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FISCAL NOTE

**STATE OF ALASKA
2001 LEGISLATIVE SESSION**

Fiscal Note Number: _____
 Bill Version: SB 112
 () Publish Date: _____

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

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SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 2/22/01

FURTHER: Finance

Date of 5-Day Notice: 02/20/01
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 02/28/01

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 | |
| | | | | |
| | | | | |
| | | | | |

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>Karen D. Leman</i> | ✓ | | | |
| <i>Gary Lee</i> | ✓ | | | |
| <i>[Signature]</i> | ✓ | | | |
| <i>Betty Davis</i> | ✓ | | | |
| | | | | |
| CHAIR: <i>Lynne [Signature]</i> | ✓ | | | |

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

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 contract 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 Long 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 docs. |
| 5 | Effective date | | Takes effect immediately as conditioned by Sec. 4 |

ALASKA STATE LEGISLATURE



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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 JEI

TYE DAVIS

SPONSOR STATEMENT

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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.

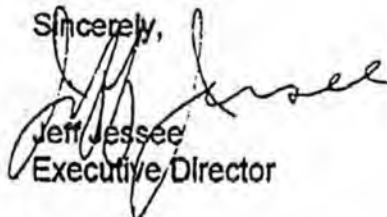
LETTER OF SUPPORT

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