

LEG. FINANCE - BILLS 1981 - 1982 1645

SB 192 - SB 195

1645



Introduced: 2/19/81  
Referred: Finance

1 IN THE SENATE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 192

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the oil and gas corporate income  
7 tax; and providing for an effective date."

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

9 \* Section 1. AS 43.21.020(c) is amended to read:

10 (c) Net income from oil and gas production shall be determined by  
11 the department by deducting from gross income the following:

12 (1) royalties paid in kind or in value;

13 (2) taxes imposed under AS 43.55 and AS 43.57 which are act-  
14 ually paid or incurred by the corporation on the production from a  
15 lease or property in the state;

16 (3) taxes imposed under AS 43.56 and AS 29.53 which are act-  
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18 the production of oil or gas from a lease or property in the state, in-  
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20 of the oil or gas for pipeline transportation, but only if those pro-  
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5 property at a rate not to exceed the average cost of borrowed capital  
6 to the taxpayer during the year in which it is capitalized;

7 (6) the amortization of lease acquisition payments and taxes  
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9 interest on both) for or on producing properties before the commencement  
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2 (8) expenses incurred by the corporation after December 31,  
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20 (B) THE SUM OF \$0.12 FOR EACH BARREL OF OIL AND \$0.02  
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20 (d) If the methods of allocation and apportionment provided in  
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28 \* Sec. 6. AS 43.21.070 is amended to read:

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1 is payable to the department on or before September 30 of each year or  
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4 This tax is payable on the due date set out in this section even though  
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8 \* Sec. 7. If the method of determining taxable income under either AS  
9 43.21.020 or AS 43.21.030 is held invalid by a final judgment of a court  
10 from which an appeal is not taken, and if as a result of that judgment a  
11 corporation, whether or not a party named in that judgment, receives a  
12 refund of taxes or estimated taxes paid under AS 43.21, then the provisions  
13 of AS 43.20 apply to that corporation for the entire period for which it  
14 receives the refund.

15 \* Sec. 8. This Act is retroactive to January 1, 1978, and applies to tax  
16 years beginning after December 31, 1977.

17 \* Sec. 9. This Act takes effect immediately in accordance with AS 01.10.-  
18 070(c).  
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February 18, 1981

The Honorable Jalmar Kerttula  
President of the Senate  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill which would amend certain provisions of the Oil and Gas Corporate Income Tax under AS 43.21. As you know, three of the major North Slope producers have filed suit in the superior court challenging the constitutionality of the oil and gas corporate income tax. The primary issue in this litigation concerns the constitutionality of the method established in AS 43.21 for determining the amount of a corporation's worldwide net income from oil and gas production and transportation that is earned from Alaska sources and subject to taxation by Alaska. However, recent developments in the litigation have also called into question the constitutionality of several other incidental provisions of AS 43.21. Although there is certainly reason to be confident that these provisions would be upheld if they remained on the books, resolving the constitutional questions by simply removing the provisions from the tax statutes would greatly simplify the litigation. Additionally, the litigation has called into question the statutory authority for certain regulations adopted by the Department of Revenue for the administration of the tax. Existing provisions of AS 43.21 in our view provide ample authority for these regulations, but continued litigation over them could be avoided by the clarifications included in this bill.

Section 1 of the bill includes minor housekeeping amendments to AS 43.21.020(c)(2), (3), and (6). These amendments would add the phrase "or incurred," in order to make certain that the taxes allowed as deductions under those subparagraphs could be deducted on the basis, for example, of estimated tax payments made during the tax year. It is currently the practice of the department to allow deductions for these taxes when incurred rather

than when paid, and these amendments clarify the department's authority for that practice.

Under the existing provisions of AS 43.21.020(c)(7), an absolute formulary limit is imposed on the amount of interest expense that may be deducted from gross production income. Additionally, no deduction is allowed for interest paid on any financial transactions between the taxpayer and other corporations or entities within the same consolidated business. Similarly, under AS 43.21.020(c)(9), an absolute formulary limit is placed on the amount of general overhead and administrative expenses that may be deducted under the tax. In this bill, the cents per barrel or mcf limit would be eliminated for those expenses. The bill would, however, retain the formulary limit on expenses both for interest and for general overhead and administration based on the ratio of the value of the property used by the taxpayer in its Alaska oil or gas production and the value of the total property of the consolidated business. Under the amendments proposed in the bill, however, this formulary limit would no longer be absolute. Under proposed AS 43.21.020(f) in sec. 2 of the bill, if a taxpayer can demonstrate that the actual expenses for these items were greater than the formulary limit, then the higher amount may be allowed. Also, certain interest arising from intercompany transactions would be included in the total interest that is apportioned to Alaska under the property formula. This type of intercompany interest expense could include, for example, interest paid by a taxpayer on a loan from its parent corporation if the proceeds of the loan were borrowed from a third party and, at the time of the borrowing, were dedicated to a specific purpose of the taxpayer's Alaska business. It would not include interest arising from intercompany transfers of cash made for general operating expenses.

Sections 3 of the bill would amend AS 43.21.040. Currently, this section provides that the taxable income of an AS 43.21 taxpayer other than income from the production or transportation of oil or gas is to be determined on the basis of net "book" income. These sections of the bill would replace net book income with federal taxable income as the basis for determining the taxable income from activities other than production and transportation of oil and gas. These amendments would cause the tax on this "other" income to be virtually identical to the tax imposed under AS 43.20 on the incomes of corporations that have no income from Alaska oil or gas production or transportation.

Section 4 of the bill would repeal AS 43.21.040(d) and (e). Under these subsections the payroll and property factors of the apportionment formula that is applied to a

corporation's "other" income include the payroll and property related to oil and gas activities on the outer continental shelf (O.C.S.) that are served or supplied from a base of operations in this state. Including these or any other figures in an apportionment formula is simply a means of calculating the extent of a corporation's business activities in the state. O.C.S. activities served from an Alaska base of operations are properly reflective of the extent of any corporation's business activity in the state, whether the corporation is taxed under AS 43.20 or AS 43.21. However, the method provided in AS 43.21.020 and 43.21.030 for allocating to Alaska the total production and transportation income of an AS 43.21 taxpayer has in theory already accounted for all of the taxpayer's oil and gas activities attributable to Alaska. As a result, unlike an AS 43.20 taxpayer, there is at least an argument available to an AS 43.21 taxpayer that it is unfair to take its O.C.S. activities into account as a measure of the extent of its "other" business activity in Alaska. The tax from "other" income is an extremely small percentage of the total tax paid under AS 43.21. Further, O.C.S. payroll and property are currently included only as part of the apportionment formula applied to "other" income, and O.C.S. income itself is not taxed. Therefore, the removal of these items from the apportionment formula will result in a relatively small reduction in revenues, even if the O.C.S. activities served from Alaska bases of operation substantially increase in future years.

Sections 6 and 7 of the bill clarify the authority of the department to adopt regulations in two areas. Under section 6, AS 43.21.070 would be amended to make it clear that the department may require taxpayers to make estimated tax prepayments. Section 5 of the bill would make it clear that the department has the same authority to permit or require adjustments under AS 43.21 in the methods of allocating or apportioning the income of a multistate or multinational corporation that it has under AS 43.20 and article IV, section 18, of the Multistate Tax Compact (AS 43.19.010).

Section 7 of the bill would make it clear that if the challenge to AS 43.21 is successful and if taxpayers obtain a refund of taxes paid under that chapter, then those taxpayers will be subject to the tax imposed under AS 43.20 for any period for which a refund is received. It is extremely unlikely that a court would hold that the legislature intended that corporations taxable under AS 43.21 would not be subject to any income tax if AS 43.21 were invalidated. However, in what might be termed an abundance of caution, sec. 7 of this bill would remove any possible doubt as to the resolution of this question in the event the AS 43.21 challenge succeeds.

Section 9 of the bill would make the provisions of the bill retroactive to January 1, 1978, the beginning of the first tax year to which AS 43.21 applied. The litigation, of course, was initially brought soon after the tax was enacted, and the legal issues relating to the sections amended by this bill can be completely resolved and removed from the litigation only by making the amendments to those sections retroactive.

The fiscal impact of this bill would be relatively small in relation to the revenues that will continue to be generated under AS 43.21. I believe that the benefits to be gained from simplifying the issues involved in the litigation more than compensate for the loss in revenues.

This bill does not, of course, deal with the primary issue in the litigation, which concerns the use of "separate accounting" under AS 43.21.020 and 43.21.030. In the very near future, I will be transmitting a bill that would replace the "separate accounting" method with an apportionment formula. This apportionment formula will be appropriately tailored to reflect the differences between corporations engaged in oil and gas production or transportation in Alaska and other corporations which are taxed under the standard three-factor apportionment formula.

Sincerely,

S/SSH

Jay S. Hammond  
Governor

ALASKA STATE LEGISLATURE

TWELFTH Legislature FIRST Session

SENATE BILL..... NO. 192...

By THE RULES COMMITTEE BY...  
REQUEST OF THE GOVERNOR.

"An Act relating to the oil and gas corporate income tax; and providing for an effective date."

Introduced in the Senate ..... 2/19/19... 81

HISTORY IN THE SENATE

19	81	Read first time and referred to Committee on Finance										
2	19	Reported back with recommendation that										
		Read second time and										
		Read third time and										
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HISTORY IN THE HOUSE

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CHIEF CLERK OF THE HOUSE											

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Juneau, AK 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill which would amend certain provisions of the Oil and Gas Corporate Income Tax under AS 43.21. As you know, three of the major North Slope producers have filed suit in the superior court challenging the constitutionality of the oil and gas corporate income tax. The primary issue in this litigation concerns the constitutionality of the method established in AS 43.21 for determining the amount of a corporation's worldwide net income from oil and gas production and transportation that is earned from Alaska sources and subject to taxation by Alaska. However, recent developments in the litigation have also called into question the constitutionality of several other incidental provisions of AS 43.21. Although there is certainly reason to be confident that these provisions would be upheld if they remained on the books, resolving the constitutional questions by simply removing the provisions from the tax statutes would greatly simplify the litigation. Additionally, the litigation has called into question the statutory authority for certain regulations adopted by the Department of Revenue for the administration of the tax. Existing provisions of AS 43.21 in our view provide ample authority for these regulations, but continued litigation over them could be avoided by the clarifications included in this bill.

Section 1 of the bill includes minor housekeeping amendments to AS 43.21.020(c)(2), (3), and (6). These amendments would add the phrase "or incurred," in order to make certain that the taxes allowed as deductions under those subparagraphs could be deducted on the basis, for example, of estimated tax payments made during the tax year. It is currently the practice of the department to allow deductions for these taxes when incurred rather

than when paid, and these amendments clarify the department's authority for that practice.

Under the existing provisions of AS 43.21.020(c)(7), an absolute formulary limit is imposed on the amount of interest expense that may be deducted from gross production income. Additionally, no deduction is allowed for interest paid on any financial transactions between the taxpayer and other corporations or entities within the same consolidated business. Similarly, under AS 43.21.020(c)(9), an absolute formulary limit is placed on the amount of general overhead and administrative expenses that may be deducted under the tax. In this bill, the cents per barrel or mcf limit would be eliminated for those expenses. The bill would, however, retain the formulary limit on expenses both for interest and for general overhead and administration based on the ratio of the value of the property used by the taxpayer in its Alaska oil or gas production and the value of the total property of the consolidated business. Under the amendments proposed in the bill, however, this formulary limit would no longer be absolute. Under proposed AS 43.21.020(f) in sec. 2 of the bill, if a taxpayer can demonstrate that the actual expenses for these items were greater than the formulary limit, then the higher amount may be allowed. Also, certain interest arising from intercompany transactions would be included in the total interest that is apportioned to Alaska under the property formula. This type of intercompany interest expense could include, for example, interest paid by a taxpayer on a loan from its parent corporation if the proceeds of the loan were borrowed from a third party and, at the time of the borrowing, were dedicated to a specific purpose of the taxpayer's Alaska business. It would not include interest arising from intercompany transfers of cash made for general operating expenses.

Sections 3 of the bill would amend AS 43.21.040. Currently, this section provides that the taxable income of an AS 43.21 taxpayer other than income from the production or transportation of oil or gas is to be determined on the basis of net "book" income. These sections of the bill would replace net book income with federal taxable income as the basis for determining the taxable income from activities other than production and transportation of oil and gas. These amendments would cause the tax on this "other" income to be virtually identical to the tax imposed under AS 43.20 on the incomes of corporations that have no income from Alaska oil or gas production or transportation.

Section 4 of the bill would repeal AS 43.21.040(d) and (e). Under these subsections the payroll and property factors of the apportionment formula that is applied to a

corporation's "other" income include the payroll and property related to oil and gas activities on the outer continental shelf (O.C.S.) that are served or supplied from a base of operations in this state. Including these or any other figures in an apportionment formula is simply a means of calculating the extent of a corporation's business activities in the state. O.C.S. activities served from an Alaska base of operations are properly reflective of the extent of any corporation's business activity in the state, whether the corporation is taxed under AS 43.20 or AS 43.21. However, the method provided in AS 43.21.020 and 43.21.030 for allocating to Alaska the total production and transportation income of an AS 43.21 taxpayer has in theory already accounted for all of the taxpayer's oil and gas activities attributable to Alaska. As a result, unlike an AS 43.20 taxpayer, there is at least an argument available to an AS 43.21 taxpayer that it is unfair to take its O.C.S. activities into account as a measure of the extent of its "other" business activity in Alaska. The tax from "other" income is an extremely small percentage of the total tax paid under AS 43.21. Further, O.C.S. payroll and property are currently included only as part of the apportionment formula applied to "other" income, and O.C.S. income itself is not taxed. Therefore, the removal of these items from the apportionment formula will result in a relatively small reduction in revenues, even if the O.C.S. activities served from Alaska bases of operation substantially increase in future years.

Sections 6 and 7 of the bill clarify the authority of the department to adopt regulations in two areas. Under section 6, AS 43.21.070 would be amended to make it clear that the department may require taxpayers to make estimated tax prepayments. Section 5 of the bill would make it clear that the department has the same authority to permit or require adjustments under AS 43.21 in the methods of allocating or apportioning the income of a multistate or multinational corporation that it has under AS 43.20 and article IV, section 18, of the Multistate Tax Compact (AS 43.19.010).

Section 7 of the bill would make it clear that if the challenge to AS 43.21 is successful and if taxpayers obtain a refund of taxes paid under that chapter, then those taxpayers will be subject to the tax imposed under AS 43.20 for any period for which a refund is received. It is extremely unlikely that a court would hold that the legislature intended that corporations taxable under AS 43.21 would not be subject to any income tax if AS 43.21 were invalidated. However, in what might be termed an abundance of caution, sec. 7 of this bill would remove any possible doubt as to the resolution of this question in the event the AS 43.21 challenge succeeds.

Section 9 of the bill would make the provisions of the bill retroactive to January 1, 1978, the beginning of the first tax year to which AS 43.21 applied. The litigation, of course, was initially brought soon after the tax was enacted, and the legal issues relating to the sections amended by this bill can be completely resolved and removed from the litigation only by making the amendments to those sections retroactive.

The fiscal impact of this bill would be relatively small in relation to the revenues that will continue to be generated under AS 43.21. I believe that the benefits to be gained from simplifying the issues involved in the litigation more than compensate for the loss in revenues.

This bill does not, of course, deal with the primary issue in the litigation, which concerns the use of "separate accounting" under AS 43.21.020 and 43.21.030. In the very near future, I will be transmitting a bill that would replace the "separate accounting" method with an apportionment formula. This apportionment formula will be appropriately tailored to reflect the differences between corporations engaged in oil and gas production or transportation in Alaska and other corporations which are taxed under the standard three-factor apportionment formula.

Sincerely,

S/SSH

Jay S. Hammond  
Governor

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 200 / SB 192

Title An Act relating to the oil and gas income tax

Requested by Governor Date 2/19/81

II. FISCAL DETAIL

Agency Affected Department of Revenue

Program Category Affected General Government

BRU, Program, or Subprogram(s) Affected Petroleum Revenue

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Millions of Dollars)

GENERAL FUND	(142.4)	(55.0)	(60.5)	(66.5)	(73.2)	(80.5)
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III) I. This bill would have no fiscal impact on the operations of the Department of Revenue.

II. The bill would permit taxpayers to claim a refund for tax (calendar) years 1978, 1979 and 1980 obligations in FY 81 totalling about \$142.4 million, with the largest portion of that amount being about \$50 million in the interest category for each tax year. Estimates of revenue decreases for FY 82 onward are inflated upward at 10% a year. The increased interest deduction noted above is the highest available estimate, made on the basis of historical but unaudited data from tax returns. The deductions estimated here may ultimately prove to be substantially lower upon audit. The increased deduction for general overhead and administration expenses would result in a decrease in revenues of about \$4 million for FY 82 and the decrease in revenues attributable to changes in the apportionment formula under AS 43.21.040 is about \$1 million for FY 82.

IV. DATE 2/19/81

PREPARED BY Thomas R. Williams

AGENCY Department of Revenue

PHONE 465-2300

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

Original sponsor: Rules/Legislative Council

Offered: 4/7/82  
Referred: Rules

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 193 (Judiciary) am

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act amending state personnel laws; and providing  
7 for an effective date."

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

9 \* Section 1. AS 39.25.040 is amended to read:

10 Sec. 39.25.040. DIRECTOR OF PERSONNEL. The head of the division  
11 of personnel is the director of personnel appointed by the commissioner  
12 of administration and responsible to the commissioner of administration  
13 for the execution of the duties and responsibilities imposed by this  
14 chapter and the rules adopted under this chapter. The director of  
15 personnel shall [MUST] have at least three years of practical working  
16 experience in the field of personnel administration.

17 \* Sec. 2. AS 39.25.060(b) is amended to read:

18 (b) Members of the board may not be [SHALL BE QUALIFIED ELECTORS  
19 OF THE STATE WHO ARE NOT] employees [OR OFFICERS] of the state. Not  
20 more than two members of the board may be members of the same political  
21 party.

22 \* Sec. 3. AS 39.25.070(1) is amended to read:

23 (1) approve or disapprove amendments to the personnel rules  
24 in accordance with AS 39.25.140 [THE ORIGINAL RULES OR A PART OF THEM  
25 WITHIN 60 DAYS OF THEIR SUBMISSION TO THE BOARD AND APPROVE OR DIS-  
26 APPROVE AMENDMENT TO THE RULES WITHIN 30 DAYS OF SUBMISSION TO THE  
27 BOARD, AND IN CARRYING OUT THIS DUTY, THE BOARD, IF REQUESTED, MAY HOLD  
28 THE PUBLIC HEARINGS IT CONSIDERS NECESSARY];

29 \* Sec. 4. AS 39.25.070(3) is amended to read:

1 (3) hear and determine appeals by employees [IN THE CLASSI-  
2 FIED SERVICE] as provided in AS 39.25.170;

3 \* Sec. 5. AS 39.25.070 is amended by adding a new paragraph to read:

4 (7) employ staff members, who shall be in the classified  
5 service.

6 \* Sec. 6. AS 39.25.080 is repealed and reenacted to read:

7 Sec. 39.25.080. PUBLIC RECORDS. (a) State personnel records,  
8 including employment applications and examination materials, are confi-  
9 dential and are not open to public inspection except as provided in  
10 this section.

11 (b) The following information is available for public inspection,  
12 subject to reasonable regulations on the time and manner of inspection:

13 (1) the names and position titles of all state employees;

14 (2) the position held by a state employee;

15 (3) prior positions held by a state employee;

16 (4) whether a state employee is in the classified, partially  
17 exempt, or exempt service;

18 (5) the dates of appointment and separation of a state em-  
19 ployee; and

20 (6) the compensation authorized for a state employee.

21 (c) A state employee has the right to examine his own personnel  
22 files and may authorize others to examine his files.

23 (d) An applicant for state employment who appeals an examination  
24 score may review written examination questions relating to the examina-  
25 tion unless the questions are to be used in future examinations.

26 \* Sec. 7. AS 39.25.090 is amended to read:

27 Sec. 39.25.090. COVERAGE OF CHAPTER. This chapter and the rules  
28 adopted under it apply to all positions in (1) the classified service,  
29 and (2) the exempt and partially exempt service as specifically pro-

1 vided.

2 \* Sec. 8. AS 39.25.110 is repealed and reenacted to read:

3 Sec. 39.25.110. EXEMPT SERVICE. Unless otherwise provided by  
4 law, the following positions in the state service constitute the exempt  
5 service and are exempt from the provisions of this chapter and the  
6 rules adopted under it:

7 (1) persons elected to public office by popular vote or  
8 appointed to fill vacancies in elected offices;

9 (2) justices, judges, magistrates, and employees of the  
10 judicial branch including employees of the Judicial Council;

11 (3) employees of the state legislature and its agencies;

12 (4) the head of each principal department in the executive  
13 branch;

14 (5) officers and employees of the University of Alaska;

15 (6) certificated teachers and noncertificated employees  
16 employed by a regional educational attendance area established and  
17 organized under AS 14.08.031 - 14.08.041 to teach in, administer, or  
18 operate schools under the control of a regional educational attendance  
19 area school board;

20 (7) certificated teachers employed by the Department of  
21 Education as correspondence teachers or teachers in skill centers  
22 operated by the Department of Education;

23 (8) patients and inmates employed in state institutions;

24 (9) persons employed in a professional capacity to make a  
25 temporary or special inquiry, study or examination as authorized by the  
26 governor;

27 (10) members of boards, commissions, or authorities;

28 (11) the officers and employees of the following boards,  
29 commissions and authorities:

1 (A) Alaska Gas Pipeline Financing Authority;  
2 (B) Alaska Permanent Fund Corporation;  
3 (C) Alaska Energy Center;  
4 (D) Alaska Industrial Development Authority;  
5 (E) Alaska Commercial Fisheries Entry Commission;  
6 (F) Alaska Commission on Postsecondary Education;  
7 (G) Employes of the Citizens' Advisory Commission  
8 on Federal Areas in Alaska (AS 41.37.010);

9 (12) the executive secretary and legal counsel of the Alaska  
10 Municipal Bond Bank Authority;

11 (13) licensed physicians, as defined in AS 47.30.340(9)  
12 employed by the state;

13 (14) petroleum engineers and petroleum geologists employed in  
14 a professional capacity by the Department of Natural Resources and by  
15 the Oil and Gas Conservation Commission; except for those employed in  
16 the division of geological and geophysical surveys in the Department of  
17 Natural Resources;

18 (15) officers, agents, and employees of the Alcoholic Beverage  
19 Control Board granted limited peace officer powers by the Alcoholic  
20 Beverage Control Board under AS 04.06.110;

21 (16) persons employed by the division of marine transporta-  
22 tion as masters and members of the crews of vessels who operate the  
23 state ferry system and who are covered by a collective bargaining  
24 agreement provided in AS 23.40.040;

25 (17) officers and employees of the state who reside in  
26 foreign countries;

27 (18) employees of the Alaska Seafood Marketing Insti-  
28 tute;

29 (19) firefighters employed by the Department of Natural

1 Resources for a fire emergency.

2 \* Sec. 9. AS 39.25.120 is repealed and reenacted to read:

3 Sec. 39.25.120. PARTIALLY EXEMPT SERVICE. (a) Positions in the  
4 partially exempt service are included in the position classification  
5 plan established under this chapter and are compensated according to  
6 the pay plan (AS 39.27.011).

7 (b) A person holding a position in the partially exempt service  
8 is not required to take an examination or qualify or earn a place on a  
9 register, and is not eligible for a hearing by the personnel board in  
10 case of dismissal, demotion, or suspension, except as provided in  
11 AS 39.25.170. Positions in the partially exempt service are specifi-  
12 cally exempt from the rules established under AS 39.25.150(3) - (10),  
13 (13), (14), and (17).

14 (c) The following positions in the state service constitute the  
15 partially exempt service:

16 (1) deputy and assistant commissioners of the principal  
17 departments of the executive branch, including the assistant adjutant  
18 general of the Department of Military Affairs;

19 (2) the directors of the major divisions of the principal  
20 departments of the executive branch and the regional directors of the  
21 Department of Transportation and Public Facilities;

22 (3) attorney members of the staff of the Department of Law  
23 and of the public defender agency;

24 (4) one private secretary for each head of a principal de-  
25 partment in the executive branch;

26 (5) employees of the Office of the Governor and the office of  
27 the lieutenant governor, including the staff of the governor's mansion;

28 (6) the executive director and deputy director of the Alaska  
29 Public Utilities Commission;

1 (7) the director, deputy director, staff legal counsel, and  
2 hearing officers of the Alaska Transportation Commission;

3 (8) not more than two special assistants to the commissioner  
4 of each of the principal departments of the executive branch, but the  
5 number may be increased if the partially exempt service is extended  
6 under AS 39.25.130 to include the additional special assistants;

7 (9) the principal executive officer of the following boards,  
8 councils, or commissions:

9 (A) Alaska Public Broadcasting Commission;

10 (B) Professional Teaching Practices Commission;

11 (C) Parole Board;

12 (D) Board of Nursing;

13 (E) Real Estate Commission;

14 (F) Alaska Royalty Oil and Gas Development Advisory

15 Board;

16 (G) Alaska Historical Commission;

17 (H) Alaska State Council on the Arts;

18 (I) Alaska Police Standards Council;

19 (J) Council on Science and Technology;

20 (K) Older Alaskans Commission;

21 (10) Alaska Pioneers' Home managers;

22 (11) hearing examiners in the Department of Revenue;

23 (12) the comptroller in the division of treasury, Department  
24 of Revenue;

25 (13) investment officers in the Department of Revenue;

26 (14) airport managers in the Department of Transportation and  
27 Public Facilities employed at the Anchorage and Fairbanks International  
28 Airports;

29 (15) the deputy director of the division of tourism and the

1 deputy director of the division of insurance in the Department of Com-  
2 merce and Economic Development;

3 (16) the executive director and staff of the Alaska Public  
4 Offices Commission;

5 (17) the director, deputy director, personnel analysts II,  
6 labor relations analysts I, labor relations analysts II, senior nego-  
7 tiators, and research directors of the division of labor relations  
8 in the Department of Administration.

9 \* Sec. 10. AS 39.25.130(a) is amended to read:

10 (a) The [AFTER JUNE 30, 1961, THE] personnel board, upon written  
11 recommendation of the commissioner of administration, may extend the  
12 partially exempt service to include any position [WHICH WAS] in the  
13 classified service [ON APRIL 19, 1960,] which, in the judgment of the  
14 board:

15 (1) involves principal responsibility for the determination  
16 of policy;

17 (2) involves principal responsibility for the way in which  
18 policies are carried out; or

19 (3) involves responsibilities and duties of a type not sus-  
20 ceptible to the ordinary recruiting and examining procedures.

21 \* Sec. 11. AS 39.25.130(c) is amended to read:

22 (c) The [AFTER JUNE 30, 1961, THE] personnel board, upon written  
23 recommendation of the commissioner of administration, may extend the  
24 classified service to include any position [WHICH WAS] in the partially  
25 exempt service [ON APRIL 19, 1960].

26 \* Sec. 12. AS 39.25.140 is repealed and reenacted to read:

27 Sec. 39.25.140. AMENDMENT OF PERSONNEL RULES. (a) The director  
28 of personnel shall prepare and submit proposed amendments of the per-  
29 sonnel rules to the commissioner of administration for review and

1 approval.

2 (b) The commissioner of administration shall review the proposed  
3 amendments and if he approves them, he shall submit them to the person-  
4 nel board.

5 (c) If the proposed amendments concern matters of public policy,  
6 the personnel board shall adopt them in accordance with the Administra-  
7 tive Procedure Act (AS 44.62).

8 (d) If the proposed amendments relate only to internal management  
9 of a state agency, the commissioner of administration shall post notice  
10 in public buildings throughout the state that the personnel board has  
11 the proposed amendments under consideration. The notice required by  
12 this subsection shall be posted at least 30 days before any decision is  
13 made to amend the personnel rules and shall include an address for the  
14 receipt of written comments.

15 (e) If requested by the commissioner of administration or by a  
16 person receiving notice of the proposed amendments, the personnel board  
17 may hold public hearings on the proposed amendments and may appoint a  
18 hearing officer to conduct the hearings.

19 (f) The personnel board may amend the proposed amendments.

20 (g) The proposed amendments become effective 45 days after they  
21 are submitted to the personnel board unless the board has disapproved  
22 them.

23 (h) The amended rules shall be published in the Alaska Administra-  
24 tive Register and Code for informational purposes.

25 \* Sec. 13. AS 39.25.150 is repealed and reenacted to read:

26 Sec. 39.25.150. SCOPE OF THE RULES. The personnel rules shall  
27 provide for

28 (1) the preparation, maintenance, and revision by the direc-  
29 tor of personnel, subject to approval of the commissioner of adminis-

1 tration and the personnel board, of a position classification plan for  
2 all positions in the classified and partially exempt services; the  
3 position classification plan shall include

4 (A) a grouping together of all positions into classes  
5 on the basis of duties and responsibilities;

6 (B) an appropriate title, a description of the duties  
7 and responsibilities, training and experience qualifications, and  
8 other necessary specifications for each class of positions;

9 (2) the preparation, maintenance, revision and administra-  
10 tion by the director of personnel of a pay plan for all positions in  
11 the classified and partially exempt services; the pay plan (A) shall be  
12 based upon the position classification plan; (B) shall provide for fair  
13 and reasonable compensation for services rendered, and reflect the  
14 principle of like pay for like work; (C) may be amended, approved, or  
15 disapproved by the legislature in regular or special session; after the  
16 pay plan is in effect, a salary or wage payment may not be made to a  
17 state employee covered by the plan unless the payment is in accordance  
18 with this chapter and the rules adopted under this chapter or unless  
19 the payment is in accordance with a valid agreement entered into in  
20 accordance with AS 23.40;

21 (3) the use of employee selection methods which will fairly  
22 test the capacity and fitness of the person examined to discharge the  
23 duties of the class in which employment is sought;

24 (4) the establishment and maintenance of eligible lists for  
25 appointment and promotion providing the names of eligible candidates in  
26 order of their relative performance in the examinations;

27 (5) the procedure for certifying eligible candidates;

28 (6) promotions from within the state service when there are  
29 qualified candidates in the state service; vacancies shall be filled by

1 promotion whenever practicable and in the best interest of the state  
2 service and promotion shall be by competitive examination whenever  
3 possible; in considering promotions, applicants' qualifications, per-  
4 formance record, seniority, and conduct shall be evaluated;

5 (7) a period of probation not to exceed one year before an  
6 appointment to a position becomes permanent, except that a permanent  
7 employee receiving a promotional appointment retains permanent status  
8 in the service and job class from which appointed for the duration of  
9 the probationary period and may be demoted to a former class without  
10 right of appeal, notwithstanding AS 39.25.170, but if the employee is  
11 dismissed from the service the appeal rights under AS 39.25.170 apply;

12 (8) nonpermanent and emergency appointments to positions in  
13 the state service in accordance with AS 39.25.195 - 39.25.200;

14 (9) provisional appointment without competitive examination  
15 when appropriate eligible lists are not available;

16 (10) transfers from one department to another and from an-  
17 other merit system jurisdiction to the state service;

18 (11) transfers from one area of the state to another;

19 (12) the reinstatement of a person who resigns in good stand-  
20 ing;

21 (13) layoffs for reason of lack of money or work, abolition  
22 of positions, or material changes in duties or organization; both  
23 performance and seniority records shall be considered in the develop-  
24 ment of layoff orders;

25 (14) the development, maintenance, and use of employee perfor-  
26 mance records;

27 (15) the establishment of disciplinary measures which may  
28 include disciplinary suspension without pay;

29 (16) the procedures for review of disputed personnel actions,

1 for resolving employee and interagency grievances, and for resolving  
2 grievances of the general public concerning the operation of the state  
3 personnel system;

4 (17) hours of work for all employees in the state service;

5 (18) methods and procedures covering overtime work and pay;

6 (19) the granting of employment preference rights to a veteran  
7 not within the area of promotion, when the veteran possesses the neces-  
8 sary qualifications in the job classification applied for under this  
9 chapter; in an examination to determine the qualification of applicants  
10 for entrance into the classified service under merit system examination,  
11 five additional points shall be added to the passing grade of a veteran  
12 and ten additional points shall be added to the passing grade of a  
13 disabled veteran, but the additional points may be used only the first  
14 time the veteran obtains a position in the classified service; if a  
15 position in the classified service is eliminated, employees shall be  
16 released in accordance with rules which give due effect to all factors;  
17 if all job qualifications are equal, the veteran shall be given pref-  
18 erence over the nonveteran and the veteran shall be kept on the job;  
19 this paragraph may not be interpreted to amend the terms of a collective  
20 bargaining agreement; in this paragraph

21 (A) "veteran" means a person with 181 days or more  
22 active service in the armed forces of the United States who has  
23 been honorably discharged after having served during any period  
24 between April 6, 1917, and December 1, 1919, between September 16,  
25 1940, and December 31, 1947, or between June 27, 1950, and  
26 November 7, 1975;

27 (B) "disabled veteran" means a veteran who is entitled  
28 to compensation under laws administered by the United States  
29 Veterans' Administration, or a person who was honorably discharged

1 or released from active duty because of a service-connected dis-  
2 ability;

3 (20) the employment of persons in permanent positions on a  
4 part-time basis of 15 hours or more a week, including the employment of  
5 two persons to fill one permanent full-time position; these employees  
6 shall be designated as permanent part-time employees;

7 (21) the granting of employment preference to severely handi-  
8 capped persons; this includes the right to provisional appointment  
9 without competitive examination for periods up to four months and the  
10 granting of eligibility to a severely handicapped person provisionally  
11 appointed under the rules who demonstrates ability to perform the job  
12 for permanent appointment without competitive examination; provisional  
13 employment under this paragraph may not exceed four months during a  
14 12-month period; "severely handicapped" as used in this paragraph means  
15 persons certified by the director of the division of vocational reha-  
16 bilitation to be severely handicapped;

17 (22) the establishment of programs facilitating the employ-  
18 ment of disadvantaged persons, including limitation of competition for  
19 appointment and promotion to individuals who meet the program require-  
20 ments;

21 (23) the delegation, when feasible, of personnel responsibil-  
22 ities and duties to the principal departments of the executive branch;

23 (24) the establishment of a transition period of up to 12  
24 months for an employee to be reappointed to a classified position if  
25 the employee's position is withdrawn from the partially exempt or  
26 exempt service and placed in the classified service;

27 (25) other rules and administrative regulations, not incon-  
28 sistent with this chapter, which are necessary for its enforcement.

29 \* Sec. 14. AS 39.25.153 is repealed and reenacted to read:

1           Sec. 39.25.153. PERSONNEL OFFICERS. (a) If a principal depart-  
2 ment of the executive branch has a personnel officer, the personnel  
3 officer shall be employed by and located within that department.

4           (b) Subject to the provisions of (d) of this section, the per-  
5 sonnel officers for the Departments of Transportation and Public Facili-  
6 ties, Fish and Game, Education, Labor, and Health and Social Services,  
7 have the following powers with respect to the classes of positions  
8 unique to their departments:

9           (1) to assign positions to an existing class in the state  
10 classification plan and to the salary range for that class as estab-  
11 lished by the state pay plan or by a valid agreement entered into in  
12 accordance with AS 23.40;

13           (2) to administer and score examinations and to place suc-  
14 cessful applicants on departmental eligible lists;

15           (3) to certify those eligible to the appointing authorities.

16           (c) The initial determination of classes of positions unique to  
17 the departments listed in (b) of this section shall be made by the  
18 personnel officer of the department in consultation with the commis-  
19 sioner of his department subject to the approval of the director of  
20 personnel in the Department of Administration.

21           (d) The assumption of a power set out in (b) of this section must  
22 be approved by the commissioner of administration and must be in harmony  
23 with the merit principle of personnel administration (AS 39.25.010).

24 \* Sec. 15. AS 39.25.160 is repealed and reenacted to read:

25           Sec. 39.25.160. GENERALLY. (a) A classified employee may not  
26 take an active part in the management of a political party above the  
27 precinct level.

28           (b) A person may not give, render, pay, offer, solicit, or accept  
29 money, services, or other valuable thing in connection with securing or

1 making an appointment, promotion, or advantage in a position in the  
2 classified service.

3 (c) A person may not require an assessment, subscription, contri-  
4 bution, or service for a political party from a state employee.

5 (d) A person may not seek or attempt to use a political party  
6 endorsement in connection with an appointment or promotion in the  
7 classified service.

8 (e) An employee in the classified or partially exempt service who  
9 seeks nomination or becomes a candidate for state or national elective  
10 political office shall immediately resign any position held in the  
11 state service. The employee's position becomes vacant on the date the  
12 employee files a declaration of candidacy for state or national elective  
13 office.

14 (f) Action affecting the employment status of a state employee or  
15 an applicant for state service, including appointment, promotion, demo-  
16 tion, suspension, or removal, may not be taken or withheld on the basis  
17 of unlawful discrimination due to race, religion, color, or national  
18 origin, age, handicap, sex, marital status, change in marital status,  
19 pregnancy, or parenthood. In addition, action affecting the employment  
20 status of an employee in the classified service, including appointment,  
21 promotion, demotion, suspension, or removal, may not be taken or with-  
22 held for a reason not related to merit.

23 (g) Action affecting the employment status of an employee in the  
24 classified service or an applicant for a position in the classified  
25 service, including appointment, promotion, demotion, suspension, or  
26 removal, may not be taken or withheld on the basis of unlawful discrim-  
27 ination due to political beliefs.

28 (h) A person may not knowingly make a false statement, certifi-  
29 cate, mark, rating, or report with regard to a test, certification, or

1 appointment made under this chapter or in any manner commit a fraud  
2 preventing the impartial execution of this chapter and the personnel  
3 rules adopted under this chapter.

4 (i) A person may not obstruct the right of another person to  
5 examination, eligibility, certification, appointment, or promotion  
6 under this chapter.

7 \* Sec. 16. AS 39.25.170 is repealed and reenacted to read:

8 Sec. 39.25.170. HEARINGS AND APPEALS UPON DISMISSAL, DEMOTION, OR  
9 SUSPENSION. (a) An employee in the executive branch of state govern-  
10 ment may be dismissed, demoted, or suspended by delivery of written  
11 notice of the proposed action and the reason for it from the appointing  
12 authority to the employee.

13 (b) A permanent employee in the classified service who has been  
14 dismissed, demoted, or suspended may appeal the action to the personnel  
15 board.

16 (c) An employee in the executive branch of state government who  
17 has been dismissed, demoted, or suspended due to unlawful discrimination  
18 based on race, religion, color, or national origin, or because of age,  
19 handicap, sex, marital status, change in marital status, pregnancy, or  
20 parenthood may appeal the action to the personnel board.

21 (d) An employee in the classified service who has been dismissed,  
22 demoted, or suspended due to unlawful discrimination based on political  
23 beliefs may appeal the action to the personnel board.

24 (e) A permanent employee in the classified service who holds  
25 probationary status in his present position may appeal a dismissal  
26 from the classified service to the personnel board.

27 (f) An employee who is on leave without pay from a position  
28 in the classified service and who is employed by the state in an-  
29 other capacity, either in the exempt or partially exempt service,

1 may appeal a dismissal from the classified service to the personnel  
2 board.

3 (g) An employee begins an appeal by filing a written request  
4 for review of the action with the personnel board within 15 days of  
5 receiving written notice of the action from the appointing authority.

6 (h) If requested by the employee at the time of filing an appeal,  
7 the personnel board shall hold a hearing to determine the reasonable-  
8 ness of the the action taken by the appointing authority. If the  
9 employee requests it, the hearing shall be open to the public. The  
10 employee may be represented by another person and has the right to  
11 present evidence, and to confront and cross-examine witnesses. Techni-  
12 cal rules of evidence do not apply to the hearing, but all testimony  
13 shall be taken under oath.

14 (i) If the personnel board finds that the action complained of  
15 was due to unlawful discrimination based on race, sex, color, religion,  
16 national origin, age, handicap, marital status, change in marital  
17 status, pregnancy, or parenthood, or in violation of the provisions of  
18 this chapter or the personnel rules, the employee shall be reinstated  
19 to the position without loss of pay or leave benefit for the period of  
20 dismissal, demotion, or suspension. In addition, if the personnel  
21 board finds that the action complained of by an employee in the classi-  
22 fied service was due to unlawful discrimination based on a political  
23 belief or any other reason related to merit the employee shall be  
24 reinstated to the position without loss of pay or leave benefit for the  
25 period of dismissal, demotion, or suspension. In all other cases, the  
26 board shall report its findings and recommendations in writing, to both  
27 parties within 30 days of a hearing conducted under (h) of this section,  
28 and the decision of the board may be appealed to the superior court.

29  
\* Sec. 17. AS 39.25 is amended by adding a new section to read:

1           Sec. 39.25.175. PROCEDURE. (a) A subpoena shall be issued at  
2 the request of a party to a proceeding begun under AS 39.25.170.

3           (b) If a person refuses to respond to a subpoena issued under  
4 this section, or refuses to testify at a hearing authorized by AS 39.-  
5 25.170, the personnel board may apply to the superior court for an  
6 order requiring the person to respond to the subpoena or to testify.

7           (c) Failure to obey the order of the superior court requiring  
8 response to a subpoena or testimony at a hearing may be punished as  
9 contempt of court.

10 \* Sec. 18. AS 39.25 is amended by adding a new section to read:

11           Sec. 39.25.181. DEFINITIONS. In this chapter,

12           (1) "fraud" means for a person to knowingly

13                   (A) create or confirm another's false impression which  
14 the person does not believe to be true, including false impres-  
15 sions as to law or value and false impressions as to intention or  
16 other state of mind;

17                   (B) fail to correct another's false impression which  
18 the person previously has created or confirmed;

19                   (C) prevent another from acquiring pertinent informa-  
20 tion;

21           (2) "knowingly" means for a person to be aware with respect  
22 to conduct or to a circumstance described by a provision of law that  
23 his conduct is of that nature or that the circumstance exists; when  
24 knowledge of the existence of a particular fact is required, that know-  
25 ledge is established if a person is aware of a substantial probability  
26 of its existence, unless he actually believes it does not exist;

27           (3) "precinct" means the territory within which resident  
28 voters may cast votes at one polling place;

29           (4) "state employee" means a person employed by the state

1 who is paid a wage or salary, but does not include a person hired by  
2 the state to work as an independent contractor or a person who is in  
3 the custody of the state.

4 \* Sec. 19. AS 39.25 is amended by adding a new section to article 6 to  
5 read:

6 Sec. 39.25.192. EMPLOYEE POLITICAL RIGHTS. A state employee may

7 (1) be a member of a national, state, or local political  
8 party;

9 (2) take part in a political campaign;

10 (3) express political opinions except while performing  
11 official duties;

12 (4) register party preference;

13 (5) serve as a voting or nonvoting delegate to a party con-  
14 vention;

15 (6) be appointed, nominated, or elected to nonpartisan  
16 public office in a local government unit; and

17 (7) make contributions to a political party or a candidate  
18 for public office.

19 \* Sec. 20. AS 39.25.180 is repealed.

20 \* Sec. 21. This Act takes effect July 1, 1982.  
21  
22  
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29

# COMMITTEE REPORT

## HOUSE

FURTHER:

(11)

5/17/82

Date: 5/19/82

Mr. Speaker:

The Committee on Finance has had CSSB 193 (Jud) an

"An Act amending state personnel laws; and providing for an effective date."

under consideration and reports it back as follows:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with <sup>H</sup>CS for CSSB 193 (Jud)  same title  
 new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note (FY) 8
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

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MEMBERS HAVING  
OTHER RECOMMENDATIONS:

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\_\_\_\_\_  
\_\_\_\_\_

CHAIRMAN

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House CS for CS for Senate Bill No. 193 (Judiciary)  
Title An Act amending state personnel laws; effective date  
Requested by \_\_\_\_\_ Date 5/18/82

II. FISCAL DETAIL

Agency Affected Administration  
Program Category Affected Personnel  
BRU, Program, Or Subprogram(s) Affected Personnel, Personnel Board  
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		42.2	22.6	24.2	25.8	27.7
200 TRAVEL		2.8	1.6	1.8	1.9	2.1
300 CONTRACTUAL		26.2				
400 COMMODITIES		.6	.6	.7	.8	.8
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		71.8	24.8	26.7	28.5	30.6

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		71.8	24.8	26.7	28.5	30.6
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME		1	0	0	0	0
PART TIME		0	1	1	1	1
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Sections 11, 12 and 13 of HCS CSSB 913 (Jud) provides the procedures for adoption of amendments to the Personnel Rules. New publication requirements, mandatory publication in the Alaska Administrative Register and Code, and optional public hearings are provided. HCS CSSB 193 (Jud) makes several minor changes to the Personnel Act that will require amending the Personnel Rules. The major costs for FY 83 are:

- 1) contracting with the Department of Law for an attorney for four months to:

- rewrite the current Personnel Rules to AAC standards
- draft amendments incorporating changes in the Personnel Act

IV. DATE 5/18/82

PREPARED BY

*Michael P. McMullen*  
Michael P. McMullen

AGENCY Administration - Division of Personnel

Original: Legislative Finance  
cc: Budget and Management

PHONE 465-4430

Prime Sponsor (First Legislator Named) Senator Ray  
33-001 (Rev. 12/81) Office of the Governor: Keith Specking

FICAL NOTE continued

- modify amendments based on hearings
- file the amended rules with the Lt. Governor
- compile a Personnel Act - Personnel Rules cross-reference
- identify forms needing revision to reference the appropriate AAC provisions instead of the former rule
- Revise Administrative Manual and Operating Procedures to properly reference revised Personnel rules

(\$19.2 Thous.)

- 2) Personal Services to employ Regulations Specialist to revise existing procedures, manuals, forms and letters to properly cite revised Personnel rules. Position would be half-time after first year.

(\$42.2 Thous.)

- 3) travel and per diem for attorney and the Personnel Board for two hearings to adopt the rules and amendments under AAC standards.

(\$2.8 Thous.)

- 4) public notice of the hearings and proposed amendments.

(\$ .6 Thous.)

- 5) typing of drafts, revision and filing version.

(\$2.0 Thous.)

- 6) printing of forms incorporating AAC references.

(\$1.0 Thous.)

In subsequent years, one two-day hearing by the Personnel Board to adopt amendments is budgeted. Travel is inflated 10% annually and public notice costs at 8%. Personal Services inflated at 7% per year.

Section 14 of HCS CSSB 193 (Jud) contains a significant change in the definition and preference accorded to veterans. In addition to the need to amend the Personnel Rules accordingly, there is a need to incorporate the new provision in the automated Applicant Tracking System. This one time contractual service cost is estimated at \$4 thousand.

1 (7) employ staff members, who shall be in the classified  
2 service.

3 \* Sec. 5. AS 39.25.080 is repealed and reenacted to read:

4 Sec. 39.25.080. PUBLIC RECORDS. (a) State personnel records,  
5 including employment applications and examination materials, are confi-  
6 dential and are not open to public inspection except as provided in  
7 this section.

8 (b) The following information is available for public inspection,  
9 subject to reasonable regulations on the time and manner of inspection:

10 (1) the names and position titles of all state employees;

11 (2) the position held by a state employee;

12 (3) prior positions held by a state employee;

13 (4) whether a state employee is in the classified, partially  
14 exempt, or exempt service;

15 (5) the dates of appointment and separation of a state em-  
16 ployee; and

17 (6) the compensation authorized for a state employee.

18 (c) A state employee has the right to examine his own personnel  
19 files and may authorize others to examine his files.

20 (d) An applicant for state employment who appeals an examination  
21 score may review written examination questions relating to the examina-  
22 tion unless the questions are to be used in future examinations.

23 \* Sec. 6. AS 39.25.090 is amended to read:

24 Sec. 39.25.090. COVERAGE OF CHAPTER. This chapter and the rules  
25 adopted under it apply to all positions in (1) the classified service,  
26 and (2) the exempt and partially exempt service as specifically pro-  
27 vided.

28 \* Sec. 7. AS 39.25.110 is repealed and reenacted to read:

29 Sec. 39.25.110. EXEMPT SERVICE. Unless otherwise provided by

Original sponsor: Rules/Legislative Council

Offered: 5/17 /82  
Referred: Rules

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 193 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act amending state personnel laws; and providing  
7 for an effective date."

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

9 \* Section 1. AS 39.25.040 is amended to read:

10 Sec. 39.25.040. DIRECTOR OF PERSONNEL. The head of the division  
11 of personnel is the director of personnel appointed by the commissioner  
12 of administration and responsible to the commissioner of administration  
13 for the execution of the duties and responsibilities imposed by this  
14 chapter and the rules adopted under this chapter. The director of  
15 personnel shall [MUST] have at least three years of practical working  
16 experience in the field of personnel administration.

17 \* Sec. 2. AS 39.25.060(b) is amended to read:

18 (b) Members of the board may not be [SHALL BE QUALIFIED ELECTORS  
19 OF THE STATE WHO ARE NOT] employees [OR OFFICERS] of the state. Not  
20 more than two members of the board may be members of the same political  
21 party.

22 \* Sec. 3. AS 39.25.070(1) is amended to read:

23 (1) approve or disapprove amendments to the personnel rules  
24 in accordance with AS 39.25.140 [THE ORIGINAL RULES OR A PART OF THEM  
25 WITHIN 60 DAYS OF THEIR SUBMISSION TO THE BOARD AND APPROVE OR DIS-  
26 APPROVE AMENDMENT TO THE RULES WITHIN 30 DAYS OF SUBMISSION TO THE  
27 BOARD, AND IN CARRYING OUT THIS DUTY, THE BOARD, IF REQUESTED, MAY HOLD  
28 THE PUBLIC HEARINGS IT CONSIDERS NECESSARY];

29 \* Sec. 4. AS 39.25.070 is amended by adding a new paragraph to read:

1 (D) Alaska Industrial Development Authority;  
2 (E) Alaska Commercial Fisheries Entry Commission;  
3 (F) Alaska Commission on Postsecondary Education;  
4 (G) Employees of the Citizens' Advisory Commission  
5 on Federal Areas in Alaska (AS 41.37.010);

6 (12) the executive secretary and legal counsel of the Alaska  
7 Municipal Bond Bank Authority;

8 (13) licensed physicians, as defined in AS 47.30.340(9)  
9 employed by the state;

10 (14) petroleum engineers and petroleum geologists employed in  
11 a professional capacity by the Department of Natural Resources and by  
12 the Oil and Gas Conservation Commission; except for those employed in  
13 the division of geological and geophysical surveys in the Department of  
14 Natural Resources;

15 (15) officers, agents, and employees of the Alcoholic Beverage  
16 Control Board granted limited peace officer powers by the Alcoholic  
17 Beverage Control Board under AS 04.06.110;

18 (16) persons employed by the division of marine transporta-  
19 tion as masters and members of the crews of vessels who operate the  
20 state ferry system and who are covered by a collective bargaining  
21 agreement provided in AS 23.40.040;

22 (17) officers and employees of the state who reside in  
23 foreign countries;

24 (18) employees of the Alaska Seafood Marketing Insti-  
25 tute;

26 (19) firefighters employed by the Department of Natural  
27 Resources for a fire emergency;

28 (20) employees of the Office of the Governor and the office  
29 of the lieutenant governor, including the staff of the governor's

1 law, the following positions in the state service constitute the exempt  
2 service and are exempt from the provisions of this chapter and the  
3 rules adopted under it:

4 (1) persons elected to public office by popular vote or  
5 appointed to fill vacancies in elected offices;

6 (2) justices, judges, magistrates, and employees of the  
7 judicial branch including employees of the Judicial Council;

8 (3) employees of the state legislature and its agencies;

9 (4) the head of each principal department in the executive  
10 branch;

11 (5) officers and employees of the University of Alaska;

12 (6) certificated teachers and noncertificated employees  
13 employed by a regional educational attendance area established and  
14 organized under AS 14.08.031 - 14.08.041 to teach in, administer, or  
15 operate schools under the control of a regional educational attendance  
16 area school board;

17 (7) certificated teachers employed by the Department of  
18 Education as correspondence teachers or teachers in skill centers  
19 operated by the Department of Education;

20 (8) patients and inmates employed in state institutions;

21 (9) persons employed in a professional capacity to make a  
22 temporary or special inquiry, study or examination as authorized by the  
23 governor;

24 (10) members of boards, commissions, or authorities;

25 (11) the officers and employees of the following boards,  
26 commissions and authorities:

27 (A) Alaska Gas Pipeline Financing Authority;

28 (B) Alaska Permanent Fund Corporation;

29 (C) Alaska Energy Center;

1 (7) the director, deputy director, staff legal counsel, and  
2 hearing officers of the Alaska Transportation Commission;

3 (8) not more than two special assistants to the commissioner  
4 of each of the principal departments of the executive branch, but the  
5 number may be increased if the partially exempt service is extended  
6 under AS 39.25.130 to include the additional special assistants;

7 (9) the principal executive officer of the following boards,  
8 councils, or commissions:

9 (A) Alaska Public Broadcasting Commission;

10 (B) Professional Teaching Practices Commission;

11 (C) Parole Board;

12 (D) Board of Nursing;

13 (E) Real Estate Commission;

14 (F) Alaska Royalty Oil and Gas Development Advisory

15 Board;

16 (G) Alaska Historical Commission;

17 (H) Alaska State Council on the Arts;

18 (I) Alaska Police Standards Council;

19 (J) Council on Science and Technology;

20 (K) Older Alaskans Commission;

21 (10) Alaska Pioneers' Home managers;

22 (11) hearing examiners in the Department of Revenue;

23 (12) the comptroller in the division of treasury, Department  
24 of Revenue;

25 (13) investment officers in the Department of Revenue;

26 (14) airport managers in the Department of Transportation and  
27 Public Facilities employed at the Anchorage and Fairbanks International  
28 Airports;

29 (15) the deputy director of the division of tourism and the

1 mansion.

2 \* Sec. 8. AS 39.25.120 is repealed and reenacted to read:

3 Sec. 39.25.120. PARTIALLY EXEMPT SERVICE. (a) Positions in the  
4 partially exempt service are included in the position classification  
5 plan established under this chapter and are compensated according to  
6 the pay plan (AS 39.27.011).

7 (b) A person holding a position in the partially exempt service  
8 is not required to take an examination or qualify or earn a place on a  
9 register, and is not eligible for a hearing by the personnel board in  
10 case of dismissal, demotion, or suspension. Positions in the partially  
11 exempt service are specifically exempt from the rules established under  
12 AS 39.25.150(3) - (10), (13), (14), and (17).

13 (c) The following positions in the state service constitute the  
14 partially exempt service:

15 (1) deputy and assistant commissioners of the principal  
16 departments of the executive branch, including the assistant adjutant  
17 general of the Department of Military Affairs;

18 (2) the directors of the major divisions of the principal  
19 departments of the executive branch and the regional directors of the  
20 Department of Transportation and Public Facilities;

21 (3) attorney members of the staff of the Department of Law  
22 and of the public defender agency;

23 (4) one private secretary for each head of a principal de-  
24 partment in the executive branch;

25 (5) employees of councils, boards, or commissions established  
26 by statute in the Office of the Governor or the office of the lieutenant  
27 governor, unless a different classification is provided by statute;

28 (6) the executive director and deputy director of the Alaska  
29 Public Utilities Commission;

1 (3) mailed to each person or group that filed a request for  
2 notice of proposed action with the secretary to the personnel board;

3 (4) furnished to each member of the legislature and to the  
4 Legislative Affairs Agency.

5 \* Sec. 12. AS 39.25.140(e) is amended to read:

6 (e) The rules adopted under this chapter relate to the internal  
7 management of state agencies and their adoption is not subject to the  
8 Administrative Procedure Act. The rules shall [MAY] be published in the  
9 Alaska Administrative Register and Code for informational purposes.

10 \* Sec. 13. AS 39.25.140 is amended by adding new subsections to read:

11 (f) Failure to mail notice to a person as required in this section  
12 does not invalidate an action taken by the personnel board.

13 (g) An amendment to the personnel rules takes effect 30 days after  
14 it is approved by the personnel board. The board, if requested to do  
15 so, may hold a public hearing on a proposed amendment.

16 \* Sec. 14. AS 39.25.150 is repealed and reenacted to read:

17 Sec. 39.25.150. SCOPE OF THE RULES. The personnel rules shall  
18 provide for

19 (1) the preparation, maintenance, and revision by the direc-  
20 tor of personnel, subject to approval of the commissioner of adminis-  
21 tration and the personnel board, of a position classification plan for  
22 all positions in the classified and partially exempt services; the  
23 position classification plan shall include

24 (A) a grouping together of all positions into classes on  
25 the basis of duties and responsibilities;

26 (B) an appropriate title, a description of the duties  
27 and responsibilities, training and experience qualifications, and  
28 other necessary specifications for each class of positions;

29 (2) the preparation, maintenance, revision and administration

1 deputy director of the division of insurance in the Department of Com-  
2 merce and Economic Development;

3 (16) the executive director and staff of the Alaska Public  
4 Offices Commission.

5 \* Sec. 9. AS 39.25.130(a) is amended to read:

6 (a) The [AFTER JUNE 30, 1961, THE] personnel board, upon written  
7 recommendation of the commissioner of administration, may extend the  
8 partially exempt service to include any position [WHICH WAS] in the  
9 classified service [ON APRIL 19, 1960,] which, in the judgment of the  
10 board:

11 (1) involves principal responsibility for the determination  
12 of policy;

13 (2) involves principal responsibility for the way in which  
14 policies are carried out; or

15 (3) involves responsibilities and duties of a type not sus-  
16 ceptible to the ordinary recruiting and examining procedures.

17 \* Sec. 10. AS 39.25.130(c) is amended to read:

18 (c) The [AFTER JUNE 30, 1961, THE] personnel board, upon written  
19 recommendation of the commissioner of administration, may extend the  
20 classified service to include any position [WHICH WAS] in the partially  
21 exempt service [ON APRIL 19, 1960].

22 \* Sec. 11. AS 39.25.140(c) is repealed and reenacted to read:

23 (c) At least 30 days before the adoption, amendment, or repeal of  
24 a personnel rule, the secretary to the personnel board shall provide  
25 notice that the personnel board has the proposed action under considera-  
26 tion. The notice shall be

27 (1) posted in public buildings throughout the state;

28 (2) published in one or more newspapers of general circulation  
29 throughout the state;

1 employee receiving a promotional appointment retains permanent status in  
2 the service and job class from which appointed for the duration of the  
3 probationary period and may be demoted to a former class without right  
4 of appeal, notwithstanding AS 39.25.170, but if the employee is dismissed  
5 from the service the appeal rights under AS 39.25.170 apply;

6 (8) nonpermanent and emergency appointments to positions in  
7 the state service in accordance with AS 39.25.195 - 39.25.200;

8 (9) provisional appointment without competitive examination  
9 when appropriate eligible lists are not available;

10 (10) transfers from one department to another and from another  
11 merit system jurisdiction to the state service;

12 (11) transfers from one area of the state to another;

13 (12) the reinstatement of a person who resigns in good stand-  
14 ing;

15 (13) layoffs for reason of lack of money or work, abolition  
16 of positions, or material changes in duties or organization; both  
17 performance and seniority records shall be considered in the develop-  
18 ment of layoff orders;

19 (14) the development, maintenance, and use of employee perfor-  
20 mance records;

21 (15) the establishment of disciplinary measures which may  
22 include disciplinary suspension without pay;

23 (16) the procedures for review of disputed personnel actions,  
24 for resolving employee and interagency grievances, and for resolving  
25 grievances of the general public concerning the operation of the state  
26 personnel system;

27 (17) hours of work for all employees in the state service;

28 (18) methods and procedures covering overtime work and  
29 pay;

1 by the director of personnel of a pay plan for all positions in the  
2 classified and partially exempt services; the pay plan (A) shall be  
3 based upon the position classification plan; (B) shall provide for fair  
4 and reasonable compensation for services rendered, and reflect the  
5 principle of like pay for like work; (C) may be amended, approved, or  
6 disapproved by the legislature in regular or special session; after the  
7 pay plan is in effect, a salary or wage payment may not be made to a  
8 state employee covered by the plan unless the payment is in accordance  
9 with this chapter and the rules adopted under this chapter or unless the  
10 payment is in accordance with a valid agreement entered into in accor-  
11 dance with AS 23.40;

12 (3) the use of employee selection methods, including open  
13 competitive examinations, when appropriate, that will fairly test the  
14 capacity and fitness of the person examined to discharge the duties of  
15 the class in which employment is sought;

16 (4) the establishment and maintenance of eligible lists for  
17 appointment and promotion providing the names of eligible candidates in  
18 order of their relative performance in the examinations;

19 (5) the procedure for certifying eligible candidates; the  
20 rule adopted under this paragraph may include procedures providing a  
21 preference for certifying local residents when appropriate;

22 (6) promotions from within the state service when there are  
23 qualified candidates in the state service; vacancies shall be filled by  
24 promotion whenever practicable and in the best interest of the state  
25 service and promotion shall be by competitive examination whenever  
26 possible; in considering promotions, applicants' qualifications, per-  
27 formance record, seniority, and conduct shall be evaluated;

28 (7) a period of probation not to exceed one year before an  
29 appointment to a position becomes permanent, except that a permanent

1 shall be designated as permanent part-time employees;

2 (21) the granting of employment preference to severely handi-  
3 capped persons; this includes the right to provisional appointment  
4 without competitive examination for periods up to four months and the  
5 granting of eligibility to a severely handicapped person provisionally  
6 appointed under the rules who demonstrates ability to perform the job  
7 for permanent appointment without competitive examination; provisional  
8 employment under this paragraph may not exceed four months during a  
9 12-month period; "severely handicapped" as used in this paragraph means  
10 persons certified by the director of the division of vocational reha-  
11 bilitation to be severely handicapped;

12 (22) the establishment of programs facilitating the employment  
13 of disadvantaged persons;

14 (23) the delegation, when feasible, of personnel responsibil-  
15 ities and duties to the principal departments of the executive branch;

16 (24) the establishment of a transition period of up to 12  
17 months for an employee to be reappointed to a classified position if the  
18 employee's position is withdrawn from the partially exempt or  
19 exempt service and placed in the classified service;

20 (25) other rules and administrative regulations, not incon-  
21 sistent with this chapter, which are necessary for its enforcement.

22 \* Sec. 15. AS 39.25.153 is repealed and reenacted to read:

23 Sec. 39.25.153. PERSONNEL OFFICERS. (a) If a principal depart-  
24 ment of the executive branch has a personnel officer, the personnel  
25 officer shall be employed by and located within that department.

26 (b) Subject to the provisions of (a) of this section, the per-  
27 sonnel officers for the Departments of Transportation and Public Facili-  
28 ties, Fish and Game, Education, Labor, and Health and Social Services,  
29 have the following powers with respect to the classes of positions

1 (19) the granting of employment preference rights to a veteran  
2 not within the area of promotion, when the veteran possesses the neces-  
3 sary qualifications in the job classification applied for under this  
4 chapter; in an examination to determine the qualification of applicants  
5 for entrance into the classified service under merit system examination,  
6 five additional points shall be added to the passing grade of a veteran  
7 and ten additional points shall be added to the passing grade of a  
8 disabled veteran, but the additional points may be used only the first  
9 time the veteran obtains a position in the classified service; if a  
10 position in the classified service is eliminated, employees shall be  
11 released in accordance with rules which give due effect to all factors;  
12 if all job qualifications are equal, the veteran shall be given pref-  
13 erence over the nonveteran and the veteran shall be kept on the job;  
14 this paragraph may not be interpreted to amend the terms of a collective  
15 bargaining agreement; in this paragraph

16 (A) "veteran" means a person with 181 days or more  
17 active service in the armed forces of the United States who has  
18 been honorably discharged after having served during any period  
19 between April 6, 1917, and December 1, 1919, between September 16,  
20 1940, and December 31, 1947, or between June 27, 1950, and  
21 November 7, 1975;

22 (B) "disabled veteran" means a veteran who is entitled  
23 to compensation under laws administered by the United States  
24 Veterans' Administration, or a person who was honorably discharged  
25 or released from active duty because of a service-connected dis-  
26 ability;

27 (20) the employment of persons in permanent positions on a  
28 part-time basis of 15 hours or more a week, including the employment of  
29 two persons to fill one permanent full-time position; these employees

1 (e) An employee in the classified or partially exempt service who  
2 seeks nomination or becomes a candidate for state or national elective  
3 political office shall immediately resign any position held in the  
4 state service. The employee's position becomes vacant on the date the  
5 employee files a declaration of candidacy for state or national elective  
6 office.

7 (f) Action affecting the employment status of a state employee or  
8 an applicant for state service, including appointment, promotion, demo-  
9 tion, suspension, or removal, may not be taken or withheld on the basis  
10 of unlawful discrimination due to race, religion, color, or national  
11 origin, age, handicap, sex, marital status, change in marital status,  
12 pregnancy, or parenthood. In addition, action affecting the employment  
13 status of an employee in the classified service, including appointment,  
14 promotion, demotion, suspension, or removal, may not be taken or with-  
15 held for a reason not related to merit.

16 (g) Action affecting the employment status of an employee in the  
17 classified service or an applicant for a position in the classified  
18 service, including appointment, promotion, demotion, suspension, or  
19 removal, may not be taken or withheld on the basis of unlawful discrim-  
20 ination due to political beliefs.

21 (h) A person may not knowingly make a false statement, certifi-  
22 cate, mark, rating, or report with regard to a test, certification, or  
23 appointment made under this chapter or in any manner commit a fraud  
24 preventing the impartial execution of this chapter and the personnel  
25 rules adopted under this chapter.

26 (i) A person may not obstruct the right of another person to  
27 examination, eligibility, certification, appointment, or promotion  
28 under this chapter.

29 \* Sec. 17. AS 39.25 is amended by adding a new section to read:

1 unique to their departments:

2 (1) to assign positions to an existing class in the state  
3 classification plan and to the salary range for that class as estab-  
4 lished by the state pay plan or by a valid agreement entered into in  
5 accordance with AS 23.40;

6 (2) to administer and score examinations and to place suc-  
7 cessful applicants on departmental eligible lists;

8 (3) to certify those eligible to the appointing authorities.

9 (c) The initial determination of classes of positions unique to  
10 the departments listed in (b) of this section shall be made by the  
11 personnel officer of the department in consultation with the commis-  
12 sioner of his department subject to the approval of the director of  
13 personnel in the Department of Administration.

14 (d) The assumption of a power set out in (b) of this section must  
15 be approved by the commissioner of administration and must be in harmony  
16 with the merit principle of personnel administration (AS 39.25.010).

17 \* Sec. 16. AS 39.25.160 is repealed and reenacted to read:

18 Sec. 39.25.160. GENERALLY. (a) A classified employee may not  
19 take an active part in the management of a political party above the  
20 precinct level.

21 (b) A person may not give, render, pay, offer, solicit, or accept  
22 money, services, or other valuable thing in connection with securing or  
23 making an appointment, promotion, or advantage in a position in the  
24 classified service.

25 (c) A person may not require an assessment, subscription, contri-  
26 bution, or service for a political party from a state employee.

27 (d) A person may not seek or attempt to use a political party  
28 endorsement in connection with an appointment or promotion in the  
29 classified service.

1 the state to work as an independent contractor or a person who is in  
2 the custody of the state.

3 \* Sec. 19. AS 39.25 is amended by adding a new section to article 6 to

4 read:

5 Sec. 39.25.192. EMPLOYEE POLITICAL RIGHTS. A state employee may

6 (1) be a member of a national, state, or local political  
7 party;

8 (2) take part in a political campaign;

9 (3) express political opinions; however, while engaged on  
10 official business, a state employee may not display or distribute  
11 partisan political material;

12 (4) register party preference;

13 (5) serve as a voting or nonvoting delegate to a party con-  
14 vention;

15 (6) be appointed, nominated, or elected to nonpartisan  
16 public office in a local government unit; and

17 (7) make contributions to a political party or a candidate  
18 for public office.

19 \* Sec. 20. AS 39.25.180 is repealed.

20 \* Sec. 21. This Act takes effect July 1, 1982.

1           Sec. 39.25.175. PROCEDURE. (a) A subpoena shall be issued at  
2 the request of a party to a proceeding begun under AS 39.25.170.

3           (b) If a person refuses to respond to a subpoena issued under  
4 this section, or refuses to testify at a hearing authorized by AS 39.-  
5 25.170, the personnel board may apply to the superior court for an  
6 order requiring the person to respond to the subpoena or to testify.

7           (c) Failure to obey the order of the superior court requiring  
8 response to a subpoena or testimony at a hearing may be punished as  
9 contempt of court.

10 \* Sec. 18. AS 39.25 is amended by adding a new section to read:

11           Sec. 39.25.181. DEFINITIONS. In this chapter,

12           (1) "fraud" means for a person to knowingly

13                 (A) create or confirm another's false impression which  
14 the person does not believe to be true, including false impres-  
15 sions as to law or value and false impressions as to intention or  
16 other state of mind;

17                 (B) fail to correct another's false impression which  
18 the person previously has created or confirmed;

19                 (C) prevent another from acquiring pertinent information;

20           (2) "knowingly" means for a person to be aware with respect  
21 to conduct or to a circumstance described by a provision of law that  
22 his conduct is of that nature or that the circumstance exists; when  
23 knowledge of the existence of a particular fact is required, that know-  
24 ledge is established if a person is aware of a substantial probability  
25 of its existence, unless he actually believes it does not exist;

26           (3) "precinct" means the territory within which resident  
27 voters may cast votes at one polling place;

28           (4) "state employee" means a person employed by the state  
29 who is paid a wage or salary, but does not include a person hired by

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House CS for CS for Senate Bill No. 193 (Judiciary)  
Title An Act amending state personnel laws; effective date  
Requested by \_\_\_\_\_ Date 5/18/82

II. FISCAL DETAIL

Agency Affected Administration  
Program Category Affected Personnel  
BRU, Program, Or Subprogram(s) Affected Personnel, Personnel Board  
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		42.2	22.6	24.2	25.8	27.7
200 TRAVEL		2.8	1.6	1.8	1.9	2.1
300 CONTRACTUAL		26.2				
400 COMMODITIES		.6	.6	.7	.8	.8
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		71.8	24.8	26.7	28.5	30.6

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		71.8	24.8	26.7	28.5	30.6
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME		1	0	0	0	0
PART TIME		0	1	1	1	1
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Sections 11, 12 and 13 of HCS CSSB 913 (Jud) provides the procedures for adoption of amendments to the Personnel Rules. New publication requirements, mandatory publication in the Alaska Administrative Register and Code, and optional public hearings are provided. HCS CSSB 193 (Jud) makes several minor changes to the Personnel Act that will require amending the Personnel Rules. The major costs for FY 83 are:

- 1) contracting with the Department of Law for an attorney for four months to:
  - rewrite the current Personnel Rules to AAC standards
  - draft amendments incorporating changes in the Personnel Act

IV. DATE 5/18/82

PREPARED BY Michael P. McMullen  
AGENCY Administration - Division of Personnel  
PHONE 465-4430

Original: Legislative Finance  
cc: Budget and Management  
Prime Sponsor (First Legislator Named) Senator Ray  
33-001 (Rev. 12/81) Office of the Governor: Keith Specking

FICAL NOTE continued

- modify amendments based on hearings
- file the amended rules with the Lt. Governor
- compile a Personnel Act - Personnel Rules cross-reference
- identify forms needing revision to reference the appropriate AAC provisions instead of the former rule
- Revise Administrative Manual and Operating Procedures to properly reference revised Personnel rules

(\$19.2 Thous.)

- 2) Personal Services to employ Regulations Specialist to revise existing procedures, manuals, forms and letters to properly cite revised Personnel rules. Position would be half-time after first year.

(\$42.2 Thous.)

- 3) travel and per diem for attorney and the Personnel Board for two hearings to adopt the rules and amendments under AAC standards.

(\$2.8 Thous.)

- 4) public notice of the hearings and proposed amendments.

(\$ .6 Thous.)

- 5) typing of drafts, revision and filing version.

(\$2.0 Thous.)

- 6) printing of forms incorporating AAC references.

(\$1.0 Thous.)

In subsequent years, one two-day hearing by the Personnel Board to adopt amendments is budgeted. Travel is inflated 10% annually and public notice costs at 8%. Personal Services inflated at 7% per year.

Section 14 of HCS CSSB 193 (Jud) contains a significant change in the definition and preference accorded to veterans. In addition to the need to amend the Personnel Rules accordingly, there is a need to incorporate the new provision in the automated Applicant Tracking System. This one time contractual service cost is estimated at \$4 thousand.

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS SB 193 (Jud)  
Title An Act amending state personnel laws; and an effective date  
Requested by \_\_\_\_\_ Date 04-16-82

II. FISCAL DETAIL

Agency Affected Administration  
Program Category Affected Personnel  
BRU, Program, Or Subprogram(s) Affected Personnel, Personnel Board  
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		42.2	22.6	24.2	25.8	27.7
200 TRAVEL		7.6	6.9	7.5	8.3	9.1
300 CONTRACTUAL		26.2				
400 COMMODITIES		.6	.6	.7	.8	.8
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		76.6	30.1	32.4	35.7	37.6

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		76.6	30.1	32.4	35.7	37.6
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME		1	0	0	0	0
PART TIME		0	1	1	1	1
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Section 12 of CS SB 913 (Jud) am provides for adoption of amendments to the Personnel Rules that concern public policy under the Administrative Procedures Act, and for amended Rules (including those not concerning public policy) to be published in the Alaska Administrative Register and Code. CS SB 193 (Jud) am makes several minor changes to the Personnel Act that will require amending the Personnel Rules. The major costs for FY 83 are:

- 1) contracting with the Department of Law for an attorney for four months to:
  - rewrite the current Personnel Rules to AAC standards
  - draft amendments incorporating changes in the Personnel Act

IV. DATE 04-16-82 PREPARED BY Michael P. McMullen  
AGENCY Administration - Division of Personnel  
Original: Legislative Finance PHONE 465-4430  
cc: Budget and Management  
Prime Sponsor (First Legislator Named) Sn. Ray  
33-001 (Rev. 12/81) Office of the Governor: Keith Specking

FICAL NOTE continued

- modify amendments based on hearings
  - file the amended rules with the Lt. Governor
  - compile a Personnel Act - Personnel Rules cross-reference
  - identify forms needing revision to reference the appropriate AAC provisions instead of the former rule
  - Revise Administrative Manual and Operating Procedures to properly reference revised Personnel rules
- (\$19.2 Thous.)
- 2) Personal Services to employ Regulations Specialist to revise existing procedures, manuals, forms and letters to properly cite revised Personnel rules. Position would be half-time after first year. (\$42.2 Thous.)
- 3) travel and per diem for attorney and the Personnel Board for two hearings to adopt the rules and amendments as Code. (\$2.8 Thous.)
- 4) public notice of the hearings and proposed amendments. (\$.6 Thous.)
- 5) typing of drafts, revision and filing version. (\$2.0 Thous.)
- 6) printing of forms incorporating AAC references. (\$1.0 Thous.)

In subsequent years, one two-day hearings by the Personnel Board to adopt amendments is budgeted. Travel is inflated 10% annually and public notice costs at 8%. Personal Services inflated at 7% per year.

Section 13 of CS SB 193 (Jud) am contains a significant change in the definition and preference accorded to veterans. In addition to the need to amend the Personnel Rules accordingly, there is a need to incorporate the new provision in the automated Applicant Tracking System. This one time contractual service cost is estimated at \$4 thousand.

Section 16 of CS SB 193 (Jud) am duplicates AS 18.80 providing hearing and appeal rights to partially exempt and exempt employees of the Executive Branch for actions allegedly in violation of the employees' Civil Rights. It is assumed that these employees will file appeals in the same proportion to their numbers as other executive branch employees file complaints under AS 18.80 for the same actions. Each will require a two day hearing before the Personnel Board. Travel and per diem costs for FY 83 are \$4.8 thousand. They are inflated 10% annually. On this basis, four complaints per year are projected. Each complaint will require two days of Personnel Board business.



COMMITTEE REPORT  
SENATE

FURTHER: Finance

2/20/81

Date: \_\_\_\_\_

Mr. President:

The Committee on STATE AFFAIRS has had SB 195  
limiting the adjustment of retirement benefits

under consideration and (a majority of the committee) (the committee)  
reports it back with the following recommendations:

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

MEMBERS SIGNING  
DO PASS

*James P. Stinson*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

*2 V. Fisher*  
*2 Wood Bradley McRae*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*2 V. Fisher*  
CHAIRMAN

Introduced: 2/20/81  
Referred: State Affairs and Finance

BY THE RULES COMMITTEE BY  
REQUEST OF THE LEGISLATIVE  
COUNCIL (for the Blue Ribbon  
Commission on the State  
Personnel Act)

1 IN THE SENATE

2 SENATE BILL NO. 195

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act limiting the adjustment of retirement benefits;  
7 and providing for an effective date."

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

9 \* Section 1. AS 14.25.173 is amended by adding a new subsection to read:

10 (b) An adjustment which requires repayment of benefits may not be  
11 made under this section if

12 (1) the incorrect benefit was first paid two years or more  
13 before the member or teacher or beneficiary was notified of the change  
14 or error; and

15 (2) the change or error was not caused by the member or  
16 teacher or beneficiary.

17 \* Sec. 2. AS 39.35.520 is amended by adding a new subsection to read:

18 (b) An adjustment which requires repayment of benefits may not be  
19 made under this section if

20 (1) the incorrect benefit was first paid two years or more  
21 before the employee or beneficiary was notified of the change or error;

22 (2) the change or error was not caused by the employee or  
23 beneficiary; and

24 (3) the change or error relates to the employee's credited  
25 service with the state and not with another participating employer.

26 \* Sec. 3. This Act is retroactive to July 1, 1979.

27 \* Sec. 4. This Act takes effect immediately in accordance with AS 01.10.-  
28 070(c).

ALASKA STATE LEGISLATURE

TWELFTH Legislature FIRST... Session

SENATE BILL..... NO. 195...

By THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

"An Act limiting the adjustment of retirement benefits; and providing for an effective date."

Introduced in the Senate 2/20 81  
....., 19....

HISTORY IN THE SENATE

19	81	Read first time and referred to Committee on State Affairs and Finance												
2 1982 3	20 19	Reported back with <i>St. Aff. 1 to pass. 3 notes to Fin</i> recommendation that												
		Read second time and												
		Read third time and												
		<table border="0"> <tr><td>PASS</td><td>Effective Date</td></tr> <tr><td>Yeas</td><td>Yeas</td></tr> <tr><td>Nays</td><td>Nays</td></tr> <tr><td>Absent</td><td>Absent</td></tr> <tr><td>Excused</td><td>Excused</td></tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused		
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Yeas	Yeas													
Nays	Nays													
Absent	Absent													
Excused	Excused													
		<table border="0"> <tr><td>Reconsideration</td><td></td></tr> <tr><td>PASS</td><td>Effective Date</td></tr> <tr><td>Yeas</td><td>Yeas</td></tr> <tr><td>Nays</td><td>Nays</td></tr> <tr><td>Absent</td><td>Absent</td></tr> <tr><td>Excused</td><td>Excused</td></tr> </table>	Reconsideration		PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused
Reconsideration														
PASS	Effective Date													
Yeas	Yeas													
Nays	Nays													
Absent	Absent													
Excused	Excused													
		Reported correctly engrossed Signed by President Sent to House												
SECRETARY OF THE SENATE														

HISTORY IN THE HOUSE

19		Read first time and referred to Committee on												
		Reported back with recommendation that												
		Read second time and												
		Read third time and												
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Reconsideration														
PASS	Effective Date													
Yeas	Yeas													
Nays	Nays													
Absent	Absent													
Excused	Excused													
		Reported correctly engrossed Signed by Speaker Returned to Senate												
CHIEF CLERK OF THE HOUSE														

HISTORY IN THE SENATE

19		Received from House
		To enrolling
		Reported correctly enrolled
		Sent to Governor
		..... by Governor
		Filed with Lt. Governor
		Chapter No. ....

Introduced: 2/20/81  
Referred: State Affairs and Finance

BY THE RULES COMMITTEE BY  
REQUEST OF THE LEGISLATIVE  
COUNCIL (for the Blue Ribbon  
Commission on the State  
Personnel Act)

1 IN THE SENATE

2 SENATE BILL NO. 195

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act limiting the adjustment of retirement benefits;  
7 and providing for an effective date."

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

9 \* Section 1. AS 14.25.173 is amended by adding a new subsection to read:

10 (b) An adjustment which requires repayment of benefits may not be  
11 made under this section if

12 (1) the incorrect benefit was first paid two years or more  
13 before the member or teacher or beneficiary was notified of the change  
14 or error; and

15 (2) the change or error was not caused by the member or  
16 teacher or beneficiary.

17 \* Sec. 2. AS 39.35.520 is amended by adding a new subsection to read:

18 (b) An adjustment which requires repayment of benefits may not be  
19 made under this section if

20 (1) the incorrect benefit was first paid two years or more  
21 before the employee or beneficiary was notified of the change or error;

22 (2) the change or error was not caused by the employee or  
23 beneficiary; and

24 (3) the change or error relates to the employee's credited  
25 service with the state and not with another participating employer.

26 \* Sec. 3. This Act is retroactive to July 1, 1979.

27 \* Sec. 4. This Act takes effect immediately in accordance with AS 01.10.-  
28 070(c).

29

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. \_\_\_\_\_ Senate Bill No. 195  
 Title An Act Limiting the Adjustment of Retirement Benefits  
 Requested by Senator Vic Fischer Date \_\_\_\_\_

II. FISCAL DETAIL

Agency Affected Administration - Division of Retirement and Benefits  
 Program Category Affected Labor Services  
 BRU, Program, or Subprogram(s) Affected 02-96-8-01-01 (PERS)  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)  
EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 STATE TRS MATCHING						
100 BENEFITS						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
VETERAN'S FUND						
FISH & GAME FUND						
HIGHWAY FUND						
AIRPORT FUND						
CAPITAL FUND						
PERS						
TRS						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Undoubtedly there will be some costs to the retirement system, but they cannot be measured. In most instances the individual adjustment would be small.

IV. DATE 4/02/81 PREPARED BY Paul B. Arnoldt, Director  
 AGENCY Division of Retirement & Benefits  
 PHONE 465-4460

Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named) Senator Ray  
 Office of the Governor (Keith Specking)

*Ken Humphreys, for [Signature]*  
9c

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST  
 Bill/Resolution No. Senate Bill No. 195  
 Title An Act Limiting the Adjustment of Retirement Benefits  
 Requested by \_\_\_\_\_ Date \_\_\_\_\_

II. FISCAL DETAIL  
 Agency Affected Administration - Division of Retirement & Benefits  
 Program Category Affected Labor Services and Elementary & Secondary Education  
 BRU, Program, or Subprogram(s) Affected 02-96-8-01-01-02 (TRS) 02-11-8-02-01-00 (TRS MATCH)  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 STATE TRS MATCHING						
100 BENEFITS						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
VETERAN'S FUND						
FISH & GAME FUND						
HIGHWAY FUND						
AIRPORT FUND						
CAPITAL FUND						
PERS						
TRS						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Undoubtedly there will be some costs to the retirement system, but they cannot be measured. In most instances the individual adjustment would be small.

IV. DATE 4/02/81 PREPARED BY Paul B. Arnoldt, Director  
 AGENCY Division of Retirement & Benefits  
 PHONE 465-4460

Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)  
 Office of the Governor (Keith Specking)

*Ken Humphreys, for*  
90



COMMITTEE REPORT  
SENATE RULES COMMITTEE

3/25/81

Date 4/21/81

Mr. President:

The Committee on Rules has had SB 200

fisheries business tax

under consideration and recommends it be placed on the  
\_\_\_\_\_ Calendar.

( ) with attached amendment(s).

(X) replace with CS for CS SB 200 (Rules) (X) same title  
new title

( ) and attaches a "Letter of Intent"

(X) <sup>requires</sup> new fiscal note

MEMBERS SIGNING FOR PLACEMENT  
ON THE CALENDAR

Zwick  
Watt  
Bergman  
\_\_\_\_\_  
\_\_\_\_\_

MEMBERS HAVING OTHER  
RECOMMENDATIONS

To Finance  
To Finance  
\_\_\_\_\_  
\_\_\_\_\_

Tim Kelly  
CHAIRMAN

COMMITTEE REPORT

SENATE

FURTHER: Finance

2/23/81

Date: 23 MARCH 1981

Mr. President:

The Committee on LABOR & COMMERCE has had SB 200 fisheries business tax

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

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

MEMBERS SIGNING DO PASS

Bob Mulenberg
1 Johnson
John G. ...

MEMBERS HAVING OTHER RECOMMENDATIONS:

2 Do Not Pass w/o retroactive date clause 3 ...
2 Do Not Pass w/o retroactive date clause ...

1 Bob Mulenberg CHAIRMAN

AMENDMENT

OFFERED IN THE SENATE:

BY: ~~Senate Labor and Commerce~~

TO: Labor and Commerce SENATE BILL No. 200

HOUSE BILL No. \_\_\_\_\_

PAGE: 1

LINE: 28

Sec 43.75.017

(4) the salmon are sold to a fisheries business licensed  
under AS 43.75

Original sponsor: Eliason

Offered: 4/22/81  
Referred: Finance

1 IN THE SENATE

BY THE RULES COMMITTEE

2 CS FOR SENATE BILL NO. 200 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A HILL

6 For an Act entitled: "An Act relating to the fisheries business tax (AS 43.-  
7 75.015); and providing for an effective date."

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

9 \* Section 1. AS 43.75.015(c) is amended to read:

10 (c) A person engaging or attempting to engage in a fisheries  
11 business who first actually and physically processes the fishery re-  
12 source, or a person who purchases frozen salmon from a person excluded  
13 by AS 43.75.017 from liability for the tax, is liable for and shall pay  
14 to the department the entire tax imposed by this section. In determin-  
15 ing this tax liability, the person may not deduct from the value of the  
16 fishery resources processed the value of fishery resources that are  
17 canned or processed for other fisheries businesses, but shall include  
18 that value as part of the value of the fishery resources processed.

19 \* Sec. 2. AS 43.75 is amended by adding a new section to read:

20 Sec. 43.75.017. EXCLUSION FROM FISHERIES BUSINESS TAX. (a) A  
21 person is not processing a fisheries resource under AS 43.75.015 when  
22 salmon are frozen aboard a fishing vessel if

23 (1) the vessel is operated as a commercial fishing vessel  
24 under a valid commercial fishing license;

25 (2) the salmon are not processed beyond heading, gutting or  
26 cleaning, freezing and glazing;

27 (3) the salmon which are frozen were caught by the vessel;  
28 and

29 (4) the salmon are sold to a fisheries business licensed

1 under AS 43.75.020.

2 \* Sec. 3. The commissioner of revenue shall refund fisheries business  
3 taxes collected as a result of the September 26, 1980, cancellation of  
4 Alaska Tax Ruling No. 77-3 to those persons who paid the taxes but are  
5 excluded from the fisheries business tax under AS 43.75.017 added by sec. 2  
6 of this Act.

7 \* Sec. 4. Section 2 of this Act is retroactive to April 27, 1977.

8 \* Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-  
9 070(c).

Introduced: 2/23/81  
Referred: Labor & Commerce  
and Finance

1 IN THE SENATE

BY ELIASON

2 SENATE BILL NO. 200

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the fisheries business tax (AS 43.-  
7 75.015); and providing for an effective date."

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24 under a valid commercial fishing license;

25 (2) the salmon are not processed beyond heading, gutting or  
26 cleaning, freezing and glazing; and

27 (3) the salmon which are frozen were caught by the vessel.

28 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-  
29 070(c).

COMMITTEE COPY

MAR 1 1 1981

# STATE OF ALASKA

## DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH 5  
JUNEAU, ALASKA 99811

March 11, 1981

The Honorable Bob Mulcahy  
Chairman  
Senate Labor and Commerce Committee  
Room 207 - Capitol Building  
Juneau, Alaska

Dear Senator Mulcahy:

Re: Senate Bill No. 200

Senate Bill No. 200, an Act relating to the fisheries business tax (AS 43.75.015) was introduced in the Senate on February 23, 1981 and was referred to the Senate Labor and Commerce and Finance Committees.

For the consideration of the Senate Labor and Commerce Committee, I am enclosing copies of Fiscal Notes prepared by Mr. Gary L. Jenkins, Director, Audit Division and Mr. Robert W. Elliott, Research Section of the Department of Revenue concerning the proposed legislation.

Sincerely,

R. D. Stevenson  
Special Assistant

RDS/rdh

cc: The Honorable Don Bennett  
The Honorable M. E. Dankworth  
Co-Chairmen  
Senate Finance Committee

Joseph K. Donohue  
Deputy Commissioner  
Department of Revenue

Gary L. Jenkins, Director  
Audit Division  
Department of Revenue

Robert W. Elliott  
Research Section  
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 200

Title An Act relating to the fisheries business tax

Requested by Senate Labor and Commerce Committee Date Feb. 24, 1981

II. FISCAL DETAIL

Agency Affected Department of Revenue

Program Category Affected Revenue Collection and Management

BRU, Program, or Subprogram(s) Affected Audit Division

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars) NONE

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars) NONE

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

See the attached memorandum to R. D. Stevenson dated March 9, 1981.

IV. DATE March 9, 1981

PREPARED BY Gary L. Jenkins

AGENCY Audit Division

PHONE 465-2320

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

# MEMORANDUM

# State of Alaska

TO: R. D. Stevenson  
Legislative Assistant

DATE: March 9, 1981

FILE NO:

TELEPHONE NO:

FROM: Gary L. Jenkins  
Director  
Audit Division

SUBJECT: SB 200

This bill would provide an exemption from the Fisheries Business Tax for those fishermen who catch and freeze salmon aboard the catching vessel. This provision is being proposed to exempt a group of trollers who have installed freezing equipment on their vessels in order to maximize the quality of their salmon by freezing it immediately after it is caught.

The proposed legislation will cause some potentially serious administrative problems in that if one of the exempted fishermen sells his catch to a buyer who is not a licensed processor, then the buyer will be liable for the tax. Under the current law, a buyer is not liable for the tax unless he performs some processing function. Thus, if a buyer acquires salmon from an exempted fisherman, we will have to attempt to keep track of these buyers to insure that the tax is paid. Since the only record we have of a buyer is a business license, if one was obtained, and the name and business description may not identify him as a buyer at all, we will have very little information available to use as we attempt to insure that the tax is paid on these transactions. It is impossible to estimate to potential revenue loss which might result from these transactions since we do not know the dollar volume of sales which an excluded fisherman might make to a buyer.

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 200  
 Title An Act Relating to the Fisheries Business Tax  
 Requested by Senate Labor and Commerce Committee Date 3/3/81

II. FISCAL DETAIL

Agency Affected \_\_\_\_\_  
 Program Category Affected \_\_\_\_\_  
 BRU, Program, or Subprogram(s) Affected \_\_\_\_\_  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>						

FUNDING (Thousands of Dollars)

	-0-	-0-	-0-	-0-	-0-	-0-
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

There would be no change in revenues due to transfer of the tax liability from the salmon catcher/processor to the salmon purchaser.

IV. DATE 3/3/81 PREPARED BY Robert W. Elliott  
 AGENCY Revenue  
 PHONE 465-2309  
 Original: Legislative Finance  
 cc: Budget and Management  
Prime Sponsor (First Legislator Named)

ALASKA STATE LEGISLATURE

TWELFTH Legislature FIRST... Session

SENATE BILL..... NO.200.....

By ELAISON.....

"An Act relating to the fisheries business tax (AS 43.75.015); and providing for an effective date."

Introduced in the Senate ... 2/23/ 19... 81

HISTORY IN THE SENATE

19 81	Read first time and referred to Committee on
2 23	Labor & Commerce and Finance
3 24	Reported back with recommendation that <i>Y &amp; C do pass</i>
3 25	<i>amend, 2 do not pass w/o retro date clause, to fin</i>
4 22	<i>In written referral Rules</i>
	Read second time and
	Read third time and
	PASS Effective Date
	Yeas Yeas
	Nays Nays
	Absent Absent
	Excused Excused
	Reconsideration
	PASS Effective Date
	Yeas Yeas
	Nays Nays
	Absent Absent
	Excused Excused
	Reported correctly engrossed
	Signed by President
	Sent to House
	SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19	Read first time and referred to Committee on
	Reported back with recommendation that
	Read second time and
	Read third time and
	PASS Effective Date
	Yeas Yeas
	Nays Nays
	Absent Absent
	Excused Excused
	Reconsideration
	PASS Effective Date
	Yeas Yeas
	Nays Nays
	Absent Absent
	Excused Excused
	Reported correctly engrossed
	Signed by Speaker
	Returned to Senate
	CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

19	Received from House
	To enrolling
	Reported correctly enrolled
	Sent to Governor
	..... by Governor
	Filed with Lt. Governor
	Chapter No. ....

# STATE OF ALASKA

## DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH 5  
JUNEAU, ALASKA 99811

April 24, 1981

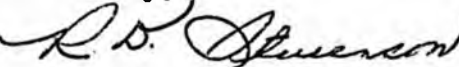
The Honorable Don Bennett  
The Honorable M. E. Dankworth  
Co-Chairmen  
Senate Finance Committee  
Room 525 - Capitol Building  
Juneau, Alaska

Dear Senator Bennett and Senator Dankworth:

Re: CS for Senate Bill No. 200 (Rules)

CS for Senate Bill No. 200 (Rules), an Act relating to the fisheries business tax, was referred on April 22, 1981 to the Senate Finance Committee.

For the consideration of the Senate Finance Committee, I am enclosing copies of Fiscal Notes prepared by Mr. Gary L. Jenkins, Director, Audit Division, Department of Revenue concerning the proposed legislation.

Sincerely,  
  
R. D. Stevenson  
Special Assistant

RDS/rdh

cc: Joseph K. Donohue  
Deputy Commissioner  
Department of Revenue

Gary L. Jenkins, Director  
Audit Division  
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST  
 Bill/Resolution No. CSSB 200 (Rules)  
 Title An Act relating to the fisheries business tax  
 Requested by Senate Finance Committee Date April 21, 1981

II. FISCAL DETAIL  
 Agency Affected Department of Revenue  
 Program Category Affected Revenue Collection And Management  
 BRU, Program, or Subprogram(s) Affected Audit Division  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)  
EXPENDITURES (Thousands of Dollars) NONE

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND	(8.1)					
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

See the attached memorandum to R. D. Stevenson dated April 22, 1981.  
 This loss in revenue will result from the retroactive application of the exclusion to 1977.

IV. DATE April 22, 1981 PREPARED BY Gary L. Jenkins  
 AGENCY Audit Division  
 PHONE 465-2320  
 Original: Legislative Finance  
 cc: Budget and Management  
Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSSB 200 (Rules)  
 Title An Act relating to the fisheries business tax  
 Requested by Senate Finance Committee Date April 21, 1981

II. FISCAL DETAIL

Agency Affected Department of Revenue  
 Program Category Affected Revenue Collection And Management  
 BRU, Program, or Subprogram(s) Affected Audit Division  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars) NONE

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						

TOTAL

FUNDING (Thousands of Dollars) NONE

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS NONF

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

See the attached memorandum to R. D. Stevenson dated April 22, 1981.

IV. DATE April 22, 1981 PREPARED BY Gary L. Jenkins  
 AGENCY Audit Division  
 PHONE 465-2320  
 Original: Legislative Finance  
 cc: Budget and Management  
Prime Sponsor (First Legislator Named)

# MEMORANDUM

State of Alaska

TO: R. D. Stevenson  
Legislative Assistant

DATE: April 22, 1981

FILE NO:

TELEPHONE NO:

FROM: Gary L. Jenkins  
Director  
Audit Division

SUBJECT: CSSB 200 (Rules)

The amendments to SB 200 would resolve the major concern which I had with the bill but create yet another potential problem. The concern which has been basically solved is the addition of a fourth condition for someone to be exempt from the Fisheries Business Tax. However, to insure absolute clarity I would suggest that the proposed AS 43.75.017(a) (4) be modified to read as follows:

(4) the salmon are sold by the person claiming the exclusion from tax to a fisheries business licensed under AS 43.75.

The reason for adding the stipulation that the fish are sold by the person claiming the exclusion to the fisheries business is to preclude the argument that a fisherman should be granted the exclusion even when he sells to a buyer as long as the fish are subsequently sold to a licensed processor at some point in time.

The addition of the retroactive clause to 1977 raises a serious constitutional question since this will result in the retroactive refund of tax monies for a very small group of taxpayers who are subject to the Fisheries Business Tax.