

COMMITTEE REPORT
HOUSE

(11)

FURTHER:

1/25/85

Date: 2-10-85

The Committee on FINANCE has had EO 59

...to unify the conduct of search and rescue operations within the State of Alaska by transferring the state's responsibilities for the Alaska Wing, Civil Air Patrol, from the Department of Military and Veteran's Affairs to the Department of Public Safety.

under consideration and recommends:

- do pass AS ABOVE do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
- and recommends _____ new title
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

[Signature]

[Signature]

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CHAIRMAN

IN THE SENATE -- Offered: 1/14/85
Referred: State
Affairs and Finance

IN THE HOUSE -- Offered: 1/14/85
Referred: State
Affairs and Finance

EXECUTIVE ORDER NO. 59

Under the authority of art. III, c. 23, of the Alaska Constitution, and in accordance with AS 24.30.130(b), I order the following:

* Section 1. FINDINGS. As governor, I find that it would be in the best interests of efficient administration and protection of the public to unify the conduct of search and rescue operations within the State of Alaska by transferring the state's responsibilities for the Alaska Wing, Civil Air Patrol, from the Department of Military and Veterans' Affairs to the Department of Public Safety.

* Sec. 2. AS 18.60 is amended by adding new sections to art. 2 to read:

Sec. 18.60.146. CIVIL AIR PATROL. The Department of Public Safety shall make the necessary administrative arrangements for maintaining liaison between the state and the Civil Air Patrol and the expenditure of money appropriated to the department for the state contribution toward the support of the authorized activities of the Alaska Wing, Civil Air Patrol, under its charter.

Sec. 18.60.148. TRANSFER OF FORFEITED AIRCRAFT TO CIVIL AIR PATROL. (a) A transfer to the Alaska Wing, Civil Air Patrol, of a forfeited aircraft under AS 16.05.195(f), AS 17.30.122, or another state law or regulation is subject to the following conditions:

(1) the transfer shall be made without cost to the Civil Air Patrol;

(2) the aircraft becomes a corporate Civil Air Patrol aircraft;

(3) the aircraft may only be used for Civil Air Patrol search and rescue, civil defense, and training purposes;

(4) the aircraft may not be transferred to another wing of the Civil Air Patrol unless

1 (A) the aircraft has been corporate aircraft of the
2 Alaska Wing, Civil Air Patrol for at least 36 months after the
3 date of transfer to the Alaska Wing; or

4 (B) the aircraft is being exchanged for another Civil
5 Air Patrol corporate aircraft of equivalent or greater value;

6 (5) if the Civil Air Patrol determines that the aircraft
7 should be disposed of as surplus property, the disposition shall first
8 be approved by the Department of Administration.

9 (b) A transfer of a forfeited aircraft under this section shall
10 be consummated by a contract between the State of Alaska and the
11 Alaska Wing, Civil Air Patrol that includes the conditions set out in
12 (a) of this section. The contract shall also provide that the Civil
13 Air Patrol indemnify the state for any amount for which the state may
14 be liable for an act or omission relating to the aircraft.

15 * Sec. 3. AS 26.05.345 and 26.05.347 are repealed.

16 * Sec. 4. This Order takes effect July 1, 1985.

17
18 DATED: Jan 14th 1985

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20 Bill Sheffield
21 Bill Sheffield
22 Governor
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FOP INFO ONLY

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 1/21/85

REQUEST

Bill/Resolution No.:
Title: Executive Order No. 59

Sponsor: Governor Sheffield
Requestor: Military & Vets Affairs
Date of Request: 10 August 1985

FISCAL DETAIL

Agency Affected: Military & Veterans Affairs
Program Category Affected:

Public Protection
BRU, Program or Subprogram(s) Affected:
BRU: Search & Rescue
Program: Life & Property Protection

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		(25.0)				
200 TRAVEL						
300 CONTRACTUAL		(669.8)				
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		(694.8)				
CAPITAL						
REVENUE		-0-				

FUNDING: (Thousands of Dollars)

GENERAL FUND	(694.8)				
FEDERAL FUNDS					
OTHER					
TOTAL					

POSITIONS:

FULL-TIME	(1)				
PART-TIME					
TEMPORARY					

ANALYSIS: Attach a separate page if necessary

This Executive Order would transfer the Search & Rescue BRU (Civil Air Patrol) to the Department of Public Safety. The DPS is responsible for the state Search & Rescue function by statute.

Prepared By: Richard L. Rountree, Director
Division: Administrative & Support Services

Phone: 465-4600
Date: 7 January 1985

Approved by Commissioner: MG Edward G. Pagano
Agency: Military and Veterans Affairs

Date: 7 January 1985

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

1/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 1/22/85

REQUEST

Bill/Resolution No.: _____
 Title: EXECUTIVE ORDER NO. 59
 Sponsor: GOVERNOR SHEFFIELD
 Requestor: OFFICE OF THE GOVERNOR
 Date of Request: 1/8/85

FISCAL DETAIL

Agency Affected: PUBLIC SAFETY
 Program Category Affected: _____
ADMINISTRATION OF JUSTICE
 BRU, Program or Subprogram(s) Affected: _____
DPS ADMINISTRATION

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		25.0	25.0	25.0	25.0	25.0
200 TRAVEL						
300 CONTRACTUAL		669.8	703.3	738.5	775.4	814.2
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		694.8	728.3	763.5	800.4	839.2
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	694.8	728.3	763.5	800.4	839.2
FEDERAL FUNDS					
OTHER					
TOTAL	694.8	728.3	763.5	800.4	839.2

POSITIONS:

FULL-TIME	1.0	1.0	1.0	1.0	1.0
PART-TIME					
TEMPORARY					

ANALYSIS: Attach a separate page if necessary

This Executive Order would transfer the Search & Rescue BRU of Military & Veteran's Affairs (Civil Air Patrol) to the Department of Public Safety which is statutorily responsible for the Search & Rescue function within the state.

Prepared By: Marcia Lynn McKenzie Phone: 465-4349
 Division: Administrative Services Date: _____

Approved by Commissioner: Robert J. Sundberg Date: 1-21-85
 Agency: Department of Public Safety

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

7/1/84

1.	POSITION TITLE CLERK TYPIST III				RANGE/STEP 8 B	BARG. UNIT G	PAGE/LINE	COY.	APPROV.	DISAP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Juneau	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT						
	1		2		3					
	PERSONAL SERVICES									
5.	Salary									
6.	Benefits									
7.	Supplemental Benefits									
8.	Fixed Benefits									
9.	TOTAL PERSONAL SERVICES		01		25.0					
10.	Travel				02					
11.	Contractual				03					
12.	Commodities				04					
13.	Equipment				05					
14.	Other									
15.	TOTAL COST				25.0					

	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		C.F. Match 1003								
18.		General Funds 1004			25.0					
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								

FOR BSM USE ONLY										
KEY NUMBER -----										

This position will provide administrative support and coordination of search and rescue functions which are statutorily the responsibility of the Department of Public Safety. Duties will include preparation and monitoring of contracts for the Civil Air Patrol (CAP), administration of the CAP fleet, review and approval of billings, report preparation and annual budget preparation.

The Department can absorb the minimal other costs associated with this position.

**REQUEST FOR
NEW POSITION**

AGENCY DEPARTMENT OF PUBLIC SAFETY

PROGRAM CRIME ID & APPREHENSION

BRU DPS ADMINISTRATION

COMPONENT CIVIL AIR PATROL

Page of

Revised Date

FY 86

BILL SHEFFIELD
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 14, 1985

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 23, of the Alaska Constitution, I am transmitting an executive order that transfers the responsibility for state support of the Alaska Wing, Civil Air Patrol, from the Department of Military and Veterans' Affairs to the Department of Public Safety. This order is similar to Executive Order No. 33, issued in 1968 by Governor Hickel, transferring that responsibility from the Department of Commerce to the Department of Military Affairs.

The Civil Air Patrol was presumably placed within the Department of Military Affairs because it is an auxiliary of the United States Air Force. The Alaska Wing, Civil Air Patrol is a search and rescue organization, which receives state revenues under a search and rescue BRU in the Department of Military and Veterans' Affairs' budget. However, the same time, the Department of Public Safety is responsible for administering search and rescue operations within the state (AS 18.60.120 et seq.) and also has a search and rescue BRU in its budget. The intent of this order is to consolidate all search and rescue efforts under one state agency, the Department of Public Safety, and to make uniform the policies and practices regarding search and rescue.

This order repeals AS 26.05.345, which currently establishes the Department of Military and Veterans' Affairs as state liaison for the Civil Air Patrol, and adds AS 18.60.146 to

give the Department of Public Safety that responsibility. The order also repeals AS 26.05.347 relating to transfer of forfeited aircraft to the Civil Air Patrol, and adds AS 18.60.148 to place that provision in the Department of Public Safety also.

The order takes effect July 1, 1985.

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield".

Bill Sheffield
Governor

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Quoted in Alaska State Hous. Auth. v. Eoucher, Sup. Ct. Op. No. 1205 (File No. 2315), 543 P.2d 731 (1975).
Dixon, Sup. Ct. Op. No. 793 (File No. 1529), 496 P.2d 649 (1972); Warren v.

Section 23. Reorganization. The governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration. Where these changes require the force of law, they shall be set forth in executive orders. The legislature shall have sixty days of a regular session, or a full session if of shorter duration, to disapprove these executive orders. Unless disapproved by resolution concurred in by a majority of the members in joint session, these orders become effective at a date thereafter to be designated by the governor.

The constitution vests no power in the judiciary to define the specific functions of the principal departments in the state government or the units of the executive branch, and in the absence of express authorization or an overriding constitutional imperative, the judiciary may not bequeath such a power to itself. *Granato v. Occhipinti*, Sup. Ct. Op. No. 1962 (File No. 3756), 602 P.2d 442 (1979).

Thus, superior court cannot order home study by department of health and social services. — The superior court does not have the authority to order the Alaska department of health and social services, division of social services, against its will, to conduct a home-study in a

private custody dispute. *Granato v. Occhipinti*, Sup. Ct. Op. No. 1962 (File No. 3756), 602 P.2d 442 (1979).

The legislative veto power granted in this section and Alaska Const., art. X, § 12, is the power to change statutes, not rule-making power, which is the power to interpret and implement statutes. *State v. A.L.I.V.E. Voluntary*, Sup. Ct. Op. No. 2022 (File No. 3670), 606 P.2d 769 (1980).

The creation of the Alaska Mortgage Adjustment Agency was not a change in the organization of the executive branch of government requiring the force of law. *Suber v. Alaska State Bond Comm.*, Sup. Ct. Op. No. 344 (File No. 651), 414 P.2d 546 (1966).

Section 24. Supervision. Each principal department shall be under the supervision of the governor.

Section 25. Department Heads. The head of each principal department shall be a single executive unless otherwise provided by law. He shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session, and shall serve at the pleasure of the governor, except as otherwise provided in this article with respect to the secretary of state. The heads of all principal departments shall be citizens of the United States.

Revisor's note. — Senate Joint Resolution No. 2, "changing the name of the secretary of state to lieutenant governor" in 16 sections of the Alaska Constitution, approved by the voters August 25, 1970, inadvertently omitted express amendment of this section.

The provisions of this section and § 26 of this article are clear and unambiguous. *Bradner v. Hammond*,

Sup. Ct. Op. No. 1297 (File No. 2802), 553 P.2d 1 (1976).

This section explicitly empowers the governor to appoint and dismiss the head of each principal department. *Bradner v. Hammond*, Sup. Ct. Op. No. 1297 (File No. 2802), 553 P.2d 1 (1976).

It subjects these executive appointments to confirmation by a majority of the members of the legislature



ALASKA WING HEADQUARTERS
CIVIL AIR PATROL
P.O. Box 101836
Anchorage, Alaska 99510

30 October 1984


Major General Edward G Pagano
Adjutant General
3601 "C" Street Suite 620
Anchorage, Alaska 99503

General Pagano:

After lengthy discussion with the Alaska Wing Executive Board, we have agreed to the transfer from the Department of Military & Veteran Affairs to the Department of Public Safety.

We also feel it would be to everyone's best interest if this transfer was accomplished as soon as possible.

Sincerely,


RUSSELL J ANDERSON, Colonel, CAP
Wing Commander

by: Mr Robert Sundberg
Dept of Public Safety

STATE OF ALASKA

DEPARTMENT OF MILITARY AND VETERANS AFFAIRS

OFFICE OF THE ADJUTANT GENERAL

BILL SHEFFIELD, GOVERNOR

FRONTIER BUILDING
SUITE 620
3601 C STREET
ANCHORAGE, ALASKA 99503
PHONE: (907) 243-0656
AUTOVON: 862-7210

9 January 1985

Russell J. Anderson
Colonel, CAP
Commander, Alaska Wing
Civil Air Patrol
P.O. Box 10-1836
Anchorage, Alaska 99510

Dear Colonel Anderson:

The Alaska Wing Civil Air Patrol (AWCAP) is to be commended for their fiscal restraint practices, which have been demonstrated during the past six months. This is particularly noteworthy, as overall CAP search and rescue flight hour services to the state, has also increased during the period.

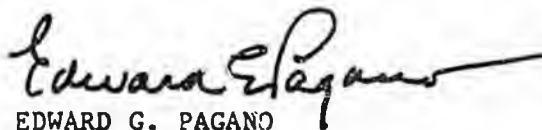
Upon reviewing the state's contribution of funds which has supported the AWCAP during the first half of FY-85, \$285,000.00 has been expended through 31 Dec 84. The AWCAP during this six month period, has flown 1,682 search and rescue support hours in Alaska. As you are well aware, unlike in past years, the state has been directed to utilize a "contract for services agreement" to reimburse the AWCAP for services rendered in FY-85. The terms of this agreement were mutually prepared by members of the AWCAP and the Department of Military and Veterans Affairs, acting for the state. The AWCAP is again commended for their participation in formulating the contents of the reimbursable services contract.

I am pleased to inform the AWCAP that a significant reduction in state expenditures is being realized in FY-85. This was highlighted by comparing like AWCAP expenditures from two previous years, prior to initiating a reimbursement for services contract. In FY-83, the AWCAP flew 676 search and rescue hours during the first six months of the fiscal year, which required \$408,500.00 from the state at that time for those services. The FY-83 six month cost was \$123,500.00, greater than current FY-85 reimbursements and far less search and rescue hours were flown. Last year during the same six month period in FY-84, the AWCAP flew 863 search and rescue hours and the state expended \$309,800.00 for those services. The FY-84 cost was \$24,800.00 greater than current year reimbursements and only half the number of search and rescue hours were flown during that period by the AWCAP.

The AWCAP Wing Commander, the Wing Staff and entire Alaska Wing membership is therefore commended for their improved fiscal management restraint practices which have been employed during the first half of FY-85. These practices have produced substantial savings to the State of Alaska. Keep up the good work.

The State of Alaska looks forward to your continued team support.

Sincerely,



EDWARD G. PAGANO
MAJOR GENERAL, AK NG
The Adjutant General

cc: Chief of Staff, Mr. John Shively
Office of the Governor

Commissioner Robert Sundberg
Department of Public Safety

Commissioner Lisa Rudd
Department of Administration

Mr. Jay Hogan
Associate Director
Office of Management and Budget

STATE OF ALASKA
THE LEGISLATURE

POUCHY STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 12, 1985

SUBJECT: Fiscal notes for funding
executive orders

TO: Representative Al Adams
Attention: Louann Cutler

FROM: Billy G. Berrier *BGB*
Director
Division of Legal Services

You have asked whether an increase in appropriation caused by an executive order should be provided through use of the fiscal note procedure.

In my opinion this procedure does not apply.

Fiscal notes are required on bills and resolutions under AS 24.30.035. The language in this section consistently refers only to bills and resolutions.

Executive orders are authorized under Sec. 23, Article III Constitution of the State of Alaska which provides:

SECTION 23. REORGANIZATION. The governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration. Where these changes require the force of law, they shall be set forth in executive orders. The legislature shall have sixty days of a regular session, or a full session if of shorter duration, to disapprove these executive orders. Unless disapproved by resolution concurred in by a majority of the members in

Representative Al Adams
February 12, 1985
page 2

joint session, these orders become effective at a date thereafter to be designated by the governor.

This is the reverse of the normal law making process. Normally affirmative action by the legislature is required to create a law, the legislature must adopt legislation. The Governor then has the negative power to veto. Here the governor has the affirmative power of setting forth the changes in law in an executive order and the legislature has the negative power of disapproval. In both cases failure to exercise the negative power results in the change becoming law.

The fiscal note requirement serves two purposes. It gives the legislature information about the cost of litigation. It also provides a mechanism where the costs are brought to the attention of the committees preparing the budget as necessitating appropriations. However, at the time the general appropriation bill is adopted, and in fact at the time the legislature adjourns, the fate of the legislation may not be known.

The method the legislature has created to deal with this unknown is to create a special category in the appropriation bill and to make the appropriations in that section conditional on the law become effective.

For instance in last year's General Appropriation Act (CH 122, SLA 1984) these were included as Section 23 which provided:

Sec. 23 The following appropriation items are for operating expenditures from the general fund or other funds as set out in the fiscal year 1985 Budget Summary by funding source to the state agencies named and for the purposes set out in the new legislation for the fiscal year beginning July 1, 1984 and ending June 30, 1985. The appropriation items contain funding for legislation assumed to have passed during the second session of the Thirteenth Legislature and are to be considered part of the agency operating budget. Should

Representative Al Adams
February 12, 1985
page 3

a measure listed in this section either fail to pass, its substance fail to be incorporated in some other measure, or be vetoed by the Governor the appropriation for that measure shall lapse.

Clearly this language does not include the reverse relationship involved in executive orders.

Rule 42(d) of the Uniform Rules of the Alaska State Legislature provides:

(d) Notwithstanding the provisions of (c) of this rule, a Free Conference Committee may consider and include in its report on an appropriation bill appropriations as requested by attached fiscal notes on new legislation and resolutions that have been passed by both houses.

Again only bills and resolutions which have passed both houses are included.

The language of the fiscal note statute and the rule do not include executive orders. The procedure used for funding fiscal notes in the general appropriation bill would have to be changed by addition of a new section or additional language in order to include fiscal notes on executive orders.

Therefore in my opinion fiscal notes on executive orders are not a proper method of funding increases in appropriations caused by executive orders.

It would seem appropriate for those increased costs to be part of the normal operation budget.

BGB:csh
c2/219

IN THE SENATE -- Offered: 1/14/85
Referred: State
Affairs and Finance

IN THE HOUSE -- Offered: 1/14/85
Referred: State
Affairs and Finance

EXECUTIVE ORDER NO. 59

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