

SB

112

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT

MAR 15 2001

SENATE FINANCE
COMMITTEE

DATE: 3/1/01

FURTHER:

DATE TURNED
IN TO OFFICE:

15 March 01

Finance Committee considered

SENATE BILL NO. 112

LONG-TERM CARE OMBUDSMAN; MENTAL HEALTH AUTHORITY

"An Act placing certain employees of the Alaska Mental Health Trust Authority in the exempt service; establishing a minimum salary for the long term care ombudsman; and providing for an effective date."

and recommends:

- be replaced with CS SB 112 (FIN)
- adopt previous CS ()
- attached amendment(s) forthcoming
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
Revenue MHTA	4/23/01		✓	#1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	NO REC	AMEND
<i>David Green</i>	✓			
<i>Alan Gustafson</i>			✓	
<i>John Hoffman</i>			✓	
<i>George W. Kelly</i>	✓			
<i>John A. Ward</i>	✓			
<i>Steven W. Bluman</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			

MAR 15 2001

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 112
(S) Publish Date: 3/1/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title: Long-Term Care Ombudsman; BRU: Mental Health Trust Authority
Mental Health Trust Authority Component: Mental Health Trust Authority
Sponsor: Senate Health, Education & Social Services
Requester: Senate Health, Education & Social Services Component Number: 1423

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
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						
1003 GF Match						
1004 GF						
1005 GF Program Receipts						
1037 GF/Mental Health						
Other (Specify Type) 1094	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This fiscal note reflects the placing of the Alaska Mental Health Trust Authority staff positions in the exempt service and the establishment of a minimum salary for the Long-Term Care Ombudsman.

The Alaska Mental Health Trust Authority will absorb any and all costs for the staff positions that will be placed in exempt service within the current Trust income funded budget.

The Office of the Long-Term Care Ombudsman positions being transferred to the Alaska Mental Health Trust Authority by Executive Order 102 will remain classified. The costs of establishing a minimum salary for the Long-Term Care Ombudsman will be absorbed within the current federally funded budget.

Prepared by: Jeff Jessee, Executive Director Phone (907) 269-7960
Division: Alaska Mental Health Trust Authority Date/Time 2/23/01 2:00 PM
Approved by: Larry Persily, Deputy Commissioner Date Feb.23, 2001
Agency: Department of Revenue

For distribution information, call the Governor's Legislative Office

adopted

WORK DRAFT

WORK DRAFT

WORK DRAFT

22-LS0423\L
Cramer
3/12/01

CS FOR SENATE BILL NO. 112()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

A BILL
FOR AN ACT ENTITLED

1 "An Act placing certain employees of the Alaska Mental Health Trust Authority in the
2 exempt service; establishing a minimum salary for the long term care ombudsman; and
3 providing for an effective date."

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

5 * Section 1. AS 39.25.110 is amended by adding a new paragraph to read:

6 (34) the chief executive officer and employees of the Alaska Mental
7 Health Trust Authority employed under AS 47.30.026(b).

8 * Sec. 2. AS 47.30.026 is amended by adding a new subsection to read:

9 (d) The chief executive officer and employees hired under this section are in
10 the exempt service under AS 39.25.110.

11 * Sec. 3. AS 47.62.010(b) is amended to read:

12 (b) The ombudsman shall be hired by the authority. A member of the
13 authority who has a financial interest in a long term care facility in the state, or who
14 has any other conflict of interest, may not participate in the hiring of the ombudsman.

1
2
3
4

The ombudsman is a full-time position in the classified service. The ombudsman shall be compensated at no less than Range 21 of the pay plan for state employees under AS 39.27.011.

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

ALASKA STATE LEGISLATURE



Interim:

600 East Railroad Avenue
Wasilla, Alaska 99654
(907) 376-3370
(907) 376-3157 Fax

Session:

State Capitol
Juneau, Alaska 99801-1182
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SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE SENATOR LYDA GREEN, CHAIR

SPONSOR STATEMENT SB 112

"An Act placing certain employees of the Alaska Mental Health Trust Authority in the exempt Service; establishing a minimum salary for the long term care ombudsman"

Senate Bill 112 would place employees of the Alaska Mental Health Trust Authority (the Trust) in the exempt service, while establishing a minimum salary for the Long Term Care Ombudsman.

SB 112 was introduced at the request of the Alaska Mental Health Trust Authority to address concerns expressed about their ability to function efficiently as a state corporation.

Unlike other state boards, commissions and authorities whose employees are placed in the exempt service under AS 39.25.110(11), the Alaska Mental Health Trust Authority's employees are not in the exempt service. This is despite the fact that the fiduciary duty owed to the beneficiaries by the Trust requires that employees perform at the highest levels of competency, since their actions could jeopardize the assets and/or management of the Trust.

Additionally, this legislation establishes a minimum salary for the Long Term Care Ombudsman at a Range 21. Establishing a minimum salary of the Long Term Care Ombudsman will help ensure that a qualified individual can be hired for this crucial position.

LG/hm

SENATOR LOREN LEMAN, VICE-CHAIR
SENATOR JERRY WARD, SENATOR GARY WILKEN, SENATOR BETTYE DAVIS

SB 112 LONG-TERM CARE OMBUDSMAN; MENTAL HEALTH AUTHORITY

SECTIONAL ANALYSIS

Prepared by Aurora Hauke, Senate HESS Committee Aide

Sec.	Statute	Existing	Changes
1	AS 39.25.110 Public Officers and Employees Coverage of Personnel Exempt service	Lists positions that are exempt.	New paragraph (34) added. Chief executive officer and employees of the Alaska Mental Health Trust Authority are also exempt.
2	AS 47.30.026 Welfare, Social Services and Institutions Mental Health Mental Health Trust Authority Officers and staff	The annually elected chief officer may hire additional employees, appoint hearing officers, and contact for the services of consultants and others.	New subsection (d) added. The chief executive officer and employees hired under this section are in the exempt service.
3	AS 47.62.010(b) Welfare, Social Services and Institutions Office of the Longer Term Care Ombudsman Office established	See Executive Order 102. Hiring guidelines for the Long Term Care Ombudsman.	The LTCO will be at least a range 21.
4	Uncodified law	None.	New section CONDITIONAL EFFECT added. This act takes effect only if Executive Order 102 does.
5	Effective date		Takes effect immediately as conditioned by Sec. 4

SB 112 PRESENTATION

^{Mr.}~~MEMBER~~ CHAIR, MEMBERS OF THE COMMITTEE, FOR THE RECORD, MY NAME IS HANS NEIDIG, LEGISLATIVE AIDE TO SENATOR GREEN

SENATE BILL 112 WOULD PLACE EMPLOYEES OF THE ALASKA MENTAL HEALTH TRUST AUTHORITY IN THE EXEMPT SERVICE, WHILE ESTABLISHING A MINIMUM SALARY FOR THE LONG TERM CARE OMBUDSMAN.

SB 112 WAS INTRODUCED AT THE REQUEST OF THE ALASKA MENTAL HEALTH TRUST AUTHORITY TO ADDRESS CONCERNS ABOUT THEIR ABILITY TO FUNCTION EFFICIENTLY AS A STATE CORPORATION.

UNLIKE OTHER STATE BOARDS, COMMISSIONS AND AUTHORITIES WHOSE EMPLOYEES ARE PLACED IN THE EXEMPT SERVICE UNDER AS 39.25.110(11), THE ALASKA MENTAL HEALTH TRUST AUTHORITY'S EMPLOYEES ARE NOT IN THE EXEMPT SERVICE. THIS IS DESPITE THE FACT THAT THE FIDUCIARY DUTY OWED TO THE BENEFICIARIES BY THE TRUST REQUIRES THAT EMPLOYEES PERFORM AT THE HIGHEST LEVELS

OF COMPETENCY, SINCE THEIR ACTIONS COULD JEOPARDIZE THE ASSETS AND/OR MANAGEMENT OF THE TRUST.

ADDITIONALLY, THIS LEGISLATION ESTABLISHES A MINIMUM SALARY FOR THE LONG TERM CARE OMBUDSMAN AT A RANGE 21. ESTABLISHING A MINIMUM SALARY OF THE LONG TERM CARE OMBUDSMAN WILL HELP ENSURE THAT A QUALIFIED INDIVIDUAL CAN BE HIRED FOR THIS CRUCIAL POSITION.

THE EXEMPTED SERVICE VERSUS THE CLASSIFIED SERVICE

ESSENTIALLY EXEMPTED SERVICE EMPLOYEES ARE:

- **EXEMPTED FROM OVERALL PERSONELL RULES LISTED IN AS39.25;**
- **EXEMPTED SERVICE IS VERY SIMILAR TO THE SITUATION OF EMPLOYEES OF PRIVATE CORPORATIONS AND IS THE SAME AS LEGISLATIVE EMPLOYEES;**
- **NOT SUBJECT TO JUST CAUSE CLAUSE FOR TERMINATION;**
- **NOT PROTECTED BY A COLLECTIVE BARGAINING UNIT, WHICH IS NOT TO SAY THAT THEY CANNOT ORGANIZE;**
- **LEAVE RETIREMENT AND BENEFITS REMAIN THE SAME.**

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The T
TRUST

The Alaska Mental Health Trust Authority

February 27, 2001

Senator Lyda Green, Chair
Senate Health, Education and Social Services Committee
State Capitol
Juneau, Alaska 99801-1182

Re: SB 112

Dear Senator Green,

This letter is in support of SB 112 that would place the employees of the Alaska Mental Health Trust Authority in the exempt service and establish a minimum salary for the Long Term Care Ombudsman.

Through oversight, the legislation creating the Alaska Mental Health Trust Authority (the Trust) made no provision regarding the category of service of either the Executive Director of the Authority or the staff. Therefore, all positions were deemed to be in the classified service by default. This has created a number of problems for the Trust and continues to be a barrier to the efficient operation of the agency.

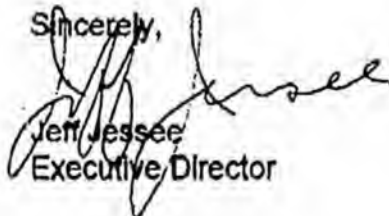
At the time the initial Board of Trustees was appointed in 1995, it was forced to petition the State Personnel Board to have the Executive Director position established as partially exempt. Without this action, the Trustees would have been seriously restricted in their ability to hire an appropriate person for this critical position. Subsequently, due to the large assets of the Trust (over \$300 million and 1,000,000 acres of land) and the fiduciary duty owed to the beneficiaries, the Trust was forced to budget for a State Investment Officer position, which is already exempt by law, as a means of securing the services of someone they could be assured over time would adequately monitor the management of Trust assets by the Permanent Fund Corporation and the Department of Natural Resources. The remaining four staff are still in the classified service. This eclectic mix of employee positions in such a small office has been cumbersome and confusing at best.

The Trust is a state corporation similar in nature and function to the other boards, commissions and authorities whose employees are in the exempt service under AS 39.25.110 (11). These include, the Alaska Industrial Development and Export Authority, the Alaska Permanent Fund Corporation, the Alaska Aerospace Development Corporation, the Alaska Commission on Postsecondary Education and the Alaska Commercial Fisheries Entry Commission. The function of the Trust in developing a plan for the state and granting endowment income is extremely similar to that of the Alaska Science and Technology Foundation which is also in the exempt service under AS 39.25.110 (25). Finally, the fiduciary duty owed to the beneficiaries by the Trust requires that employees perform at the highest levels of competency and that any action that jeopardizes the assets or management of the Trust can be immediately addressed.

The Trustees have agreed to accept responsibility for administering the Office of the Long Term Care Ombudsman. The Long Term Care Ombudsman is responsible for protecting the welfare of some of our most vulnerable Alaskans. Residents in the Pioneer Homes, nursing homes and community based assisted living homes often cannot speak for themselves. To mediate disputes and protect these individuals, the Long Term Care Ombudsman has extraordinary powers including the authority to subpoena confidential records and pursue legal actions if necessary. The Trustees believe that establishing a minimum salary for the Long Term Care Ombudsman is essential to ensure that a qualified individual can be found for this vitally important position. This position, as well as all others in the office, would remain in the classified service to protect them from any political pressure.

On behalf of the Trustees and the beneficiaries, thank you for considering SB 112. Please let me know if I can be of any further assistance.

Sincerely,



Jeff Jessee
Executive Director

Cc: Board of Trustees

22-GS1054-A

Introduced in the Senate: 1/8/01
Referred: Health, Education and Social Services

Introduced in the House: 1/8/01
Referred: Health, Education and Social Services, Finance

EXECUTIVE ORDER NO. 102

1 Under the authority of art. III, sec. 23, of the Alaska Constitution, and in accordance
2 with AS 24.08.210, I order the following:

3 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
4 to read:

5 **FINDINGS.** As governor, I find that the transfer of the office of long term care
6 ombudsman from the Alaska Commission on Aging in the Department of Administration to
7 the Alaska Mental Health Trust Authority in the Department of Revenue would be in the best
8 interests of efficient administration. The transfer will permit closer coordination within state
9 government regarding mental health issues and the needs of older Alaskans and will provide
10 an independent agency to review the concerns of older Alaskans investigated by the office of
11 the long term care ombudsman.

12 * **Sec. 2.** AS 44.21.230(c) is amended to read:

13 (c) The commission may not investigate, review, or undertake any
14 responsibility for the longevity bonus program under AS 47.45 or [EXCEPT FOR
15 ACTIVITIES OF THE OFFICE OF THE LONG TERM CARE OMBUDSMAN.] the
16 Alaska Pioneers' Homes under AS 47.55.

17 * **Sec. 3.** AS 47.24.010(f) is amended to read:

18 (f) A person listed in (a) of this section who reports to the long term care
19 ombudsman under AS 47.62.015 [AS 44.21.232], or to the Department of Health and
20 Social Services, that a vulnerable adult has been exploited, abused, or neglected in an
21 out-of-home care facility is considered to have met the duty to report under (a) of this
22 section.

23 * **Sec. 4.** AS 47.24.013(a) is amended to read:

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ORIGINAL

-1-

New Text Underlined (DELETED TEXT BRACKETED)

EO 102

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1 (a) If a report received under AS 47.24.010 regards the abandonment,
2 exploitation, abuse, neglect, or self-neglect of a vulnerable adult who is 60 years of
3 age or older that is alleged to have been committed by or to have resulted from the
4 negligence of the staff or a volunteer of an out-of-home care facility, including a
5 facility licensed under AS 18.20, in which the vulnerable adult resides, and if the
6 Department of Health and Social Services licenses that type of facility, the Department
7 of Administration shall transfer the report for investigation to the long term care
8 ombudsman under AS 47.62.015 [AS 44.21.232] and the Department of Health and
9 Social Services.

10 * Sec. 5. AS 47.24.013(c) is amended to read:

11 (c) Upon receipt of a report from the department under (a) or (b) of this
12 section, the long term care ombudsman and the Department of Health and Social
13 Services shall

14 (1) conduct an investigation as appropriate under AS 47.62.015
15 [AS 44.21.232] or this title, respectively;

16 (2) coordinate and cooperate in their responses to and investigations of
17 the report if their jurisdictions overlap;

18 (3) provide the results of their actions or investigations to the central
19 information and referral service of the department within 60 days after the receipt of
20 the report.

21 * Sec. 6. AS 47.30.011(b) is amended to read:

22 (b) The purpose of the authority is to ensure an integrated comprehensive
23 mental health program and to administer the office of the long term care
24 ombudsman established in AS 47.62.010.

25 * Sec. 7. AS 47.30.011(c) is amended to read:

26 (c) The authority

27 (1) shall, as provided in AS 37.14.009, administer the trust established
28 under the Alaska Mental Health Enabling Act of 1956;

29 (2) may sue and be sued;

30 (3) may retain the services of independent counsel when, in the
31 judgment of the authority's board of trustees, independent counsel is needed;

1 (4) shall insure or indemnify and protect the board, a member of the
2 board, or an agent or employee of the authority against financial loss and expense,
3 including reasonable legal fees and costs, arising out of a claim, demand, suit, or
4 judgment by reason of alleged negligence, alleged violation of civil rights, or alleged
5 wrongful act resulting in death or bodily injury to a person or accidental damage to or
6 destruction of property if the board member, agent, or employee, at the time of the
7 occurrence, was acting under the direction of the authority within the course or scope
8 of the duties of the board member, agent, or employee; [AND]

9 (5) shall exercise the powers granted to it under AS 37.14.041, subject
10 to the limitations imposed by AS 37.14.045; and

11 (6) shall administer the office of the long term care ombudsman
12 established in AS 47.62.010.

13 * Sec. 8. AS 47.33.310(b) is amended to read:

14 (b) An assisted living home shall post in a prominent place in the home

15 (1) a copy of the rights set out in AS 47.33.300;

16 (2) the name, address, and phone number of the long term care
17 ombudsman hired under AS 47.62.010 [AS 44.21.231] and, if relevant to residents, of
18 the advocacy agency for persons with a developmental disability or mental illness;

19 (3) the telephone number of an information or referral service for
20 vulnerable adults; and

21 (4) a copy of the grievance procedure established under AS 47.33.340

22 * Sec. 9. AS 47 is amended by adding a new chapter to read:

23 **Chapter 62. Office of the Long Term Care Ombudsman.**

24 **Sec. 47.62.010. Office established.** (a) The office of the long term care
25 ombudsman is established in the Alaska Mental Health Trust Authority
26 (AS 47.30.011).

27 (b) The ombudsman shall be hired by the authority. A member of
28 authority who has a financial interest in a long term care facility in the state, or who
29 has any other conflict of interest, may not participate in the hiring of the ombudsman
30 The ombudsman is a full-time position in the classified service.

31 (c) The ombudsman may not have a financial interest in a long term care

1 facility in the state. The authority shall adopt regulations to ensure that the
2 ombudsman, and employees and volunteers of the office, do not have a conflict of
3 interest or an appearance of a conflict of interest.

4 **Sec. 47.62.015. Duties and powers of the long term care ombudsman.** (a)
5 The ombudsman shall investigate and resolve a complaint made by or on behalf of an
6 older Alaskan who resides in a long term care facility in the state if the complaint
7 relates to a decision, action, or failure to act by a provider or a representative of a
8 provider of long term care services or by a public agency or social services agency,
9 that may adversely affect the health, safety, welfare, or rights of the older Alaskan.

10 (b) The ombudsman may investigate and resolve a complaint made by or on
11 behalf of an older Alaskan relating to the long term care or residential circumstances
12 of the older Alaskan. Complaints under this subsection may relate to any issue not
13 covered under (a) of this section, including the older Alaskan's landlord, senior citizen
14 housing, a public assistance program, a public grant program for services to older
15 Alaskans, public utilities, health care facilities, and health care providers.

16 (c) The ombudsman may

17 (1) subpoena witnesses, compel their attendance, require the
18 production of evidence, administer oaths, and examine any person under oath in
19 connection with a complaint described under (a) of this section; the powers described
20 in this paragraph shall be enforced by the superior court;

21 (2) pursue administrative, legal, or other appropriate remedies on
22 behalf of an older Alaskan who resides in a long term care facility in the state.

23 **Sec. 47.62.020. Training and certification of staff.** (a) The ombudsman
24 shall provide for the training and certification of office staff, including volunteers and
25 other representatives of the office. Training must include instruction in federal, state,
26 and local laws and policies relating to long term care facilities in the state, and in
27 investigative techniques. The ombudsman may require other appropriate training.
28 The ombudsman may decertify a person under this section for good cause in
29 accordance with regulations adopted by the authority.

30 (b) An employee, volunteer, or other representative of the office may not
31 investigate a complaint under AS 47.62.015 unless certified as having completed

1 training under this section and approved by the ombudsman as qualified to investigate
2 the complaint.

3 **Sec. 47.62.025. Access to long term care facilities, older Alaskans, and**
4 **records.** (a) A person may not deny access to a long term care facility or to an older
5 Alaskan by the ombudsman or an employee, volunteer, or other representative of the
6 office.

7 (b) Notwithstanding the provisions of AS 47.62.015(c)(1), the ombudsman
8 may obtain medical or other records of an older Alaskan who resides in a long term
9 care facility in the state only with the consent of the older Alaskan or the older
10 Alaskan's legal guardian or, if the older Alaskan is unable or incompetent to consent
11 and does not have a legal guardian, only with a court order.

12 **Sec. 47.62.030. Confidentiality.** (a) Records obtained or maintained by the
13 ombudsman are confidential, are not subject to inspection or copying under
14 AS 40.25.110 - 40.25.120 and, except as provided in (b) of this section, may be
15 disclosed only at the discretion of the ombudsman.

16 (b) The identity of a complainant or an older Alaskan on whose behalf a
17 complaint is made may not be disclosed without the consent of the identified person or
18 the person's legal guardian, unless required by court order.

19 **Sec. 47.62.035. Immunity from liability.** (a) A person who, in good faith,
20 makes a complaint described in AS 47.62.015 is immune from civil or criminal
21 liability that might otherwise exist for making the complaint.

22 (b) The ombudsman, or an employee, volunteer, or other representative of the
23 office, is immune from civil or criminal liability for the good faith performance of
24 official duties.

25 **Sec. 47.62.040. Interference with the long term care ombudsman and**
26 **retaliation prohibited.** (a) A person may not intentionally interfere with the
27 ombudsman, or an employee, volunteer, or representative of the office, in the
28 performance of official duties under AS 47.62.015.

29 (b) If a person makes a good faith complaint described in AS 47.62.015, an
30 employee or supervisor of the person, or a public or private agency or entity that
31 provides benefits, services, or housing to the person, may not discharge, demote,

1 transfer, reduce the pay or benefits or work privileges of, prepare a negative work
2 performance evaluation of, deny or withhold benefits or services, evict, or take other
3 detrimental action against the person because of the complaint. The person making
4 the complaint may bring a civil action for compensatory and punitive damages against
5 an employer, supervisor, agency, or entity that violates this subsection. In the civil
6 action there is a rebuttable presumption that the detrimental action was retaliatory if it
7 was taken within 90 days after the complaint was made.

8 (c) A person who violates this section is guilty of a class B misdemeanor.

9 **Sec. 47.62.050. Legal counsel for the long term care ombudsman.** The
10 attorney general shall provide legal advice and representation in connection with any
11 matter relating to the powers, duties, and operation of the office, and in any legal
12 action brought against the ombudsman or an employee, volunteer, or other
13 representative of the office. If the attorney general cannot provide legal advice or
14 representation because of a conflict of interest, the ombudsman may employ private
15 legal counsel.

16 **Sec. 47.62.060. Cooperative agreements.** The authority shall enter into
17 cooperative agreements concerning the operations of the office, including protocols
18 for investigations, with state and local agencies that have jurisdiction over long term
19 care facilities or over the abuse and neglect of older Alaskans.

20 **Sec. 47.62.090. Definitions.** In AS 47.62.010 - 47.62.090,

21 (1) "authority" means the Alaska Mental Health Trust Authority
22 established in AS 47.30.011;

23 (2) "long term care facility" means an assisted living home that is
24 required to be licensed under AS 47.33 and a nursing home as defined in
25 AS 08.70.180;

26 (3) "office" means the office of the long term care ombudsman.

27 (4) "older Alaskan" means a resident who is 60 years of age or older;

28 (5) "ombudsman" means the long term care ombudsman hired under
29 AS 47.62.010;

30 (6) "senior citizen housing" has the meaning given "senior housing" in
31 AS 18.56.799.

1 * **Sec. 10.** AS 44.21.231, 44.21.232, 44.21.233, 44.21.234, 44.21.235, 44.21.236.
2 44.21.237, 44.21.238, 44.21.239, 44.21.240(2), 44.21.240(3), 44.21.240(5), and 44.21.240(6)
3 are repealed.

4 * **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

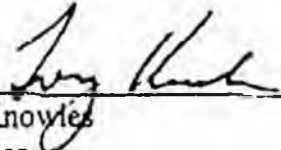
6 **TRANSITION.** (a) Litigation, hearings, investigations, and other proceedings
7 pending under a law repealed by this Order, or in connection with functions transferred by
8 this Order, continue in effect and may be continued and completed notwithstanding a transfer
9 or repeal provided for in this Order.

10 (b) Contracts, rights, liabilities, and obligations created by or under a law repealed by
11 this Order, and in effect on March 9, 2001, remain in effect notwithstanding this Order's
12 taking effect. Records, equipment, appropriations, and other property of an agency of the
13 state whose functions are transferred under this Order shall be transferred to implement the
14 provisions of this Order. The Alaska Commission on Aging shall transfer to the office of the
15 long term care ombudsman in the Alaska Mental Health Trust Authority, federal money
16 appropriated and granted for the purposes of that office under 42 U.S.C. 3001-3058ee (Older
17 Americans Act).

18 * **Sec. 12.** This Order takes effect March 10, 2001.

DATED: 3/9/2001

(non pro tunc to
January 8, 2001)



Tony Knowles
Governor

Senate HESS Committee
February 28, 2001
SB112

Testimony from Lisa Caress-Beu, Alaskan advocate for long term care residents:

SB 112 asks that certain employees of the Mental Health Trust Authority be placed in the exempt service. I would ask that the Legislature assure that the Office of the Long Term Care Ombudsman not be included in the exempt status, now or in the future.

It is critical that the Long Term Care Ombudsman's office remain within the classified section of the state government to assure that they are not exposed to the pressure of exempt status and the ability to be fired "at will".

The Long Term Care Ombudsman's office sometimes must investigate issues at long term care facilities that are under the oversight of the State of Alaska. The potential for appearance of retaliation against the office during an investigation of one of these facilities would be potentially devastating to the reputation and effectiveness of these important advocates for Alaska's senior residents of long term care.

Lisa Caress-Beu
2420 Chinook Avenue
Anchorage, AK 99516
(907)345-0515

**SENATE COMMITTEE REPORT
First Committee of Referral**

DATE: 2/22/01

FURTHER: Finance

Date of 5-Day Notice: 02/22/01
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 2-28-01

Health, Education and Social Services Committee considered

SENATE BILL NO. 112

LONG-TERM CARE OMBUDSMAN; MENTAL HEALTH AUTHORITY

"An Act placing certain employees of the Alaska Mental Health Trust Authority in the exempt service; establishing a minimum salary for the long term care ombudsman; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
Revenue	2/23		X	1

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Andrew D. Jensen</i>	✓			
<i>Gary Lee</i>	✓			
<i>[Signature]</i>	✓			
<i>Betty Davis</i>	✓			
CHAIR: <i>Lynda [Signature]</i>	✓			

SENATE FINANCE COMMITTEE

SIGN-IN

SB 112-LONG-TERM CARE OMBUDSMAN;MENTAL HLTH AUTH

NAME: HANS NEIDIG Subject/Bill No: SB112

Co./Dept./Title: SEN. Green Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Question:

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions