	75.1	77.5	79.9	82.4	85.0

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

HB 130 proposes to add a requirement for economic analysis by an agency prior to adopting new regulations. Since the Department of Fish and Game adopts numerous regulations annually through the Boards of Fisheries and Game for management of fish and game resources, a minimum of one additional Economist I (range 18) position and associated costs will be required. Section 6 of the bill outlines four new responsibilities for agencies prior to adoption of new regulations which are not currently done. The department currently uses a significant public process in promulgating regulations which includes 80 public advisory committees around the state as well as a call for proposals that is published and distributed statewide. The two boards meet an average of 100 days per year and deliberate on approximately 1000 proposals. The process proposed under HB 130 would add significant time to this process while the department attempted to determine the economic impact of proposed regulations. Many of the regulations passed by the boards relate to seasons and bag limits and implementation is time sensitive. Measuring the economic impact would be problematic given the nature of proposed regulations, for example, measuring the impact of a fishery closure due to inadequate stocks.

Prepared by: Kevin Brooks *Kevin Brooks* Phone: 465-5999
 Division: Administrative Services Date: 3/14/95
 Approved by Commissioner: Frank Rue *Frank Rue* Date: 3/14/95
 Agency: Fish and Game

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Alaska State Legislature

REPRESENTATIVE

PETER KELLY

Mailing Address:

119 N. Cushman, Suite 203

Fairbanks, Alaska 99701

(907) 456-8161



While in Juneau

State Capitol

Juneau, Alaska

99801-1182

(907) 465-2327

House District 31

House Of Representatives

February 14, 1995

House State Affairs
The Honorable
Jeannette James, Chairman

Fiscal Note Summary:

<u>Department</u>	<u>Dollars</u>
Administration	0
Governor - Lieutenant Governor	73.7
Governor - Office of Management & Budget	38.4
Governor - Human Rights Commission	40.0
Governor - Elections	0
Health and Social Services	74.2
Department of Law	0
Public Safety	10
Natural Resources	0
Total	226.3

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 130

Revision Date: _____
Title: "An Act relating to agency review of public comment..."

Department Affected: Administration
BRU: Various
Component: Various

Sponsor: Rep. Kelly
Requestor: Rep. Kelly

COMPONENT SERIAL NO. 45

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
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 EXPENDITURES	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

CHANGE IN REVENUES ()	0	0	0	0	0	0
------------------------	---	---	---	---	---	---

FUND SOURCE:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 95) cost: \$ -0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

There is no fiscal impact to the Department of Administration.

Prepared by: Sharon Barton
Division: Administrative Services

Phone: 465-2277
Date: _____

Approved by Commissioner: Mark Bover
Agency: Department of Administration

Date: 2/13/95

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REVISED
FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 130

Revision Date: 2/13/95 Department Affected: Office of the Governor
 Title: "A Act relating to agency review of public comment on the BRU: Executive Operations
adoption, amendment, repeal of regulations; ..." Component: Office of the Lieutenant Governor
 Sponsor: Representative Kelly
 Requestor: _____ COMPONENT SERIAL NO. 0011

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	68.0	70.4	72.4	74.8	77.0	79.6
TRAVEL						
CONTRACTUAL	.9	.9	.9	.9	.9	.9
SUPPLIES	.2	.2	.2	.2	.2	.2
EQUIPMENT	4.6	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	73.7	71.5	73.5	75.9	78.1	80.7

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

CHANGE IN						
-----------	--	--	--	--	--	--

FUND SOURCE	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
1002 Federal Receipts						
1003 GF Match						
1004 GF	73.7	71.5	73.5	75.9	78.1	80.7
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	73.7	71.5	73.5	75.9	78.1	80.7

POSITIONS	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
FULL-TIME	1	1	1	1	1	1
PART-TIME						
TEMPORARY						

Estimate of any current year (FY95) cost: 0

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

Prepared by: John Lindback, Chief of Staff *John Lindback* Phone: 465-4081
 Division: Office of the Lieutenant Governor Date: _____

Approved by Commissioner: Lieutenant Governor, Frank Miller *Frank Miller*
 Agency: Office of the Governor Date: 2/13/95

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HB130 Analysis:

HB130 expands the existing "ministerial and mandatory" role of the Lieutenant Governor in the regulation process. HB130 requires the Lieutenant Governor to determine which regulations will be accepted for filing and which will be returned to the agencies. The expanded responsibilities will necessitate an additional staff position. The position, staff assistant rg. 21, will be responsible for the related research and analysis pertaining to each regulatory proposal.

Fiscal note assumes merit increases with each fiscal year.

Personal Services:		68.0
Contractual:		
Communication, postage, courier		.9
Supplies:		.2
Equipment:		4.6
Phone	.5	
Work station set-up	1.2	
IBM PC/Monitor, token ring	2.9	

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB130

Revision Date: _____ Dept. Affected: Office of the Governor
 Title: Relating to the review of proposed regulations BRU: Office of Management and Budget
 Component: Governmental Coordination
 Sponsor: Representative Kelly
 Requester: _____ COMPONENT SERIAL NO. 18

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	38.4	38.6	38.6	38.6	38.6	38.7
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	38.4	38.6	38.6	38.6	38.6	38.7

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	38.4	38.6	38.6	38.6	38.6	38.7
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	38.4	38.6	38.6	38.6	38.6	38.7

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

Section 6 of the proposed legislation (AS 44.62) would place new regulatory requirements on the Division of Governmental Coordination, including evaluation of the economic effects of the proposed regulatory change. The Division does not have an economist on staff and has determined the most efficient way to meet the new requirements would be to contract with an economic consultant. The consultant would prepare a written review of the proposed regulatory change and address the four items identified in AS 44.62.215. The fiscal impact to the Division is based on the average of three regulatory projects per year that would require one month of a consultant's time per project. The inflation rate is based on current revenue forecasts.

Prepared by: Kerry Howard, Acting *Kerry Howard*
 Division: Governmental Coordination

Phone: 465-3562
 Date: 2/2/95

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

Date: 2/6/95

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB130

Revision Date: _____ Dept. Affected: Office of the Governor
 Title: Regulation Changes/Public Comment BRU: Human Rights Commission
 Sponsor: Kelly Component: _____
 Requester: _____ COMPONENT SERIAL NO. _____

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	40.0	-0-	42.0	-0-	44.0	-0-
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	40.0	-0-	42.0	-0-	44.0	-0-

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES						
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FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF	40.0	-0-	42.0	-0-	44.0	-0-
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	40.0	-0-	42.0	-0-	44.0	-0-

Estimate of any current year (FY95) cost: \$ -0-

POSITIONS	NONE					
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The Commission periodically enacts regulations. Section 44.62.215(b) will require the agency to reach a determination on issues for which it does not have the expertise. The Commission would need the contractual services of an accountant, survey taker, and economist for one month to assist it in providing the written determination required in this subsection.

Prepared by: Paula M. Haley, Executive Director Phone: 276-7474 x241
 Division: Human Rights Commission Date: 2-2-95
 Approved by Commissioner: [Signature] Date: 2/6/95
 Agency: _____

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 130

Revision Date: _____
Title: "A Act relating to agency review of public comment on the adoption, amendment, repeal of regulations; ..."
Sponsor: Representative Kelly
Requestor: _____

Department Affected: Office of the Governor
BRU: Electivo Operations
Component: Elections
COMPONENT SERIAL NO. 0021

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

CHANGE IN						
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FUND SOURCE

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY95) cost: _____

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

Prepared by: David Koivuniemi, Acting Director
Division: Division of Elections

Phone: 465-5405
Date: 2-2-95

Approved by Commissioner: Lieutenant Governor Fran Ulmer
Agency: Office of the Governor

Date: _____

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STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 130

Revision Date: _____
Title: Relating to Agency Review of Regulations
Sponsor: Representative Kelly
Requestor: State Affairs

Dept. Affected: Health and Social Services
BRU: Administrative Services
Component: Hlth Planning and Facilities Mgmt
COMPONENT SERIAL NO. 2020
See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES	58.7	60.6	62.5	64.5	66.4	68.7
TRAVEL	5.0	5.0	5.0	5.0	5.0	5.0
CONTRACTUAL	5.0	5.0	5.0	5.0	5.0	5.0
SUPPLIES	0.5	0.5	0.5	0.5	0.5	0.5
EQUIPMENT	5.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	74.2	71.1	73.0	75.0	76.9	79.2

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	74.2	71.1	73.0	75.0	76.9	79.2
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
TOTAL	74.2	71.1	73.0	75.0	76.9	79.2

POSITIONS:

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

Estimate of any current year (FY95) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

HB 130 would add economic analysis as a requirement prior to an agency adopting any new regulations; since DHSS adopts numerous regulations, some involving complex federal programs, an economist position will be required. Section 6 of the bill outlines four new responsibilities for agencies prior to adoption of new regulations which are not done now.

Prepared by: Janet Clark
Division: Administrative Services

Phone: 465-3082
Date: 02/08/95

Approved by Commissioner: Karen Perdue, Commissioner
Agency: Department of Health & Social Services

Date: 2/9/95

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 130

Revision Date: _____ Dept. Affected: Department of Law
 Title: "...relating to agency review of public comment
on the adoption, amendment and repeal of regulations..." BRU: Legal Services
 Sponsor: Representative Kelly Component: Operations
 Requester: Representative Kelly COMPONENT SERIAL NO. 0093

Expenditures/Revenues (Thousands of Dollars)

	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
OPERATING EXPENDITURES						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	*****	*****	*****	*****	*****	*****

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

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

FUND SOURCE (Thousands of Dollars)

	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
1002 Federal Receipts						
1003 GF Match						
1004 GF	*****	*****	*****	*****	*****	*****
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 24.20 and AS 44.62 to substantially expand the review process for the adoption, amendment and review of administrative regulations. The Department of Law has identified certain legal problems with the bill, and the department is working with the bill's sponsor to resolve these problems. Until this is done, we cannot determine if there will be a fiscal impact.

Prepared by: Richard H. Peques, Director
 Division: Administrative Services Division
 Approved by Commissioner: Bruce M. Botelho, Attorney General
 Agency: Department of Law

Phone: 465-3672
 Date: 2/6/95
 Date: 2/6/95

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO: HB 130

Revision Date: _____ Dept. Affected: Public Safety
 Title: An Act relating to agency review of public BRU: Statewide
comment on the adoption, amendment and... Component: Commissioner's Office
 Sponsor: Rep. Kelly
 Requestor: H. State Affairs COMPONENT SERIAL NO. 523

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

	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
OPERATING						
PERSONAL SERVICES	10.0	10.0	10.0	10.0	10.0	10.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	10.0	10.0	10.0	10.0	10.0	10.0
CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ()	-0-	-0-	-0-	-0-	-0-	-0-
Revenue Code						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	10.0	10.0	10.0	10.0	10.0	10.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	10.0	10.0	10.0	10.0	10.0	10.0

Estimate of current year (FY 95) impact: \$ _____

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

The amount requested is an estimate, approximately 1.5 staff months of effort to develop 4 written determinations specified in Section 44.62.215 of the bill for each regulation change proposed by the department.

Prepared By: Ken Bischoff *KB* Phone: 465-4336
 Division: Administrative Services Date: 1/31/95
 Approved by Commissioner: *Ronald L. Otte* Date: 2/13/95
 Agency: Ronald L. Otte, Dept. of Public Safety

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FISCAL NOTE

STATE OF ALASKA

BILL NO. HB130

1995 LEGISLATIVE SESSION

Revision Date: Original Dept Affected: Natural Resources
 Title: ARRC review of public comment on the adoption of regulations BRU: Parks & Recreation Management
 Component: Parks Management
 Sponsor: Representative Kelly
 Requestor: _____ Component Serial No. 452

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY96	FY97	FY98	FY99	FY00	FY01
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 EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Mat.						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

The preparation of regulations for public review, the conduct of the public process and submission of the regulations to the Department of Law will require some additional duties of existing staff. No additional funding needed.

Prepared by: Peter J. Panarese Phone: 762-2603
 Division: Parks & Outdoor Recreation Date: 4-Feb-95
 Approved by Commissioner: _____ Date: 2/7/95
 Agency: Natural Resources

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STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

February 14, 1995

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

1031 WEST 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 269-5100
FAX: (907) 276-3697

KEY BANK BUILDING
100 CUSHMAN ST., SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 451-2811
FAX: (907) 451-2846

P.O. BOX 110300-DIMOND COURT HOUSE
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 465-6735

Honorable Pete Kelly
Alaska House of Representatives
State Capitol, Room 513
Juneau, Alaska 99801-1182

Dear Representative Kelly:

We appreciate the opportunity to comment regarding legal issues presented by HB 130, which concerns the regulatory process. We welcome your interest and input in improving the regulatory process in this state.

The bill, though, raises constitutional or other legal issues, which I will briefly highlight. The issues are:

1. Separation of Powers - The bill would effectively preclude the lieutenant governor from filing regulations until 90 days after receiving the regulations in order to consider comments from the Administrative Regulation Review Committee. Under the bill, the time period could be extended indefinitely at the request of the committee. The result is that the executive branch cannot administer the laws through the adoption of regulations at the pace needed by the executive branch. For example, I can foresee problems when a state agency needs a regulation for this year's construction season but cannot effectively act within the time limits set in the bill. Also, since the committee can, under the bill, ask for an unlimited time to prepare its comments, the committee can effectively "pocket veto" any changes in executive-branch policy merely by asking for a time extension. This would appear to be contrary to the reasoning of State v. A.L.I.V.E. Voluntary, 605 P.2d 769 (Alaska 1980), which requires the legislature to pass laws to "veto" agency regulations.
2. Impermissible Delegation of Legislative Power to Subcommittee of the Legislature - Under the bill, the committee will review regulations while the legislature

is in session or in the interim to see if the regulations "conform" to the intent of the authorizing statute and whether other statutory requirements are met. The committee can take up to 90 days to review and may ask for unlimited additional time to complete its review. Regulations may not be filed by the lieutenant governor until the committee's comments are received. While the legislature as a whole can amend the power of an agency to adopt a regulation by passing a bill (subject to the governor's review and possible veto), we believe that it would not be valid to delegate this legislative function to a special committee. This effectively could preclude the adoption of a regulation for significant periods of time. Also, we question whether the court would view the committee's interpretation of legislative intent as an expression of intent of the legislature as a whole. In other words, the agency could follow the committee's interpretation of legislative intent only to have a regulation struck down by the court as not meeting legislative intent.

3. Governor as Chief Executive Officer - Art. III, secs. 1, 16, and 24 of the Alaska Constitution, vest the executive power of the state in the governor. The bill, though, allows the lieutenant governor to refuse to file regulations that have been adopted by a department and legally approved for filing by the Department of Law, and to return regulations to an agency without stating a reason for not filing them. Because regulations are essential for the lawful function of the executive branch, assigning this power to the lieutenant governor could arguably violate art. III, secs. 1, 16, and 24 of the Alaska Constitution.
4. Changes Role of Regulatory Boards and Commissions - Presently several citizen boards and commissions play key roles in the executive branch in setting policy through the adoption of regulations. Some examples include the State Board of Education, Board of Fisheries, and Board of Game. The bill would allow the lieutenant governor to return the regulations from these bodies without filing and without stating a reason for the return. This could frustrate timely implementation of policy formulated by these citizen boards and commissions.

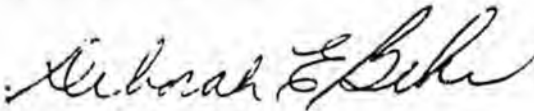
5. Precludes Agency Consideration of Public Policy Concerns Offered in Public Comment - The bill precludes the agency from considering public policy concerns offered in public comment. See proposed AS 44.62.215. The adoption of regulations is the creation of law. It is important for agencies to be fully informed on all aspects of an issue, including policy, before regulations are adopted to resolve that issue. Precluding an agency from considering policy considerations raised by public comment will create additional controversy and likely result in more litigation.

6. Additional Steps to Regulation Process are Likely to Require Additional Appropriations and Open New Areas for Litigation - Proposed AS 44.62.215 requires state agencies to prepare express written findings on the use made of public comment information and to issue certain determinations. These are new duties under the Administrative Procedure Act. Proposed AS 44.62.215 requires the development of written estimates of costs of compliance for a person affected by the proposed regulation and requires analysis of the benefits to the public. Development of costs defensible to a court challenge will take time, as they may vary from individual to individual. Expert information may be necessary, which will require additional appropriations. Finally, since the bill does not define benefits to be received from the proposed regulatory action, the state will likely face additional litigation to further clarify the term.

I hope this answers your questions. Please contact me if you need further information.

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: 
Deborah E. Behr
Assistant Attorney General
and Regulations Attorney

DEB:cl

Hon. Pete Kelly, House of Representatives

February 14, 1995

Page 4

cc: John Lindback, Chief of Staff
Office of the Lieutenant Governor

Pat Pourchot, Legislative Director
Office of the Governor

Bruce Botelho, Attorney General
Dept. of Law

Alaska State Legislature

REPRESENTATIVE

PETER KELLY

Mailing Address:

119 N. Cushman, Suite 203

Fairbanks, Alaska 99701

(907) 456-8161

While in Juneau

State Capitol

Juneau, Alaska

99801-1182

(907) 465-2027

House District 31

House Of Representatives

HB 130 Sponsor Statement

The creation of regulations heretofore have been carried out within the bureaus of state government beyond the light of public scrutiny. Though public input has always been a part of the regulation process, the system is inherently flawed. Regulations have the force of law, but in our form of government law must emanate from the people through their elected officials, and therein lies the flaw. In the current system the unelected regulation writers have the last word in the process, not the people. HB 130 attempts to remedy this by bringin elected officials back into the loop and making them politically accountable to the people for the regulations that impact their lives.

HB 130 slows the regulation process and enables the lieutenant governor to return regulations to agencies, by law. The lieutenant governor will no longer have a "ministerial and mandatory" role in regulations. With the authority to return regulations, the lieutenant governor will also bear the spotlight of public opinion for regulations.

AS 44.62.040 (f) "After receiving comments [from the legislature's review committee] the lieutenant governor **may return the proposed regulation** . . . without . . . filing."

The lieutenant governor is also required to provide the Legislature's "Administrative Regulation Review Committee" with copies of draft regulations. The Committee will be able to identify controversial regulations and bring recommendations back to the lieutenant governor prior to a regulation being filed. Reviewing proposed regulations brings elected officials further into the regulation process.

AS 44.62.040 (d) requires the lieutenant governor to submit **proposed** regulations, the agencies written determinations following public comment, and the Department of Law's findings, to the Legislature's Administrative **Regulation Review Committee**.

AS 44.62.040 (e) The Committee has 90 days to **review the proposed regulations**, discuss them with experts and provide comments to the lieutenant governor.

The response from the regulation review committee, as well as the findings of the lieutenant governor can lead him/her to file the regulations or return them to the agency without filing. The importance of placing this responsibility in the hands of the single individual in the lieutenant governor's office cannot be underestimated. This is the one individual in the executive branch of government who cannot be fired by the governor, who is not beholden to any agency of the bureaucracy, who can add a "common sense review" to the regulation, and yet is responsible for his/her job to the entire population of the state.

Sponsor Statement HB 130

Page 2.

Individuals impacted by regulations often feel their comments and input to agencies is ignored. At present, agencies are only required to hold public hearings. Once a hearing is held the proposed regulation is re absorbed into the bowels of the bureaucracy only to reappear in its "final" form at the lieutenant governor's office. The Department of Law's review, as well as the agencies internal review is not, of course, open to the public, nor should it be. The addition of the lieutenant governor and the Legislature's Regulation Review Committee to the review loop allows elected officials to review the regulation in its final form, but before it is filed.

Equally important is the need for the public to be able to see how an agency accommodates or responds to their comments. Did the agency understand and address the concerns expressed by the public in the public comment period?

HB 130 adds guidance and direction for agency review and response to public comments. Statutory guidance allows agencies to demonstrate their accommodation and response to public comment. It reveals an agencies thought process, and it allows the public to see into the inner workings of the administrative rule makers.

AS 44.62.215 requires an agency to utilize or reply to **factual, substantive and relevant** public comment. It also prohibits an agency from "**weighing**" public sentiment or other non-factual comment, making the regulatory process less "legislative" in nature.

The impact of regulations also needs to be explained by the agency. HB 130 requires an agency to submit a written determination of the proposed regulations impact to the State, and to the affected individuals. A clear means of attaining, or complying with the regulation is also necessary. If an agency is able to promulgate regulations or standards that are not achievable then the agency may be "taking" or virtually outlawing the endeavor it is supposed to be regulating.

AS 44.62.215(b): Before adopting a regulation an agency must estimate the **cost of compliance, the public benefits, the economic effect** of the regulation, and determine that there is an **economically achievable means of complying** with the regulation.

The goal of HB 130 is to focus agencies efforts and talents to the execution and administration of the laws, leaving the measuring or weighing of public will or public interest to the legislature.

**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

January 31, 1995

SUBJECT: Sectional summary of HB 130 (Work Order No. 9-LS0130\G)

TO: Representative Pete Kelly
Attn: Bruce

FROM: *TB*
Theresa 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 gives the Administrative Regulation Review Committee (ARRC) the power to examine proposed regulations, amendments, and orders of repeal submitted to it by the lieutenant governor under sec. 44.62.040(c).

Section 2 adds new subsections to sec. 44.62.040.

Sec. 44.62.040(c) requires an agency submitting regulations, amendments, or orders of repeal to the lieutenant governor to include the agency's written determinations made under sec. 44.62.215(b) and the Department of Law statement prepared under sec. 44.62.060(b).

Sec. 44.62.040(d) requires the lieutenant governor, within 30 days of receipt, to submit proposed regulations, amendments, and orders of repeal, the agency's required determinations, and the Department of Law statement to the ARRC for its comments on whether the proposed regulatory actions conform to the intent of the authorizing statute and whether the agency complied with sec. 44.62.215.

Sec. 44.62.040(e) directs the ARRC to provide its comments to the lieutenant governor within 90 days after receipt. Requires the committee to notify the lieutenant governor within 30 days if the committee needs more time. Authorizes the committee to consult with experts when preparing its comments.

Sec. 44.62.040(f) allows the lieutenant governor to return the proposed regulations, amendments, or orders of repeal to the proposing agency after receiving the ARRC comments and without finalizing the proposed regulatory actions.

Representative Pete Kelly

January 31, 1995

Page 2

Section 3 clarifies that the regulation drafting manual prepared by the Department of Law is not meant to cover the style and forms of the proposed regulations submitted by the lieutenant governor to the ARRC under sec. 44.62.040(d).

Section 4 prohibits the lieutenant governor from finalizing regulations, amendments, or orders of repeal unless they are accompanied by the agency determinations under sec. 44.62.215(b) and the Department of Law statement of approval.

Section 5 requires the Department of Law to prepare its statement of approval or disapproval within 60 days unless it notifies the lieutenant governor and the agency that it needs more time.

Section 6 adds a new section.

Sec. 44.62.215(a) establishes how an agency is to handle different types of public comment on proposed regulations, amendments, and orders of repeal. Prohibits an agency from weighing, evaluating, or otherwise using comment that is nonfactual or an expression of preference about the need for, coverage, or policy of the proposed regulatory action. Requires an agency to weigh, evaluate, or otherwise use public comment that consists of facts or other substantive information that is relevant to the accuracy, coverage, or contents of the proposed regulatory action. Directs an agency to provide a written explanation of its use or rejection of the relevant factual or substantive public comment.

Sec. 44.62.215(b) requires an agency to make certain written determinations before adopting a regulation, an amendment, or an order of repeal. The subsection lists these determinations.

Sec. 44.62.215(c) clarifies that an agency's written explanations and determinations required by the section are public records. Requires the agency to provide a copy upon request.

Section 7 exempts emergency regulations from certain requirements of the bill.

Section 8 makes some technical changes to indicate the relationship between the duration of emergency regulations and certain requirements of the bill.

If I may be of further assistance, please advise.

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Regional Citizens' Advisory Council / 750 W. 2nd Ave., Suite 100 / Anchorage, Alaska 99501-2168 / (907) 277-7222 / FAX (907) 277-4523

"Citizens promoting environmentally safe operation of the Alyeska terminal and associated tankers."

**Testimony to the House State Affairs Committee on
House Bills 130 and 163: Regulatory Reform
March 16, 1995**

My name is Michelle O'Leary. I am vice president of the Prince William Sound Regional Advisory Committee. The RCAC's mission is "citizens promoting the environmentally safe operation of the Alyeska terminal and associated tankers." RCAC is certified as an alternative council under Section 5002 of the Oil Pollution Act of 1990. The work of the RCAC is guided by its contract with the Alyeska Pipeline Service Company and the Oil Pollution Act of 1990. RCAC has 18 member organizations representing communities and boroughs impacted by the 1989 *Exxon Valdez* oil spill, as well as commercial fishing groups, Alaska Native interests, and environmental, aquaculture and business organizations. I thank you for the opportunity to testify on HB 130 and HB 163. First, I have some general comments regarding these bills and regulatory reform. These will be followed by specific comments on each bill.

We commend the legislature's efforts to ensure that regulations are clearly written and provide a "user-friendly" mechanism for consistently implementing state laws through the regulatory process. We agree also that the burden of laws and their implementing regulations should aim to minimize the burdens of regulation while maximizing the public welfare. Finding that balancing point is at best a difficult process.

Both HB 130 and 163 contain provisions that require the private costs imposed by regulations be analyzed and agencies stipulate in writing that there is an economically feasible method for complying with the regulatory action. We question whether agencies will be able to make these determinations. One of results of the last 30 years of environmental regulation is a large and thriving environmental compliance industry. The technological growth of this industry has been astounding and the result, not the cause, of environmental laws and regulations.

When a new law is passed, there is usually a significant time lag (often years) before regulations are written and compliance is required. During that time, the highly competitive environmental compliance industry researches and develops methods to bring the regulated industry into compliance. It is not unusual to have compliance dates postponed to meet the requirements of complex and stringent laws. In most cases, the agencies drafting regulations would have no way of knowing what technologies will be developed or which technologies will be selected by private parties to meet compliance requirements.

In addition, each of the bills requires an analysis of private compliance costs only and not benefit-cost analyses. It is generally agreed that the role of government is to

restrict through laws and regulations private actions only if the costs to society of these private actions are excessive or pose a public risk. Therefore, if 1) laws are only passed when needed and 2) laws that impose costs on private parties are passed because there is a public cost or risk, then it makes little sense to measure only private compliance costs. At the very least, if the legislature wants to analyze the costs of regulations, the analysis should include private and public costs and benefits. We would also argue, a subjective analysis of these costs and benefits should occur before a law is passed and not be entirely the burden of the regulatory process.

There is an axiom in economic theory that it is much easier to measure costs than benefits. This would be especially true when measuring the private costs of regulations versus the public benefits. In most cases, the regulated private parties will have the resources to measure their compliance. In contrast, measurement of public benefits is likely to be more difficult and without an organized constituency.

Specific comments on each of the bills follows.

House Bill 163

- When providing public notice for regulations, HB 163 requires agencies to include the reason for a proposed action, the initial cost to the state agency of implementation, the annual costs to the state agency of implementation, and the cost of compliance for private parties. We believe the initial and annual agency costs should be reflected in the fiscal notes passed with the enabling legislation.
- HB 163 requires an agency to estimate initial private compliance costs if the regulation will increase compliance costs. As stated above, HB 163 focuses only on private costs and requires no analysis of public benefits or costs or private benefits. To provide a meaningful measurement, all benefits and costs should be measured.

House Bill 130

- When agencies send regulations to the lieutenant governor, within 30 days the regulations must be submitted by the lieutenant governor to the legislative Administrative Regulation Review committee. The committee can then consult with experts to review the regulations. Comments must be provided to the lieutenant governor within 90 days. The authority of the lieutenant governor is expanded to include regulation review. "Bad" regulations can be returned to agencies. Essentially, the lieutenant governor's office can be used as the vehicle for the return of regulations by the legislature. We question whether the legislature would also be acting as a judiciary body in its determination of a "bad" regulation. Nothing in HB 130 requires that actions or regulatory changes proposed to the lieutenant governor's office by the legislative regulation review committee be submitted to the public for review. The public could go through the

regulation public review process only to have the regulations modified with no apparent recourse for this action.

- Before adopting a regulation, an agency is required to provide a written estimate of the cost of compliance to affected private persons. The bill sponsor statement indicates that a benefit-cost analysis is required but as drafted, the bill requires only an estimate of private compliance costs. Similar to our comments on HB 163, both public and private benefits and cost should be analyzed to be meaningful.
- The public testimony process is changed by requiring that agencies consider only public comments that are factual and not those that are "nonfactual or an expression of preference." Agencies are required to document in writing how public comments are incorporated or if rejected, why rejected. We believe there are numerous problems with this provision. First, determining what is factual versus nonfactual is not as easy as it sounds. Second, notices and public hearings for regulations are usually more widespread than legislative committee hearings. As a result, the public may not have had the opportunity to comment during the legislative process. Third, despite prior opportunities to comment on legislation, draft regulation public hearings are the public's first opportunity to comment on how legislation will actually be implemented. This "factual" provision would require the public to hire consultants to have their input weighed in the regulatory process.

We thank you for the opportunity to comment on this complex subject. We would be happy to answer any questions or provide additional information.