

Leg. Finance-House & Senate Finance Comte Files (1991-1992) 838

HCS CSSB 101 (JUD) proposes to treat the state like any other defendant, by making it subject to the jurisdiction of the district court when the matter in controversy does not exceed \$50,000.

Please feel free to contact me if you have any questions or comments.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'C. S. Christensen III', written in a cursive style.

C. S. Christensen III  
Staff Counsel



Alaska Court System  
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

CHARLES S. CHRISTENSEN III  
Staff Counsel

303 K Street  
Anchorage, AK 99501  
(907) 264-8228

January 29, 1991

The Honorable Rick Halford  
Chairman, Senate Judiciary Committee  
Capitol Building - Room 103  
Juneau, Alaska 99811

Dear Senator Halford:

The court system has requested introduction of a bill relating to claims against the state; a bill draft was provided to your office last week.

As you know, current law requires that all actions against the state be brought in superior court, regardless of the size of the claim. This bill proposes to treat the state like any other litigant, by making it subject to the jurisdiction of the district court when the matter in controversy does not exceed \$50,000.

As drafted, the bill proposes the following changes to existing law:

Section 1. Amends AS 09.50.250, relating to sovereign immunity. The existing statute requires that a contract, quasi-contract or tort claim against the state be brought in superior court. This section deletes that requirement.

Section 2. Amends AS 22.15.050, relating to the jurisdiction of the district court. The existing statute provides that the jurisdiction of that court does not extend to cases in which the state is a defendant. This section deletes that restriction on jurisdiction.

The Honorable Rick Halford  
January 29, 1991  
Page 2

Please feel free to contact me if you have any questions or comments. Thank you for your courtesy in this matter.

Very truly yours,



C. S. Christensen III  
Staff Counsel

CSC:bh

FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

BILL NO. HCSCSSB 101 (JUD)

Revision Date: March 27, 1992  
Title: An Act relating to the jurisdiction of the district court..."  
Sponsor: Senate Judiciary by Request  
Requestor: Governor's Office

Department Affected: Department of Law  
BRU: Legal Services  
Component: Operations

COMPONENT SERIAL 

		9	3
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	506.2	521.4	537.0	553.1	569.2	586.8
TRAVEL	32.5	33.5	34.5	35.5	36.6	37.7
CONTRACTUAL	99.8	102.8	105.9	109.1	112.4	115.8
SUPPLIES	37.2	38.3	39.4	40.6	41.8	43.1
EQUIPMENT	59.5					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>735.2</b>	<b>696.0</b>	<b>716.8</b>	<b>738.3</b>	<b>760.5</b>	<b>783.4</b>

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

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE:	735.2	696.0	716.8	738.3	760.5	783.4
<b>TOTAL</b>	<b>735.2</b>	<b>696.0</b>	<b>716.8</b>	<b>738.3</b>	<b>760.5</b>	<b>783.4</b>

POSITIONS:

FULL-TIME	8	8	8	8	8	8
PART-TIME						
TEMPORARY						

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Prepared by: Richard I. Peques, Director  
Division: Administrative Services  
Approved by Commissioner: Richard I. Peques/PR  
Agency: Department of Law

Phone: 465-3672  
Date: March 27, 1992

Date: March 27, 1992

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

## CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HCSCSSB 101 (JUD)

The House Judiciary Committee substitute for SB 101 changes this bill to reintroduce language that would authorize tort claims against the state to be filed in small claims court.

When this bill was initially considered in its original form, SB101, the Department of Law found that a substantial fiscal impact would result for the department, because of a provision in the bill authorizing tort claims against the state to be filed in small claims court. As a consequence, the Senate Judiciary Committee dropped this provision, and the department's fiscal impact statement was accordingly withdrawn. The reintroduction of the small claims provision in the new substitute makes it necessary for the department to again request fiscal impact funding. The department's comments on this provision are presented below.

Senate Bill No. 101 amends AS 09.50.250 and AS 22.15.050 to provide that a person or a corporation having a contract, quasi-contract, or tort claim against the state may bring an action against the state in district court. At the present time, claims against the state, not settled administratively by state agencies, can be filed only in superior court, irrespective of the value of the claim. The superior court normally only adjudicates claims that exceed \$50,000. This bill would act to direct claims of up to \$50,000 to the district court. Claims that exceed \$50,000 would still be heard in superior court if they were not settled administratively.

Most contract claims against the state are handled administratively by the contract remedy process provided in AS 36.30.560 - AS 36.30.695, and AS 44.77.010 - AS 44.77.070. Contract claims that are currently appealed to the superior court after these administrative proceedings usually exceed the \$50,000 threshold for original entry as a superior court appeal, although they need not exceed the threshold to do so. The bill should not cause a substantial fiscal impact for contract appeals because of the comprehensive mandatory administrative remedy process provided in the state's Procurement Code, which must be exhausted before an appeal can be undertaken in court.

Tort claims, however, are an entirely different matter. The number of personal injury claims filed against the state during the past four and one-half years has averaged 700 claims per year and is growing steadily each year. Of this number, about 130 claims now result in lawsuits in superior court. Extending the jurisdiction of the district court to include claims against the state which do not exceed \$50,000 is expected to substantially increase the number of claims that result in lawsuits. This should result in a corresponding increase in the state's cost to defend against tort suits.

## CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HCSCSSB 101 (JUD)

Most tort claims, about 570 of the 700 claims now being filed annually, are settled administratively by the state's contracted insurance adjustor. If resolution fails at the adjustor's level, a claim is settled by the Division of Risk Management. If a claimant is not satisfied with a settlement offer, or if a claim is denied, a claimant currently has the option of bringing a tort action in superior court. During the past four years approximately forty-five percent of the claims handled administratively were denied.

There is no existing requirement, however, that a claimant even contact the state to seek an administrative settlement, and a claimant may bring a lawsuit without ever having sought a settlement from the state's adjustor or the Division of Risk Management.

It is important to note that the state on its own initiative already contacts potential claimants in the course of investigating state agency accident reports and voluntarily offers settlements where it is appropriate to do so. Nevertheless, there are many instances where injuries are alleged in a lawsuit where the state does not have prior notice or knowledge. Indeed, the state does not receive prior notice of about ninety percent of the claims that are filed as lawsuits.

It is unknown to what extent the bill, by itself, will encourage additional claims, but that eventuality seems likely in view of less complex small claims court procedures, and because of the relative ease by which claimants can represent themselves as pro se counsel in small claims court. There is no totally accurate way, and certainly no easy way to forecast the number of new lawsuits that will occur as a result of the enactment of this bill. However, we live in a litigious age where the state is perceived by some, including some of those who make their living prosecuting personal injury suits, as having a deep pocket. Therefore, for the purposes of this analysis, we have attempted to show that there will be an appreciable increase in the state's tort defense, while still employing conservative cost projections.

For example, if twenty-five percent of the 570 claims that do not now result in lawsuits end up in district court, the department would have to defend 142 new suits. Although the state's defense would be under rules that are less formal or strenuous than those required by the superior court, it is anticipated that a minimum of twenty attorney hours would be required to prepare for and present the state's defense in each case. This is an estimate of the minimum time that would be required, and there will be many occasions when a substantially greater effort will be necessary.

## CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HCSCSSB 101 (JUD)

Furthermore, some percentage of the outcome of the new cases that will be heard in district court will be appealed to the superior court. Here again, it is difficult to provide an exact estimate, but it is not unreasonable to expect that about twenty-five percent of the district court cases will be appealed to the superior court by either claimant plaintiffs or the defendant state. It is estimated that each appeal of a district court judgment will require a minimum of 100 hours of state attorney time to prepare and litigate in superior court. There will also be numerous times when either side in a district court trial will appeal the court's rulings to the superior court during the course of a trial, in the form of petitions for review.

The number of cases now filed in superior court with a value that does not exceed \$50,000 is relatively small, perhaps ten to fifteen percent of the 130 tort cases filed against the state in superior court. Thus the number of cases that would be directed to district court will be easily offset, and very likely be outweighed, by the number of district court appeals to the superior court. Moreover, the superior court will be repeatedly called upon to rule on petitions for review for tort cases being tried in district court. Also, because tort claims filed in district court will automatically have an additional level of appeal (Rule 601), some claims will take one or two years longer to complete before a final judgment is entered.

Expanding the jurisdiction of the district court to hear tort claims under the relaxed small claims rules will increase the number of claims that are filed in court and decrease the number of claims settled administratively, resulting in a corresponding increase in state costs. Although the individual value of most claims filed under the bill would be relatively small, the state's tort defense will not change and it will often involve complex government immunity arguments. These are issues that are rarely dealt with in the small claims setting.

As mentioned previously, the bill will encourage additional lawsuits, to a large extent turning an administrative process into a legal fight. This will result in some unmeritorious lawsuits. And, in some instances, the bill will result in nuisance suits when it is understood that in some circumstances it will cost the state more to defend itself in court than the value of the claim, irrespective of a claim's merit. For example, the state receives numerous claims alleging vehicle damage caused by potholes, ranging from a few hundred dollars to a few thousand dollars per claim. The state is generally immune from this type of claim because it cannot repair all potholes at one time, and it must necessarily exercise its discretion in carrying out repairs. However, under the bill the state will have to defend against such

## CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HCSCSSB 101 (JUD)

claims in court, often at a cost that exceeds the amount being claimed. Most of these claims would otherwise be properly denied under the existing administrative process, at minimal cost to the state.

Therefore, based on the foregoing estimates of 142 new lawsuits and 33 new appeals, the bill will result in an annual increase of over 6,100 hours of attorney case work for the department. On average, each of the department's tort attorneys produce about 1500 hours annually devoted solely to case work. Consequently, the bill will require the addition of at least four attorneys. Moreover, because these cases could be heard before as many as fifteen different district court judges, scheduling will present some difficulties for these attorneys requiring additional paralegal and clerical support staff. It is therefore our estimate that two attorneys, one paralegal assistant, and one legal secretary will be required in Anchorage, and one attorney each and one legal secretary each will be required in both Fairbanks and Juneau. These costs would be unnecessary if the bill is amended to prohibit tort claims against the state being heard in small claims court.

COST SUMMARY

<u>Location</u>	<u>Title</u>	<u>Personal Services</u>	<u>Travel</u>	<u>Contractual</u>	<u>Supplies</u>	<u>Equipment</u>	<u>Total</u>
Anchorage	Attorney IV	85.0	7.5	20.0	6.0	6.5	125.0
	Attorney III	75.3	7.5	20.0	6.0	6.5	115.3
	Paralegal Asst II	51.3	2.5	6.6	3.3	6.5	70.2
	Legal Secretary I	37.3		4.4	3.3	9.0	54.0
Fairbanks	Attorney IV	96.4	7.5	20.0	6.0	6.5	136.4
	Legal Secretary I	38.6		4.4	3.3	9.0	55.3
Juneau	Attorney IV	85.0	7.5	20.0	6.0	6.5	125.0
	Legal Secretary	37.3		4.4	3.3	9.0	54.0
	TOTAL	506.2	32.5	99.8	37.2	59.5	735.2

FY93 costs are shown above. Costs after FY93 include a three percent inflation factor.

Position Title Attorney IV		No. of Positions 1	Range / Step 24 A	Barg. Unit PX
Time Status PFT	Staff Months 12	Location Anchorage		Election District 5-15, 23-27
TYPE OF EXPENDITURE		AMOUNT		
Salary		64,056		
Benefits		20,969		
Premium Pay				
Other				
Total Personal Services		85,025		
Travel		7,500		
Contractual		20,000		
Commodities		6,000		
Equipment		6,500		
Other				
Total Cost		125,025		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts 1002				
G.F. Mail 1003				
General Fund 1004				
I-A Receipts 1007		125,025		
CIP Receipts 1061				
Other				
Justification This Attorney IV position will be needed to handle part of the increased case load in Southcentral Alaska caused by implementation of SB 101. The position will handle some of the new lawsuits in small claims court and most of the appeals of these cases in superior court. Most of this work involves court trials and requires experience in personal injury defense and state immunity defenses. Because of the extensive trial work, additional amounts are required for travel, depositions, expert witnesses, and exhibits. This position requires full journey-level skills as an Attorney IV because of the involvement in appeals.				

# Request For New Position

AGENCY Department of Law  
 BRU Legal Services  
 COMPONENT Operations

FY 93

Page    of   1    
 Revised Date: \_\_\_\_\_

Position Title Attorney III		No. of Positions 1	Range / Step 22 A	Barg. Unit PX
Time Status PFT	Staff Months 12	Location Anchorage		Election District 5-15, 23-27
TYPE OF EXPENDITURE		AMOUNT		
Salary		55,968		
Benefits		19,320		
Premium Pay				
Other				
Total Personal Services		75,288		
Travel		7,500		
Contractual		20,000		
Commodities		6,000		
Equipment		6,500		
Other				
Total Cost		115,288		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts 1002				
G.F. Match 1003				
General Fund 1004				
I-A Receipts 1007		115,288		
CIP Receipts 1061				
Other				
Justification This Attorney III position will be needed to handle part of the increased case load in Southcentral Alaska caused by implementation of SB 101. The position will handle many of the new lawsuits in small claims court and a few of the appeals of these cases in superior court. Most of this new work involves court trials and requires personal injury defense experience. Because of the extensive trial work, additional amounts are needed for travel, depositions, expert witnesses, and exhibits. This position requires three or more years experience of an Attorney III to handle this level of work.				

## Request For New Position

AGENCY Department of Law  
 BRU Legal Services  
 COMPONENT Operations

FY 93

Page 1 of 1  
 Revised Date: \_\_\_\_\_

Position Title Paralegal Assistant II		No. of Positions 1	Range / Step 16 A	Barg. Unit GG
Time Status PFT	Staff Months 12	Location Anchorage		Election District 5-15, 23-27
TYPE OF EXPENDITURE		AMOUNT		Justification This paralegal assistant will be needed to handle witness scheduling that will be needed by the two attorneys in Anchorage who will handle the new torts caseload caused by the implementation of SB 101. The position will also assist and prepare case files and evidence used at trial. These duties are appropriate for a Paralegal Assistant II.
Salary		36,936		
Benefits		14,334		
Premium Pay				
Other				
Total Personal Services		51,270		
Travel		2,500		
Contractual		6,600		
Commodities		3,300		
Equipment		6,500		
Other				
Total Cost		70,170		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004			
I-A Receipts	1007	70,170		
CIP Receipts	1061			
Other				

# Request For New Position

AGENCY Department of Law  
 BRU Legal Services  
 COMPONENT Operations

FY 93

Page 1 of 1  
 Revised Date: \_\_\_\_\_

Position Title Legal Secretary I		No. of Positions 1	Range / Step 10 B	Barg. Unit GG
Time Status PFT	Staff Months 12	Location Anchorage		Election District 5-15, 23-27
TYPE OF EXPENDITURE		AMOUNT		
Salary		25,872		
Benefits		11,435		
Premium Pay				
Other				
Total Personal Services		37,307		
Travel				
Contractual		4,400		
Commodities		3,300		
Equipment		9,000		
Other				
Total Cost		54,007		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts 1002				
G.F. Match 1003				
General Fund 1004				
I-A Receipts 1007		54,007		
CIP Receipts 1061				
Other				
Justification The Legal Secretary I position will be needed to prepare the trial documents required by the new attorneys in Anchorage who will handle the additional tort caseload caused by implementation of SB 101. Trial work of this sort is paper-intensive, involving extensive motion practice and briefing. Allocation of the position to the Legal Secretary I level is therefore appropriate.				

## Request For New Position

AGENCY Department of Law  
 BRU Legal Services  
 COMPONENT Operations

FY 93

Page 1 of 1  
 Revised Date: \_\_\_\_\_

Position Title Attorney IV		No. of Positions 1	Range / Step 24 A	Barg. Unit PX
Time Status PFT	Staff Months 12	Location Fairbanks		Election District 17-22, 24
TYPE OF EXPENDITURE		AMOUNT		
Salary		73,596		
Benefits		22,789		
Premium Pay				
Other				
Total Personal Services		96,385		
Travel		7,500		
Contractual		20,000		
Commodities		6,000		
Equipment		6,500		
Other				
Total Cost		136,385		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004			
I-A Receipts	1007	136,385		
CIP Receipts	1061			
Other				
Justification This Attorney IV position will be needed to handle the increased caseload in Central and Northern Alaska caused by implementation of SB 101. The position will handle the new lawsuits in small claims court and the appeals of these cases in superior court. Most of this work involves court trials and requires experience in personal injury defense and state immunity defenses. Because of the extensive trial work, additional amounts are required for travel, depositions, expert witnesses, and exhibits. This position requires full journey-level skills as an Attorney IV because of the involvement in appeals.				

# Request For New Position

AGENCY Department of Law  
 BRU Legal Services  
 COMPONENT Operations

FY 93

Page 1 of 1  
 Revised Date: \_\_\_\_\_

Position Title Legal Secretary I		No. of Positions 1	Range / Step 10 B	Barg. Unit GG
Time Status PFT	Staff Months 12	Location Fairbanks		Election District 17-22, 24
TYPE OF EXPENDITURE		AMOUNT		
Salary		26,904		
Benefits		11,705		
Premium Pay				
Other				
Total Personal Services		938,609		
Travel				
Contractual		4,400		
Commodities		3,300		
Equipment		9,000		
Other				
Total Cost		55,309		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts 1002				
G.F. Match 1003				
General Fund 1004				
I-A Receipts 1007		55,309		
CIP Receipts 1061				
Other				
Justification The Legal Secretary I position will be needed to prepare the trial documents required by the new attorney in Fairbanks who will handle the additional tort caseload caused by implementation of SB 101. Trial work of this sort is paper-intensive, involving extensive motion practice and briefing. In addition, the position will handle witness scheduling in the absence of paralegal support at this location. Allocation of the position to the Legal Secretary I level is therefore appropriate.				

# Request For New Position

AGENCY Department of Law  
 BRU Legal Services  
 COMPONENT Operations

FY 93

Page 1 of 1  
 Revised Date: \_\_\_\_\_

Position Title Attorney IV		No. of Positions 1	Range / Step 24 A	Barg. Unit PX
Time Status PFT	Staff Months 12	Location Juneau		Election District 1 - 4
TYPE OF EXPENDITURE		AMOUNT		
Salary		64,056		
Benefits		20,969		
Premium Pay				
Other				
Total Personal Services		85,025		
Travel		7,500		
Contractual		20,000		
Commodities		6,000		
Equipment		6,500		
Other				
Total Cost		125,025		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts 1002				
G.F. Match 1003				
General Fund 1004				
I-A Receipts 1007		125,025		
CIP Receipts 1061				
Other				
Justification This Attorney IV position will be needed to handle the increased caseload in Southeastern Alaska caused by implementation of SB 101. The position will handle the new lawsuits in small claims court and the appeals of these cases in superior court. Most of this work involves court trials and requires experience in personal injury defense and state immunity defenses. Because of the extensive trial work, additional amounts are required for travel, depositions, expert witnesses, and exhibits. This position requires full journey-level skills as an Attorney IV because of the involvement in appeals.				

## Request For New Position

AGENCY Department of Law  
 BRU Legal Services  
 COMPONENT Operations

FY 93

Page 1 of 1  
 Revised Date: \_\_\_\_\_

Position Title Legal Secretary I		No. of Positions 1	Range / Step 10 B	Barg. Unit GG
Time Status PFT	Staff Months 12	Location Juneau		Election District 1 - 4
TYPE OF EXPENDITURE		AMOUNT		
Salary		26,904		
Benefits		11,705		
Premium Pay				
Other				
Total Personal Services		938,609		
Travel				
Contractual		4,400		
Commodities		3,300		
Equipment		9,000		
Other				
Total Cost		55,309		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts 1002				
G.F. Match 1003				
General Fund 1004				
I-A Receipts 1007		55,309		
CIP Receipts 1J61				
Other				
Justification The Legal Secretary I position will be needed to prepare the trial documents required by the new attorney in Juneau who will handle the additional tort caseload caused by implementation of SB 101. Trial work of this sort is paper-intensive, involving extensive motion practice and briefing. In addition, the position will handle witness scheduling in the absence of paralegal support at this location. Allocation of the position to the Legal Secretary I level is therefore appropriate.				

# Request For New Position

AGENCY Department of Law  
 BRU Legal Services  
 COMPONENT Operations

FY 93

Page 1 of 1  
 Revised Date: \_\_\_\_\_

**SB101**

# SENATE FINANCE COMMITTEE REPORT

DATE: 4/2/91

FURTHER:

DATE TURNED INTO OFFICE: 4/19/91

The Finance Committee considered SENATE BILL NO. 101

"An Act relating to the jurisdiction of the district court."

and recommended:

replace with \_\_\_\_\_ CS  
 or adopt \_\_\_\_\_ CS SB 101 (Jud)  
 attached amendment(s)  
 \_\_\_\_\_ letter of intent adopted

same title  
 new title  
 technical title change (HB only)

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

ATTACHES NEW FISCAL NOTE(S):  
Dept/Date:

fiscal note(s) \_\_\_\_\_

zero fiscal note(s) DD Law 4/8/91

APPROVES PREVIOUS:

Dept/Date:

fiscal note(s) \_\_\_\_\_

zero fiscal note(s) Courts 3/4/91

appropriation-no fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

Al Adams

James Huffman

Dick Stubbins

\_\_\_\_\_

\_\_\_\_\_

1. FD Hawk do pass

William Roper

J. Kestler

\_\_\_\_\_

\_\_\_\_\_

2. Kestler no per

Co-Chairs: Signatures and Recommendations

FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

BILL NO. CSSB 101 (Jud)

Revision Date: April 8, 1991 Department Affected: Department of Law

Title: "...relating to the jurisdiction of the BRU: Legal Services"

district court and...to hear actions as small claims." Component: Operations

Sponsor: Senate Judiciary by Request

Requestor: Senate Judiciary COMPONENT SERIAL NO. 

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.) The committee substitute for SB 101 changes the original bill by denying access to the relaxed procedures of small claims court if the defendant is the state. This change should eliminate most of the incentive for claimants to bring actions in district court cited in our original fiscal note, thus making fiscal note costs unnecessary.

Prepared By: Richard I. Pegues, Director Phone: 465-3672

Division: Administrative Services Date: April 8, 1991

Approved by Commissioner: Charles E. Cole, Attorney General

Agency: Department of Law Date: April 8, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

io. 2

Bill Version: SB 101

(S) Publish

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Department Affected: Alaska Court System  
 Title: An Act relating to the jurisdiction BRU: Trial Courts  
of the district court Components: \_\_\_\_\_  
 Sponsor: Judiciary  
 Requestor: Judiciary COMPONENT SERIAL NO. 

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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

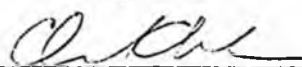
Estimate of current year impact: None

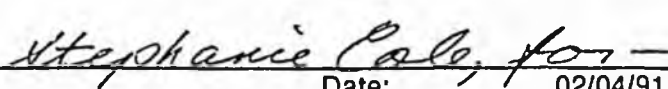
ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Changes in CS SB 101 (Jud)  
reflect NO FISCAL CHANGE from the original  
fiscal note. This fiscal note is appropriate.

Mar 27, 91 WBS/Smk  
date Comte Aide (initial)

Prepared by: C. S. Christensen III, Staff Counsel  Phone: 264-8228  
 Division: Alaska Court System Date: 02/04/91

Approved by: Arthur H. Snowden, II, Administrative Director  Date: 02/04/91  
 Agency: Alaska Court System

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

CS FOR SENATE BILL NO. 101 (JUDICIARY)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 3/29/91  
Referred: Finance

Sponsor(s): SENATE JUDICIARY COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the jurisdiction of the district court and to the district court's ability  
2 to hear actions as small claims."

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

4 \* Section 1. AS 09.50.250 is amended to read:

5 Sec. 09.50.250. ACTIONABLE CLAIMS AGAINST THE STATE. A person or  
6 corporation having a contract, quasi-contract, or tort claim against the state may bring an action  
7 against the state [IN THE SUPERIOR COURT]. A person who may present the claim under  
8 AS 44.77 may not bring an action under this section except as set out in AS 44.77.040(c). A  
9 person who may bring an action under AS 36.30.560 - 36.30.695 may not bring an action under  
10 this section except as set out in AS 36.30.685. However, an action may not be brought under  
11 this section if the claim

12 (1) is an action for tort, and is based upon an act or omission of an employee of  
13 the state, exercising due care, in the execution of a statute or regulation, whether or not the  
14 statute or regulation is valid; or is an action for tort, and based upon the exercise or performance

1 or the failure to exercise or perform a discretionary function or duty on the part of a state agency  
2 or an employee of the state, whether or not the discretion involved is abused;

3 (2) is for damages caused by the imposition or establishment of a quarantine by  
4 the state;

5 (3) arises out of assault, battery, false imprisonment, false arrest, malicious  
6 prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with  
7 contract rights; or

8 (4) arises out of the use of an ignition interlock device certified under  
9 AS 33.05.020(c).

10 \* Sec. 2. AS 22.15.040(a) is amended to read:

11 (a) When a claim for relief does not exceed \$5,000 exclusive of costs, interest, and  
12 attorney fees, and request is so made, the district judge or magistrate shall hear the action as a  
13 small claim unless important or unusual points of law are involved or unless the state is a  
14 defendant. The supreme court shall prescribe the procedural rules and standard forms to assure  
15 simplicity and the expeditious handling of small claims.

16 \* Sec. 3. AS 22.15.050 is amended to read:

17 Sec. 22.15.050. ACTIONS NOT WITHIN CIVIL JURISDICTION. The jurisdiction of  
18 the district courts does not extend to

19 (1) an action in which the title to real property is in question;

20 (2) an action for false imprisonment, libel, slander, malicious prosecution, or  
21 actions of an equitable nature, [( ) except as otherwise provided by law ( )], OR ACTIONS IN  
22 WHICH THE STATE IS A DEFENDANT].



SE 101  
APR 10 1991

Alaska Court System  
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

CHARLES S. CHRISTENSEN III  
Staff Counsel

303 K Street  
Anchorage, AK 99501  
(907) 264-8228

April 2, 1991

The Honorable Pat Pourchot  
Co-Chairman, Senate Finance Committee  
P.O. Box V  
Juneau, Alaska 99811

Dear Senator Pourchot:

I am writing to request that the Finance Committee schedule a hearing on Senate Bill 101, relating to the jurisdiction of the district court, at its earliest convenience. This bill was introduced at the request of the Alaska Supreme Court.

Current law provides that the superior court has jurisdiction in civil cases exceeding \$50,000 in value; the district court has jurisdiction over claims not exceeding that amount. However, current law also requires that all actions against the state be brought in superior court, regardless of the size of the claim. This has resulted in situations like one which took place recently in Fairbanks, when the superior court was used to try a \$2000 claim against the state. Not only is \$2000 significantly less than the maximum amount of the district court's jurisdiction, it is significantly less than the maximum amount of a small claims case (\$5,000).

This restriction on district court jurisdiction was enacted at the time of statehood, when district court judges were not required to be attorneys. The prevailing view was that cases in which the state was a defendant should not be decided by a court presided over by a person who was not learned in the law. Today, however, this distinction is an anachronism, since a district court judge must be licensed to practice law in Alaska, and is subject to the same appointive and retention election processes as are judges of the superior court.

The Honorable Pat Pourchot  
April 2, 1991  
Page 2

CSSB 101 (JUD) proposes to treat the state like any other defendant, by making it subject to the jurisdiction of the district court when the matter in controversy does not exceed \$50,000. One exception to such jurisdiction would remain: the state would not be subject to small claims procedures in cases under \$5,000, but would always have the benefit of formal rules.

Please feel free to contact me if you have any questions or comments.

Very truly yours,



C. S. Christensen III  
Staff Counsel

CSC:bh

# PROFILE OF THE ALASKA COURT SYSTEM

JULY 1, 1989 - JUNE 30, 1990  
Fiscal Year 1990

## INTRODUCTION

There are four levels of courts in the Alaska Court System, each with different powers, duties and responsibilities. Alaska has no city, county or borough courts.

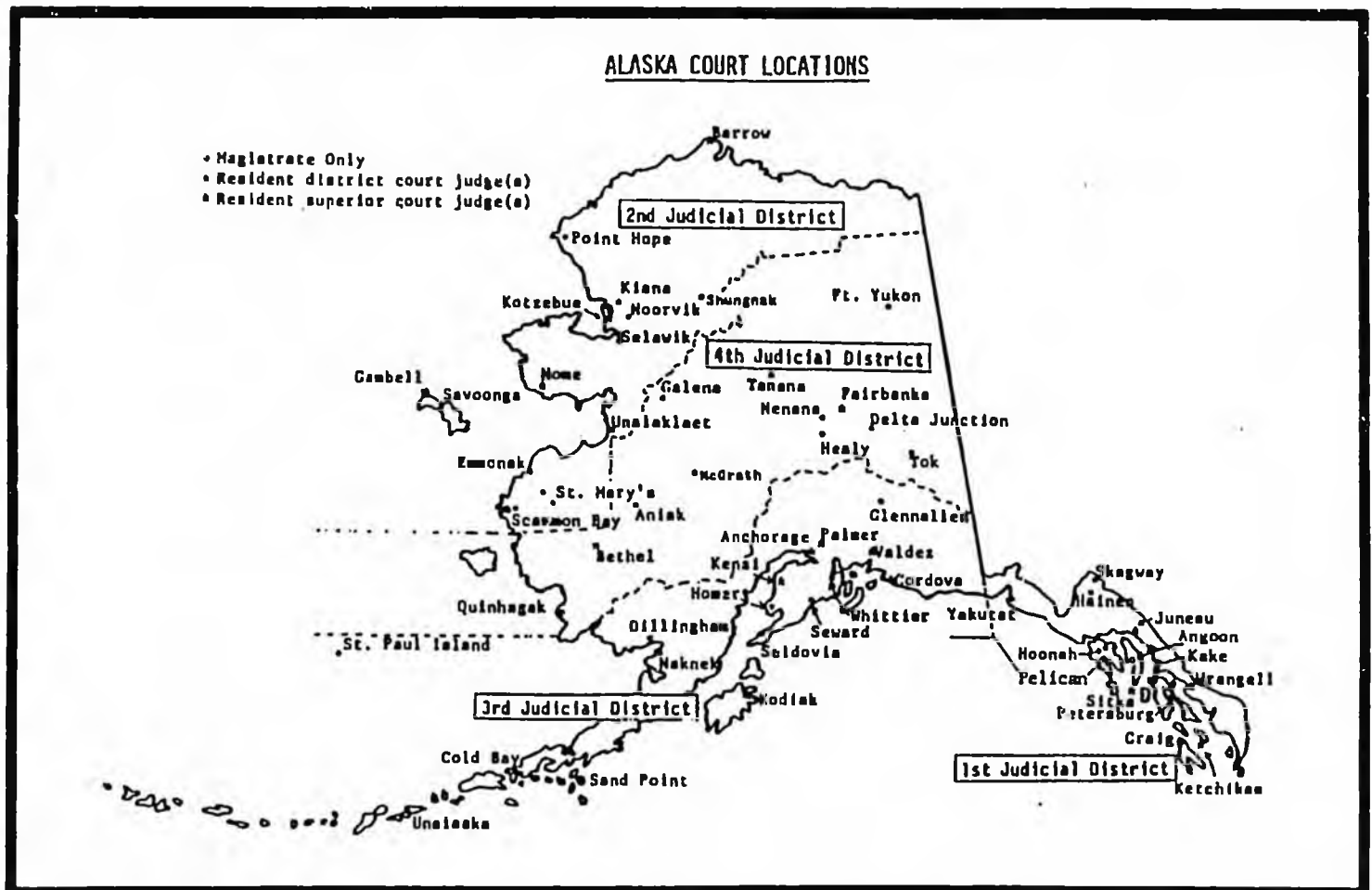
The four levels of courts in the Alaska Court System are the supreme court, the court of appeals, the superior court and the district court. The supreme court and the superior court were

established in the Alaska Constitution. The district court was established by state statute in 1959 and the court of appeals was established by state statute in 1980. Jurisdiction and other areas of the judicial responsibility for each level of court are set out in Title 22 of the Alaska Statutes.

The chief justice of the Alaska Supreme Court is the administrative head of

the Alaska Court System. An administrative director is appointed by the chief justice with concurrence of the supreme court. The director supervises the administration of all courts in the state.

Rules governing the administration of all courts and the rules of practice and procedure for civil and criminal cases are promulgated by the supreme court.



# ALASKA COURT SYSTEM FACT SHEET

(Information as of June 30, 1990)

FISCAL YEAR: July 1 - June 30

Geographical area served: 566,000 square miles

Number of Judges:   5 supreme court justices  
                           3 court of appeals judges  
                           30 superior court judges  
                           17 district court judges  
                           43 magistrates

Number of court locations:  
                           15 combined superior and district court locations  
                           44 district courts only (judge and/or magistrate)

Total number of permanent full-time court employees: 609

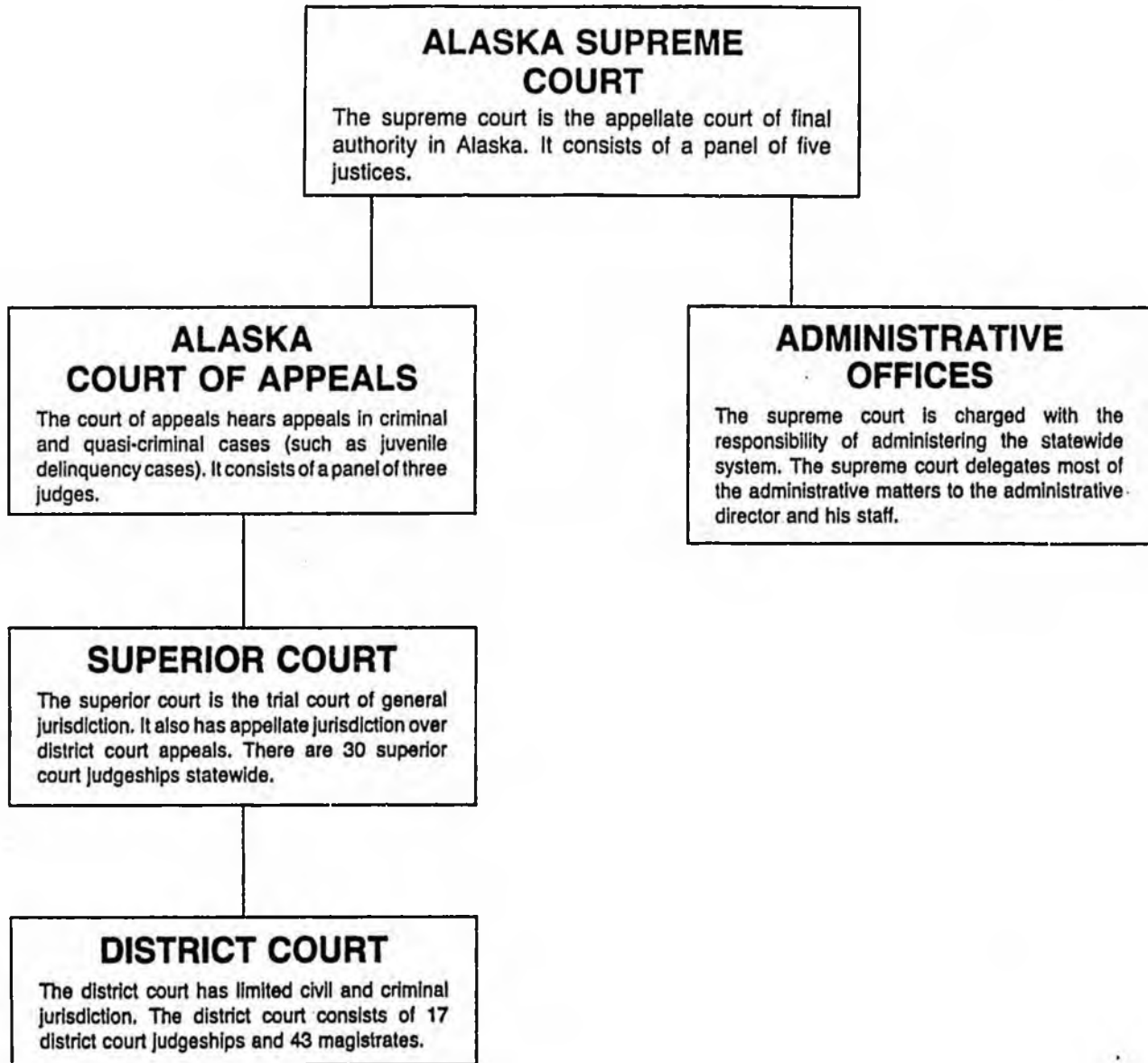
6 largest trial courts (by number of permanent full-time employees):

Anchorage:     206  
 Fairbanks:     84  
 Juneau:        24  
 Palmer:        18  
 Ketchikan:    17  
 Kenai:         15

<b>BUDGET</b>
FY 1990 court system annual budget: \$38,909,900
Percentage decrease over FY 1989 annual budget: 1.6%
Percentage of FY 1990 annual state general fund budget: 1.4%

<b>CASELOAD</b>				
Number of Cases Filed and Decided in FY 1990				
Court	#of Cases FILED	% Change From FY 89	#of Cases DECIDED	% Change from FY 89
Supreme Court	578	- 3%	584	+ 8%
Appeals Court	490	+ 5%	451	- 7%
Superior Court	18,769	- 1%	19,179	+ 9%
District Court	102,319	-11%	114,465	+ 4%

# ALASKA COURT SYSTEM ORGANIZATION



Alaska has a unified, centrally administered, and totally state funded judicial system. Municipal governments do not maintain a separate court system.

## DISTRICT COURT JURISDICTION

A district court judge may:

- hear STATE MISDEMEANORS and violations of CITY AND BOROUGH ORDINANCES
- issue SUMMONSES, ARREST WARRANTS and SEARCH WARRANTS
- hear first appearances and PRELIMINARY HEARINGS in felony cases
- issue ABSENTEE BALLOTS and record VITAL STATISTICS (in some areas of the state)
- serve as CORONER, hold inquests and act as temporary caretaker of property of deceased persons
- hear CIVIL CASES valued up to \$50,000
- hear SMALL CLAIMS cases (\$5,000 maximum)
- handle cases involving CHILDREN on an emergency basis
- hear DOMESTIC VIOLENCE cases

## DISTRICT COURT JUDGES

### FIRST JUDICIAL DISTRICT



George Gucker  
Appointed 1983  
Ketchikan



Peter Froehlich  
Appointed 1989  
Juneau

**TABLE I**  
**ALASKA TRIAL COURTS CASELOAD SUMMARY FY 90**  
**7/1/89 - 6/30/90**

COURT	Superior Courts		District Courts			TOTALS		
	Filings	% of S.C. Total	Non Traffic Filings	Traffic Filings*	TOTAL FILINGS	% of D.C. Total	Total Filings	% of Statewide Total
Anchorage	10189	54.3%	16865	20908	37773	36.9%	47962	39.6%
Barrow	251	1.3%	416	301	717	.7%	968	.8%
Bethel	589	3.1%	1201	310	1511	1.5%	2100	1.7%
Cordova			584	159	743	.7%	743	.6%
Craig			630	219	849	.8%	849	.7%
Delta Jct.			153	409	562	.5%	562	.5%
Dillingham			582	62	644	.6%	644	.5%
Fairbanks	2425	12.9%	7210	6120	13330	13.0%	15755	13.0%
Glennallen			294	1285	1579	1.5%	1579	1.3%
Healy			81	893	974	.9%	974	.8%
Homer			1095	1920	3015	2.9%	3015	2.5%
Juneau	1095	5.8%	3099	1865	4964	4.9%	6059	5.0%
Kenai	877	4.7%	1959	4604	6563	6.4%	7440	6.1%
Ketchikan	759	4.0%	2565	1336	3901	3.8%	4660	3.8%
Kodiak	397	2.1%	1250	2507	3763	3.7%	4160	3.4%
Kotzebue	253	1.3%	584	234	818	.8%	1071	.9%
Nome	320	1.7%	419	184	603	.6%	923	.8%
Palmer	904	4.8%	2010	6102	8112	7.9%	9016	7.4%
Petersburg	74	.4%	355	106	461	.5%	535	.4%
Seward			697	1843	2540	2.5%	2540	2.1%
Sitka	335	1.8%	735	1334	2069	2.0%	2404	1.9%
Tok			241	420	661	.6%	661	.5%
Unalaska			370	212	582	.6%	582	.5%
Valdez	212	1.1%	700	783	1483	1.4%	1695	1.4%
Wrangell	89	.5%	385	185	570	.6%	659	.5%
<b>Subtotal</b>	<b>18,769</b>	<b>100%</b>	<b>44,486</b>	<b>54,301</b>	<b>98,787</b>	<b>96.5%</b>	<b>117,556</b>	<b>97.1%</b>
<b>Lower Volume Courts</b>			<b>2,269</b>	<b>1,263</b>	<b>3,532</b>	<b>3.5%</b>	<b>3,532</b>	<b>2.9%</b>
<b>Statewide Totals</b>	<b>18,769</b>	<b>100%</b>	<b>48,755</b>	<b>55,564</b>	<b>102,319</b>	<b>100%</b>	<b>121,088</b>	<b>100%</b>

**BY JUDICIAL DISTRICT**

FIRST	2352	12.5%	8347	5211	13558	13.3%	15910	13.2%
SECOND	824	4.4%	1622	738	2360	2.3%	3184	2.6%
THIRD	12579	67.0%	27140	40501	67641	66.1%	80220	66.2%
FOURTH	3014	16.1%	9646	9114	18760	18.3%	21774	17.9%

\*Traffic case dispositions are used as filings in district court.

## DISTRICT COURT

### Jurisdiction

In criminal matters, the district court has jurisdiction over state misdemeanor violations and violations of ordinances of political subdivisions. District court has the authority to hear domestic violence cases, handle children's proceedings on an emergency basis, small claims cases and has civil jurisdiction up to \$50,000.

Magistrate posts have been created in the smaller, generally rural areas of the state. They have also been established in metropolitan areas to handle routine matters and to ease the workload of the district court.

In criminal matters, magistrates may give judgment of conviction upon a plea of guilty to any state misdemeanor, may try state misdemeanor cases if the defendant waives the right to a district court judge, and may hear municipal ordinance violations without consent of the accused. Magistrates may hear formal civil cases and small claims cases that involve amounts up to a \$5,000 maximum. Magistrates have emergency authority in children's matters.

### FY 90 Caseload

#### District Court

District court statistics are separated into two categories: high and low volume courts. There are 26 magistrates in locations that are identified as lower volume courts.

During FY 90 the statewide caseload in district court decreased by 11% from FY 89. Non-traffic case filings increased by 2% while the traffic caseload decreased by 19%. This decrease was due in part to implementation of legislation which transferred responsibility for processing certain uncontested traffic tickets from the court system to the municipalities.

Table VII summarizes caseload statistics for district court locations in FY 90.

#### Special Note: Traffic Cases

Because traffic citation cases are not reported to the administrative office until final disposition, the number of filings for traffic matters in a year understates the court's actual workload. Whenever filing data is required to assess the overall workload of the courts, traffic disposition data has been substituted for traffic filing data.

<sup>1</sup>For more information about district court and magistrate jurisdiction, see Profile, supra.

**PART I. PROCEEDINGS BEFORE  
DISTRICT JUDGES AND  
MAGISTRATES**

Annotations

## Cases

Compliance with this rule's requirement that a notice of appeal contain a statement of the grounds for appeal is not jurisdictional. *Cook v. Aurora Motors, Inc.*, Op. No. 848, 503 P2d 1046 (Alaska 1972).

In deciding whether the requirements of district court rules requiring a concise statement of the grounds for appeal should be relaxed or dispensed with, a lower court should examine the standards applied by the Supreme Court in enforcing analogous rules. *Cook v. Aurora Motors, Inc.*, Op. No. 848, 503 P2d 1046 (Alaska 1972).

**Rule 1. Scope of Rules—Construction.****(a) Scope of Rules.**

(1) The procedure in civil actions and proceedings before district judges and magistrates shall be governed by the rules governing the procedure in the superior court to the extent that such rules are applicable.

(2) If in any action or proceeding a magistrate finds it impracticable to proceed or finds himself at a disadvantage because of the application of any of such rules, he may hold the action or proceeding in abeyance, without prejudice to the rights of the parties, for further action by a district judge.

(3) The following rules are inapplicable in their entirety to proceedings before district judges and magistrates:

CIVIL RULE	TITLE
Rule 18(b)	Joinder of Remedies— Fraudulent Conveyances.
Rule 27	Deposition Before Actions or Pending Appeal.
Rule 40(c)	Visiting Judges.
Rule 40(d)	Applications for Orders.
Rule 48(b)	Instructions; Argument; Retirement of Jury.
Rule 57	Declaratory Judgments.
Rule 65	Injunctions.
Rule 66	Receivers.
Rule 70	Judgment for Specific Acts— Vesting Title.
Rule 72	Eminent Domain.
Rule 84	Change of Name.

(b) **Construction.** Where the words "court" or "judge" are used in these rules, they shall be construed to include a district judge or a magistrate, and where functions and duties are prescribed for the clerk, they shall be performed by a magistrate or a clerk.

(Amended by SCO 540 effective October 1, 1982)

## Cross References

CROSS REFERENCE: AS 22.15.040

**Rule 2. Record of Proceedings—Transcript as Evidence.**

There shall be kept an electronic record of the following:

(1) All contested actions and proceedings had in open court unless the parties with the approval of the judge shall specifically agree to the contrary; and

(2) Such other proceedings as the judge may direct or as may be required by order of the court or as may be requested by any party to the action or proceeding.

**Rule 3. Notice of Orders or Judgments.**

Notice of the entry of an order or judgment shall be given as provided by Civil Rule 73(d). Every order and judgment shall include a clerk's certificate of distribution as defined in Civil Rule 58.1 (d).

(Amended by SCO 554 effective April 4, 1983)

**Rule 4. Assignment and Hearing of Cases—Calendars.**

The assignment and calendaring of cases in the district court shall be as set forth in Civil Rule 40(a), or by such procedures established by the presiding judge as will cause all cases to be regularly reviewed for placement on the trial calendar for dismissal for want of prosecution, or other appropriate disposition.

(Amended by SCO 838 effective August 1, 1987)

**Rule 5. Jurors.**

The procedure for the selection, summoning and impaneling of jurors shall be as provided by statute. The procedure for the examination of jurors shall be governed by Civil Rule 47.

## Cross References

CROSS REFERENCES: AS 09.20.010—AS 09.020.090

# Small Claims Handbook

e. Fill in the lines at the bottom of the form and sign it. Be sure to include your title if you are answering for a business defendant.

If you have documents supporting your claim (for example: checks, receipts, bills), you must attach them to the Answer. Attach a copy for the court and copy for the plaintiff.

Return the original and one copy of the Answer to the court. Keep one copy for your records.

f. Trial Date.

If you file an SC-3 Answer disagreeing with the plaintiff's claim, the court will set the matter for trial and notify you and the plaintiff in writing of the place, date and time of the trial.

## 2. Formal Rules Election.

If you want the formal rules of civil procedure to apply to your case instead of the small claims rules, you cannot use the SC-3 Answer form provided by the court. Instead you must:

- a. file with the court (1) a written request for formal rules and (2) a formal answer to the complaint in compliance with Civil Rules 7 through 16, 76 and 77; and
- b. serve a copy of these documents on the plaintiff; and
- c. file with the court proof that the documents were served on the plaintiff.

You must do all this within 20 days after you receive the Summons and Complaint or risk having a default judgment entered against you.

The court does not provide forms for your answer or your request for formal procedure. The court cannot help you prepare your answer or give you any other assistance once you have requested the formal rules. The court will automatically grant your request and send you an Order for Formal Procedure. If you need assistance, you must contact a lawyer.

## D. Change of Address.

If you change your mailing address while the case is pending, you must notify both the court and the plaintiff. The court will consider that you have received all documents mailed to you at the address you furnished. Small Claims Rule 11(d).

# Alaska State Legislature



## Senate Judiciary Committee

March 27, 1991

Senator Kerttula, Co-Chairman  
Senator Pourchot, Co-Chairman  
Senate Finance Committee  
P.O. Box V  
Juneau, Alaska 99811

Re: CSSB 101 (Judiciary) Relating to the jurisdiction of the  
district Court

Dear Co-Chairs,

At the direction of the Senate Judiciary Committee I am sending you this communication concerning CSSB 101 (Judiciary). This bill was heard by Senate Judiciary February 12, February 22 and March 26, 1991. The Department of Law was present at the February 12 hearing.

While it was first thought that the bill would have little or no fiscal impact on the Department of Law, we received on March 20, 1991, a fiscal note for about \$700,000 annually. It is the sense of the committee that this is not in any way a fair appraisal of the fiscal impact of the bill.

Having considered the bill three times, it was passed out of committee with the Department of Law fiscal note but subject to the concerns expressed herein.

Sincerely,

A handwritten signature in cursive script that reads "Rick Halford".

Senator Rick Halford  
Chair, Senate Judiciary

RH/db

Post Office Box V • Juneau, Alaska 99811

FISCAL NOTE

No. 1

Bill Version: SB 101

(S) Publish Da

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Department Affected: Department of Law  
 Title: "An Act relating to the BRU: Legal Services  
jurisdiction of the district court." Component: Operations  
 Sponsor: Senate Judiciary  
 Requestor: Senate Judiciary COMPONENT SERIAL NO. 

		9	3
--	--	---	---

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	486.9	501.5	516.6	532.0	548.0	564.4
TRAVEL	32.5	33.5	34.5	35.5	36.6	37.7
CONTRACTUAL	99.8	102.8	105.9	109.1	112.4	115.8
SUPPLIES	37.2	38.3	39.4	40.6	41.8	43.1
EQUIPMENT	59.5					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>715.9</b>	<b>676.1</b>	<b>696.3</b>	<b>717.2</b>	<b>738.8</b>	<b>761.0</b>

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER - IAR	715.9	676.1	696.3	717.2	738.8	761.0
<b>TOTAL</b>						

POSITIONS:

FULL-TIME	8	8	8	8	8	8
PART-TIME						
TEMPORARY						

Estimate of current year impact: \_\_\_\_\_

Changes in CS SB 101 (Jud) reflect NO FISCAL CHANGE from the original fiscal note. This fiscal note is appropriate.\*

March 27, 91 OBail  
date Comte Aide (initial)

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

\* See letter to Senate Finance.

Prepared By: Richard I. Pegues Phone: 465-3672

Division: Administrative Services Date: March 19, 1991

Approved by Commissioner: Charles E. Cole, Attorney General

Agency: Department of Law Date: March 19, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

## CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 101

Senate Bill No. 101 amends AS 09.50.250 and AS 22.15.050 to provide that a person or a corporation having a contract, quasi-contract, or tort claim against the state may bring an action against the state in district court. At the present time, claims against the state, not settled administratively by state agencies, can be filed only in superior court, irrespective of the value of the claim. The superior court normally only adjudicates claims that exceed \$50,000. This bill would act to direct claims of up to \$50,000 to the district court. Claims that exceed \$50,000 would still be heard in superior court if they were not settled administratively.

Most contract claims against the state are handled administratively by the contract remedy process provided in AS 36.30.560 - AS 36.30.695, and AS 44.77.010 - AS 44.77.070. Contract claims that are currently appealed to the superior court after these administrative proceedings usually exceed the \$50,000 threshold for original entry as a superior court appeal, although they need not exceed the threshold to do so. The bill should not cause a substantial fiscal impact for contract appeals because of the comprehensive mandatory administrative remedy process provided in the state's Procurement Code, which must be exhausted before an appeal can be undertaken in court.

Tort claims, however, are an entirely different matter. The number of personal injury claims filed against the state during the past four and one-half years has averaged 700 claims per year and is growing steadily each year. Of this number, about 130 claims now result in lawsuits in superior court. Extending the jurisdiction of the district court to include claims against the state which do not exceed \$50,000 is expected to substantially increase the number of claims that result in lawsuits. This should result in a corresponding increase in the state's cost to defend against tort suits.

Most tort claims, about 570 of the 700 claims now being filed annually, are settled administratively by the state's contracted insurance adjustor. If resolution fails at the adjustor's level, a claim is settled by the Division of Risk Management. If a claimant is not satisfied with a settlement offer, or if a claim is denied, a claimant currently has the option of bringing a tort action in superior court. During the past four years approximately forty-five percent of the claims handled administratively were denied.

There is no existing requirement, however, that a claimant even contact the state to seek an administrative settlement, and a claimant may bring a lawsuit without ever having sought a settlement from the state's adjustor or the Division of Risk Management.

It is important to note that the state on its own initiative already contacts potential claimants in the course of investigating state agency accident reports and voluntarily offers settlements where it is appropriate to do so. Nevertheless, there are many instances where injuries are alleged in a lawsuit where the state does not have prior notice or knowledge. Indeed, the state does not receive prior notice of about ninety percent of the claims that are filed as lawsuits.

## CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 101

It is unknown to what extent the bill, by itself, will encourage additional claims, but that eventuality seems likely in view of less complex district court procedures, and because of the relative ease by which claimants can represent themselves as pro se counsel in district court. There is no totally accurate way, and certainly no easy way to forecast the number of new lawsuits that will occur as a result of the enactment of this bill. However, we live in a litigious age where the state is perceived by some, including some of those who make their living prosecuting personal injury suits, as having a deep pocket. Therefore, for the purposes of this analysis, we have attempted to show that there will be an appreciable increase in the state's tort defense, while still employing conservative cost projections.

For example, if twenty-five percent of the 570 claims that do not now result in lawsuits end up in district court, the department would have to defend 142 new suits. Although the state's defense would be under rules that are less formal or strenuous than those required by the superior court, it is anticipated that a minimum of twenty attorney hours would be required to prepare for and present the state's defense in each case. This is an estimate of the minimum time that would be required, and there will be many occasions when a substantially greater effort will be necessary.

Furthermore, some percentage of the outcome of the new cases that will be heard in district court will be appealed to the superior court. Here again, it is difficult to provide an exact estimate, but it is not unreasonable to expect that about twenty-five percent of the district court cases will be appealed to the superior court by either claimant plaintiffs or the defendant state. It is estimated that each appeal of a district court judgment will require a minimum of 100 hours of state attorney time to prepare and litigate in superior court. There will also be numerous times when either side in a district court trial will appeal the court's rulings to the superior court during the course of a trial, in the form of petitions for review.

Apparently one of the anticipated results of this bill is to decrease superior court caseload by directing claims that do not exceed \$50,000 to the district court. Our analysis does not lead to this result.

The number of cases now filed in superior court with a value that does not exceed \$50,000 is relatively small, perhaps ten to fifteen percent of the 130 tort cases filed against the state in superior court. Thus the number of cases that would be directed to district court will be easily offset, and very likely be outweighed, by the number of district court appeals to the superior court. Moreover, the superior court will be repeatedly called upon to rule on petitions for review for tort cases being tried in district court. Also, because tort claims filed in district court will automatically have an additional level of appeal (Rule 601), some claims will take one or two years longer to complete before a final judgment is entered.

## CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 101

Aside from the issue of the superior court serving as an appeals court for district court decisions, expanding the jurisdiction of the district court to hear tort claims will increase the number of claims that are filed in court and decrease the number of claims settled administratively, resulting in a corresponding increase in state costs. Although the individual value of most claims filed under the bill in district court would be relatively small, the state's tort defense will not change and it will often involve complex government immunity arguments. District courts rarely deal with these arguments and do not have the benefit of law clerk research assistants to help sort them out. Consequently, district courts will see a sharp increase in complicated civil caseload on top of their already crowded criminal calendars.

As mentioned previously, the bill will encourage additional lawsuits, to a large extent turning an administrative process into a legal fight. This will result in some unmeritorious lawsuits. And, in some instances, the bill will result in nuisance suits when it is understood that in some circumstances it will cost the state more to defend itself in court than the value of the claim, irrespective of a claim's merit. For example, the state receives numerous claims alleging vehicle damage caused by potholes, ranging from a few hundred dollars to a few thousand dollars per claim. The state is generally immune from this type of claim because it cannot repair all potholes at one time, and it must necessarily exercise its discretion in carrying out repairs. However, under the bill the state will have to defend against such claims in court, often at a cost that exceeds the amount being claimed. Most of these claims would otherwise be properly denied under the existing administrative process, at minimal cost to the state.

Therefore, based on the foregoing estimates of 142 new lawsuits and 33 new appeals, the bill will result in an annual increase of over 6,100 hours of attorney case work for the department. On average, each of the department's tort attorneys produce about 1500 hours annually devoted solely to case work. Consequently, the bill will require the addition of at least four attorneys. Moreover, because these cases could be heard before as many as fifteen different district court judges, scheduling will present some difficulties for these attorneys requiring additional paralegal and clerical support staff. It is therefore our estimate that two attorneys, one paralegal assistant, and one legal secretary will be required in Anchorage, and one attorney each and one legal secretary each will be required in both Fairbanks and Juneau.

COST SUMMARY - SB 101

<u>Location</u>	<u>Title</u>	<u>Personal Services</u>	<u>Travel</u>	<u>Contractual</u>	<u>Supplies</u>	<u>Equipment</u>	<u>Total</u>
Anchorage	Attorney IV	81.8	7.5	20.0	6.0	6.5	121.8
	Attorney III	72.4	7.5	20.0	6.0	6.5	112.4
	Paralegal Asst II	49.3	2.5	6.6	3.3	6.5	68.2
	Legal Secretary I	35.9		4.4	3.3	9.0	52.6
Fairbanks	Attorney IV	92.6	7.5	20.0	6.0	6.5	132.6
	Legal Secretary I	37.2		4.4	3.3	9.0	53.9
Juneau	Attorney IV	81.8	7.5	20.0	6.0	6.5	121.8
	Legal Secretary I	35.9		4.4	3.3	9.0	52.6
	TOTAL	486.9	32.5	99.8	37.2	59.5	715.9

FY92 costs are shown above. Costs after FY92 include a three percent inflation factor.



Position Title <b>Attorney III</b>		No. of Positions <b>1</b>	Range / Step <b>22 A</b>	Barg. Unit <b>PX</b>
Time Status <b>PFT</b>	Staff Months <b>12</b>	Location <b>Anchorage</b>		Election District <b>5 - 15, 23 - 27</b>
<b>TYPE OF EXPENDITURE</b>		<b>Amount</b>	<b>Justification</b>  This Attorney III position will be needed to handle part of the increased caseload in Southcentral Alaska caused by implementation of SB101. The position will handle many of the new lawsuits in district court and a few of the appeals of these cases in superior court. Most of this new work involves court trials and requires personal injury defense experience. Because of the extensive trial work, additional amounts are needed for travel, depositions, expert witnesses, and exhibits. This position requires three or more years of experience of an Attorney III to handle this level of work.	
Salary		<b>53,298</b>		
Benefits		<b>19,092</b>		
Premium Pay				
Other				
Tbtal Personal Services		<b>72,390</b>		
Travel		<b>7,500</b>		
Contractual		<b>20,000</b>		
Commodities		<b>6,000</b>		
Equipment		<b>6,500</b>		
Other				
Tbtal Cost		<b>112,390</b>		
<b>FUNDING SOURCE FOR TOTAL COST</b>				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004			
I-A Receipts	1007	<b>112,390</b>		
CIP Receipts	1061			
Other				

**Request For  
New Position**

AGENCY Department of Law  
 BRU Legal Services  
 COMPONENT Operations

**FY** 92

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

Position Title Paralegal Assistant II		No. of Positions 1	Range / Step 16 A	Barg. Unit GG
Time Status PFT	Staff Months 12	Location Anchorage		Election District 5 - 15, 23 - 27
TYPE OF EXPENDITURE		Amount	Justification  This paralegal assistant will be needed to handle witness scheduling that will be needed by the two attorneys in Anchorage who will handle the new torts caseload caused by the implementation of SB101. The position will also assist and prepare case files and evidence used at trial. These duties are appropriate for a Paralegal Assistant II.	
Salary		35,166		
Benefits		14,110		
Premium Pay				
Other				
Total Personal Services		49,276		
Travel		2,500		
Contractual		6,600		
Commodities		3,300		
Equipment		6,500		
Other				
Total Cost		68,176		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004			
I-A Receipts	1007	68,176		
CIP Receipts	1061			
Other				

**Request For  
New Position**

AGENCY Department of Law  
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Position Title <b>Legal Secretary I</b>		No. of Positions <b>1</b>	Range / Step <b>10 B</b>	Barg. Unit <b>GG</b>
Time Status <b>PFT</b>	Staff Months <b>12</b>	Location <b>Anchorage</b>		Election District <b>5 - 15, 23 - 27</b>
<b>TYPE OF EXPENDITURE</b>		<b>Amount</b>		
Salary		24,636		
Benefits		11,276		
Premium Pay				
Other				
<b>Total Personal Services</b>		<b>35,912</b>		
Travel				
Contractual		4,400		
Commodities		3,300		
Equipment		9,000		
Other				
<b>Total Cost</b>		<b>52,612</b>		
<b>FUNDING SOURCE FOR TOTAL COST</b>				
Federal Receipts 1002				
G.F. Match 1003				
General Fund 1004				
I-A Receipts 1007		52,612		
CIP Receipts 1061				
Other				
Justification The Legal Secretary I position will be needed to prepare the trial documents required by the new attorneys in Anchorage who will handle the additional tort caseload caused by implementation of SB101. Trial work of this sort is paper-intensive, involving extensive motion practice and briefing. Allocation of the position to the Legal Secretary I level is therefore appropriate.				

**Request For  
New Position**

AGENCY Department of Law  
 BRU Legal Services  
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 Revised Date: \_\_\_\_\_

Position Title <b>Attorney IV</b>		No. of Positions <b>1</b>	Range / Step <b>24 A</b>	Barg. Unit <b>PX</b>
Time Status <b>PFT</b>	Staff Months <b>12</b>	Location <b>Fairbanks</b>		Election District <b>17 - 22, 24</b>
TYPE OF EXPENDITURE		Amount	Justification  This Attorney IV position will be needed to handle the increased caseload in Central and Northern Alaska caused by implementation of SB101. The position will handle the new lawsuits in district court and the appeals of these cases in superior court. Most of this work involves court trials and requires experience in personal injury defense and state immunity defenses. Because of the extensive trial work, additional amounts are required for travel, depositions, expert witnesses, and exhibits. This position requires full journey-level skills as an Attorney IV because of the involvement in appeals.	
Salary		70,092		
Benefits		22,558		
Premium Pav				
Other				
Total Personal Services		92,560		
Travel		7,500		
Contractual		20,000		
Commodities		6,000		
Equipment		6,500		
Other				
Total Cost		132,560		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004			
I-A Receipts	1007	132,560		
CIP Receipts	1061			
Other				

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Position Title <b>Legal Secretary I</b>		No. of Positions <b>1</b>	Range / Step <b>10 B</b>	Barg. Unit <b>GG</b>
Time Status <b>PFT</b>	Staff Months <b>12</b>	Location <b>Fairbanks</b>		Election District <b>17 - 22, 24</b>
<b>TYPE OF EXPENDITURE</b>		<b>Amount</b>		
Salary		25,620		
Benefits		11,541		
Premium Pay				
Other				
<b>Total Personal Services</b>		<b>37,161</b>		
Travel				
Contractual		4,400		
Commodities		3,300		
Equipment		9,000		
Other				
<b>Total Cost</b>		<b>53,861</b>		
<b>FUNDING SOURCE FOR TOTAL COST</b>				
Federal Receipts 1002				
G.F. Match 1003				
General Fund 1004				
I-A Receipts 1007		53,861		
CIP Receipts 1061				
Other				
Justification  The Legal Secretary I position will be needed to prepare the trial documents required by the new attorney in Fairbanks who will handle the additional tort caseload caused by implementation of SB101. Trial work of this sort is paper-intensive, involving extensive motion practice and briefing. In addition, the position will handle witness scheduling in the absence of paralegal support at this location. Allocation of the position to the Legal Secretary I level is therefore appropriate.				

**Request For  
New Position**

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

Position Title <b>Attorney IV</b>		No. of Positions <b>1</b>	Range / Step <b>24 A</b>	Barg. Unit <b>PX</b>
Time Status <b>PFT</b>	Staff Months <b>12</b>	Location <b>Juneau</b>		Election District <b>1 - 4</b>
<b>TYPE OF EXPENDITURE</b>		<b>Amount</b>		
Salary		61,008		
Benefits		20,760		
Premium Pay				
Other				
Total Personal Services		81,768		
Travel		7,500		
Contractual		20,000		
Commodities		6,000		
Equipment		6,500		
Other				
Total Cost		121,768		
<b>FUNDING SOURCE FOR TOTAL COST</b>				
Federal Receipts 1002				
G.F. Match 1003				
General Fund 1004				
I-A Receipts 1007		121,768		
CIP Receipts 1061				
Other				
Justification This Attorney IV position will be needed to handle the increased caseload in Southeastern Alaska caused by implementation of SB101. The position will handle the new lawsuits in district court and the appeals of these cases in superior court. Most of this work involves court trials and requires experience in personal injury defense and state immunity defenses. Because of the extensive trial work, additional amounts are required for travel, depositions, expert witnesses, and exhibits. This position requires full journey-level skills as an Attorney IV because of the involvement in appeals.				

## Request For New Position

AGENCY Department of Law  
 BRU Legal Services  
 COMPONENT Operations

**FY** 92

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



## SENATE BILL NO. 101

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE BY REQUEST

Introduced: 2/1/91  
Referred: Judiciary and Finance

## A BILL

## FOR AN ACT ENTITLED

1 "An Act relating to the jurisdiction of the district court."

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

3 \* Section 1. AS 09.50.250 is amended to read:

4           Sec. 09.50.250. ACTIONABLE CLAIMS AGAINST THE STATE. A person or  
5 corporation having a contract, quasi-contract, or tort claim against the state may bring an action  
6 against the state [IN THE SUPERIOR COURT]. A person who may present the claim under  
7 AS 44.77 may not bring an action under this section except as set out in AS 44.77.040(c). A  
8 person who may bring an action under AS 36.30.560 - 36.30.695 may not bring an action under  
9 this section except as set out in AS 36.30.685. However, an action may not be brought under  
10 this section if the claim

11           (1) is an action for tort, and is based upon an act or omission of an employee of  
12 the state, exercising due care, in the execution of a statute or regulation, whether or not the  
13 statute or regulation is valid; or is an action for tort, and based upon the exercise or performance  
14 or the failure to exercise or perform a discretionary function or duty on the part of a state agency

1 or an employee of the state, whether or not the discretion involved is abused;

2 (2) is for damages caused by the imposition or establishment of a quarantine by  
3 the state;

4 (3) arises out of assault, battery, false imprisonment, false arrest, malicious  
5 prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with  
6 contract rights; or

7 (4) arises out of the use of an ignition interlock device certified under  
8 AS 33.05.020(c).

9 \* Sec. 2. AS 22.15.050 is amended to read:

10 Sec. 22.15.050. ACTIONS NOT WITHIN CIVIL JURISDICTION. The jurisdiction of  
11 the district courts does not extend to

12 (1) an action in which the title to real property is in question;

13 (2) an action for false imprisonment, libel, slander, malicious prosecution, or  
14 actions of an equitable nature, [( ) except as otherwise provided by law ( )], OR ACTIONS IN  
15 WHICH THE STATE IS A DEFENDANT].

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

DATE: 2/1/91

FURTHER: Finance

Date of 5-Day Notice: Feb 7, 1991  
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: March 27, 1991

Judiciary Committee considered SB 101

Relating to the jurisdiction of the district court.

and recommended: *it be replaced*  
SB 101

- replace with CS (Judiciary)  same title  new title
- attached amendment(s) *5 rpts at the top plus*
- \_\_\_\_\_ letter of intent adopted

- do pass *reports it back as follows:*
- do not pass
- no recommendation
- individual recommendations
- further referral to \_\_\_\_\_

*17W  
107W*

ATTACHES NEW FISCAL NOTE(S):  
Department(s)/Date:

Department(s)/Date:

fiscal note(s)  
Court System 2/04/91  
Dept of Law 3/19/91

zero fiscal note(s)  
Court System 2/04/91

- appropriation-no fiscal note
- Governor's bill w/fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

*Patrick Boyley do pass*

*1 Ad Adams - No Rec*  
*1 Major FRANK - No Rec*  
*1 Coltin Collins - No Rec*  
~~*Patrick Boyley do pass*~~

*1 Rick Halford do pass*  
 Chair: Signature and Recommendation

**SB**

**77**

# SENATE FINANCE COMMITTEE REPORT

DATE: 3/1/91

FURTHER:

DATE TURNED INTO OFFICE: \_\_\_\_\_

The Finance Committee considered SENATE BILL NO. 71

"An Act making a special appropriation to the Department of Transportation and Public Facilities for highway construction; and providing for an effective date."

*Died in SFC.*

and recommended:

- replace with \_\_\_\_\_ CS \_\_\_\_\_
- or adopt \_\_\_\_\_ CS \_\_\_\_\_
- attached amendment(s)
- \_\_\_\_\_ letter of intent adopted

- same title
- new title
- technical title change (HB only)

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

ATTACHES NEW FISCAL NOTE(S):

Dept/Date:

fiscal note(s) \_\_\_\_\_  
\_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_  
\_\_\_\_\_

appropriation-no fiscal note

SIGNING DE PASS:

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

APPROVES PREVIOUS:

Dept/Date:

fiscal note(s) \_\_\_\_\_  
\_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_  
\_\_\_\_\_

OTHER RECOMMENDATIONS:

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

1. \_\_\_\_\_

2. \_\_\_\_\_

Co-Chairs: Signatures and Recommendations

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

DATE: 1/21/91

FURTHER: Finance

Date of 5-Day Notice: 2/7/91  
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 2/28/91

Transportation Committee considered SENATE BILL NO. 71

Special appropriation to the Dept. of Trans/Public Facilities for highway construction; efd.

and recommended: *to be replaced*

- replace with \_\_\_\_\_ CS SB 71 (Trans.)  same title
- attached amendment(s)  new title
- \_\_\_\_\_ and report it back as follows
- \_\_\_\_\_ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

*NO FEN - APPROP.*

ATTACHES NEW FISCAL NOTE(S):

Department(s)/Date:

Department(s)/Date:

fiscal note(s) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

appropriation-no fiscal note

Governor's bill w/fiscal note

SIGNING DO PASS:

*1* *Ditt Shultz*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

OTHER RECOMMENDATIONS:

*29* *Time Release. no rec*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*1* *Chair: Signature and Recommendation* *DO PASS*  
*Minard*

CS FOR SENATE BILL NO. 71 (TRANSPORTATION)  
 IN THE LEGISLATURE OF THE STATE OF ALASKA  
 SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE TRANSPORTATION COMMITTEE

Offered: 3/1/91  
 Referred: Finance  
 Funding Information: General Fund \$15,623,500  
                           Other Funds        -0-  
   \$15,623,500

Sponsor(s): SENATORS KERTTULA, Menard

A BILL

FOR AN ACT ENTITLED

1 "An Act making a special appropriation to the Department of Transportation and Public  
 2 Facilities for road and highway construction; and providing for an effective date."

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

4 \* Section 1. The sum of \$12,335,000 is appropriated from the general fund to the Department of  
 5 Transportation and Public Facilities in the amounts and for the projects listed below:

6 PROJECT	AMOUNT
7 Clark-Wolverine road reconstruction	\$1,600,000
8 Pittman road upgrade	1,500,000
9 Hollywood and Vine upgrade	1,400,000
10 Petersville Road overlay	1,200,000
11 Church Road upgrade	1,200,000
12 Hatcher Pass upgrade	900,000
13 Nabesna Road upgrade	570,000
14 Tanacross Road upgrade	80,000

1	Northway Road upgrade	700,000
2	Eagle City road upgrade	350,000
3	Nissler Road upgrade	700,000
4	Bradway Road reconstruction	635,000
5	South Big Lake road realignment	1,500,000

6 \* Sec. 2. The sum of \$1,100,000 is appropriated from the general fund to the Department of  
7 Transportation and Public Facilities for repaving the North Tongass Highway from Ward Cove to  
8 Whipple Creek.

9 \* Sec. 3. The sum of \$688,500 is appropriated from the general fund to the Department of  
10 Transportation and Public Facilities for installing double shot bituminous surface treatment on the  
11 following roads:

12	PURPOSE	APPROPRIATION
13	Pond Reef and Circle	\$ 93, 500
14	Shoreline Drive	85,000
15	Roosevelt Drive and Spur	127,500
16	South Point Higgins	212,500
17	Knudsen Cove	85,000
18	Sunset Drive	85,000

19 \* Sec. 4. The sum of \$1,500,000 is appropriated from the general fund to the Department of  
20 Transportation and Public Facilities for reconstruction of Wrangell Avenue.

21 \* Sec. 5. The appropriations made by this Act are for capital projects and lapse under AS 37.25.020.

22 \* Sec. 6. This Act takes effect July 1, 1991.

## SENATE BILL NO. 71

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY SENATOR KERTTULA

Introduced: 1/21/91

Referred: Transportation and Finance

Funding Information:	General Fund	\$7,800,000
	Other Funds	-0-
		<u>\$7,800,000</u>

## A BILL

## FOR AN ACT ENTITLED

1 "An Act making a special appropriation to the Department of Transportation and Public  
2 Facilities for highway construction; and providing for an effective date."

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

4 \* Section 1. The sum of \$7,800,000 is appropriated from the general fund to the Department of  
5 Transportation and Public Facilities in the amounts and for the projects listed below:

6	PROJECT	AMOUNT
7	Clark-Wolverine road reconstruction	\$1,600,000
8	Pittman road upgrade	1,500,000
9	Hollywood and Vine upgrade	1,400,000
10	Petersville Road overlay	1,200,000
11	Church Road upgrade	1,200,000
12	Hatcher Pass upgrade	900,000

13 \* Sec. 2. The appropriations made by this Act are for capital projects and lapse under AS 37.25.020.

14 \* Sec. 3. This Act takes effect July 1, 1991.

ALASKA STATE LEGISLATURE  
SENATE BILL NO. 71

HISTORY IN THE SENATE

1971  
1/21  
3/1

Read first time and referred to:  
Revenue  
Finance

TRA RPT(  ) CS 2 DP 1 NR \_\_\_ DNP \_\_\_ AM \_\_\_  
New Title \_\_\_ Same Title \_\_\_ Previous FN \_\_\_  
FN \_\_\_ OFN \_\_\_ To Finance

\_\_\_ RPT( \_\_\_ ) CS \_\_\_ DP \_\_\_ NR \_\_\_ DNP \_\_\_ AM \_\_\_  
New Title \_\_\_ Same Title \_\_\_ Previous FN \_\_\_  
FN \_\_\_ OFN \_\_\_ To \_\_\_

\_\_\_ RPT( \_\_\_ ) CS \_\_\_ DP \_\_\_ NR \_\_\_ DNP \_\_\_ AM \_\_\_  
New Title \_\_\_ Same Title \_\_\_ Previous FN \_\_\_  
FN \_\_\_ OFN \_\_\_ To \_\_\_

\_\_\_ Rules Calendar( \_\_\_ ) CS \_\_\_ AM \_\_\_ Other \_\_\_  
New Title \_\_\_ Same Title \_\_\_ Previous FN \_\_\_  
FN \_\_\_ OFN \_\_\_

Read second time

\_\_\_ CS Adopted ( \_\_\_ ) \_\_\_ New Title \_\_\_  
\_\_\_ Amended \_\_\_ Advanced \_\_\_

Read third time

\_\_\_ Letter of Intent adopted  
\_\_\_ Return to second for specific amendment

PASSED EFD Same \_\_\_ or  
Yeas Yeas  
Nays Nays  
Excused Excused  
Absent Absent

Reconsideration  
Reconsideration not taken up

PASSED EFD Same \_\_\_ or  
Yeas Yeas  
Nays Nays  
Excused Excused  
Absent Absent

Reported correctly engrossed  
Signed by President, to House

\_\_\_\_\_  
Secretary of the Senate

HISTORY IN THE HOUSE

19

Read first time and referred to:  
\_\_\_\_\_  
\_\_\_\_\_

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

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

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

Read second time  
CS( \_\_\_ ) Adopted

Amended

Advanced

Read third time

Return to second for specific amendment

PASSED EFD Same \_\_\_ or  
Yeas Yeas  
Nays Nays  
Excused Excused  
Absent Absent

\_\_\_ Intent adopted

Reconsideration  
Reconsideration not taken up

PASSED ON RECON. EFD Same \_\_\_ or  
Yeas Yeas  
Nays Nays  
Excused Excused  
Absent Absent

\_\_\_ Intent adopted

Reported correctly engrossed, signed by the Speaker  
and returned to the Senate

\_\_\_\_\_  
Chief Clerk of the House

SENATE-HOUSE HISTORY Continued

19

Received from the House

Version: \_\_\_\_\_

Concur in House amendment

Y \_\_\_ N \_\_\_ E \_\_\_ A \_\_\_  
Efd same or Y \_\_\_ N \_\_\_ E \_\_\_ A \_\_\_

Failed to concur in House amendment, ask House recede

Y \_\_\_ N \_\_\_ E \_\_\_ A \_\_\_

House failed to / receded from amendment

Y \_\_\_ N \_\_\_ E \_\_\_ A \_\_\_

CC appointed by Senate \_\_\_\_\_ Chair

CC appointed by House \_\_\_\_\_ Chair

(S) Granted Limited Powers of Free Conference

(H) Granted Limited Powers of Free Conference

19

(S) Adopted CC Rpt \_\_\_\_\_

Y \_\_\_ N \_\_\_ E \_\_\_ A \_\_\_  
Efd same or Y \_\_\_ N \_\_\_ E \_\_\_ A \_\_\_

(H) Adopted CC Rpt \_\_\_\_\_

Y \_\_\_ N \_\_\_ E \_\_\_ A \_\_\_  
Efd same or Y \_\_\_ N \_\_\_ E \_\_\_ A \_\_\_

To enrolling

Received from enrolling

Sent to Governor

\_\_\_\_\_ By Governor

Chapter Number \_\_\_\_\_

Filed with Lieutenant Governor

**SB**

**74**

# HOUSE COMMITTEE REPORT

(11)

Date Referred: May 7, 1992

FURTHER REFERRALS:

Date of Committee Action: 5/10/92

The FINANCE Committee considered:

CSSB 74(HES) am

CS FOR SENATE BILL NO. 74 (HES) am

HEALTH INS. POOL: UNINSURABLES

"An Act relating to pooled health insurance for individuals who are uninsured or denied adequate coverage; and providing for an effective date."

**RECOMMENDATIONS:**

be replaced with HCS CS SB 74 (FIN)  the same title  
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact \_\_\_\_\_

fiscal note(s) DEC 5/7/92 DDA 5/7/92

zero fiscal note \_\_\_\_\_

zero fiscal note(s) DHSS 5/7/92

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<u>Eileen M Maclean</u>	<input checked="" type="checkbox"/>	<u>Best Sharp</u>	<input checked="" type="checkbox"/>		
<u>Lydia Spavane NAUARE</u>	<input checked="" type="checkbox"/>	<u>PHILLIPS</u>		<input checked="" type="checkbox"/>	
<u>Monica Boyer BOYER</u>	<input checked="" type="checkbox"/>	<u>F. Wilson</u>		<input checked="" type="checkbox"/>	
<u>Fay Brown BROWN</u>	<input checked="" type="checkbox"/>				
<u>Stephanie KOPINEN</u>	<input checked="" type="checkbox"/>				
<u>Gerald J. Wanson</u>	<input checked="" type="checkbox"/>				

Lydia Spavane      E Maclean  
 CHAIRMAN'S SIGNATURE  
 NAUARE                      MACLEAN

FISCAL NOTE

BILL NO. CSSB74(HES)am

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

Revision Date: May 5, 1992  
Title: An Act relating to pooled health insurance for individuals who are uninsured;  
Sponsor: Kerttula  
Requestor: Senate Finance

Department Affected: All State  
BRU: All State  
Component: All State  
COMPONENT SERIAL NO. \_\_\_\_\_

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	22.7	593.8	593.8	593.8	593.8
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	22.7	593.8	593.8	593.8	593.8

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING: (Thousands of dollars)

GENERAL FUND	0	22.7	593.8	593.8	593.8	593.8
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE	0	0	0	0	0	0
TOTAL	0	22.7	593.8	593.8	593.8	593.8

POSITIONS

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

Estimate of current year impact: none

ANALYSIS: (attach a separate page if necessary.) Passage of this bill will also increase personal services cost to political subdivisions and school districts by approximately \$498.8 in FY 95 and each year thereafter. See attached analysis for details.

Prepared By: Gary Bader *Gary M. Bader*  
Division: Retirement and Benefits

Phone: 465-4470  
Date: May 6, 1992

Approved by Commissioner: Nancy Bear Usher *Nancy Bear Usher*  
Agency: Department of Administration

Date: 5/6/92

FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

BILL NO. CSSB 74 (HES) at

Revision Date: 5/2/92  
Title: Relating to pooled health insurance  
who are uninsured or denied adequate coverage  
Sponsor: Senator Kerttula  
Requestor: Senator Kerttula

Department Affected: Commerce & Econ. Dev.  
BRU: Insurance  
Component: Operations

COMPONENT SERIAL NO. 

0	3	5	4
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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL	1.9	.6	.6	.7	.7	.8
CONTRACTUAL	7.5					
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	9.4	.6	.6	.7	.7	.8

CAPITAL	0	0	0	0	0	0
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REVENUE FUND RESOURCE:	0	0	0	0	0	0
------------------------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	9.4	.6	.6	.7	.7	.8
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	9.4	.6	.6	.7	.7	.8


POSITIONS:

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

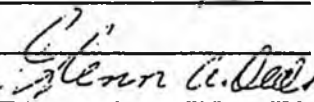
Estimate of current year Impact: \_\_\_\_\_

ANALYSIS (Attach a separate page if necessary.)

SEE ATTACHED

Prepared By: Don Koch, Chief of Market Surveillance  Phone: 465-2577

Division: Insurance Date: 5/5/92

Approved by Commissioner: Glenn A. Olds 

Agency: Department of Commerce & Economic Development Date: 5-5-92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., and Impacted Agency(ies).

Page 1 of 2

DK/dg19052D-3/050592a

(Rev. 12/91)

FISCAL NOTE - CSSB 74 (HES) am

ANALYSIS:

This legislation creates a health insurance pool for individuals who are uninsured or denied adequate coverage. It creates an association in which all insurers writing health insurance must participate as a condition to doing business. This fiscal note assumes that the full faith and credit will not be exposed by the association. It also assumes that the formation of the association will require the director's presence for three meetings. It also assumes that contractual assistance will be needed for the writing of any necessary regulations and review of plan of operation. Subsequent activity by the division should be contained by one meeting annually after formation.

9052D-4/050592d

**FISCAL NOTE**

**STATE OF ALASKA  
1992 LEGISLATIVE SESSION**

BILL NO. CSSB No.74 (HES) am

Revision Date: May 4, 1992 Department Affected: Health & Social Services

Title: An act relating to pooled health BRU: Medicaid

Insurance for Individuals..... Component: Medicaid Non-Facility

Sponsor: Kertulla

Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 

2	2	9	
---	---	---	--

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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**FUNDING (Thousands of Dollars)**

GENERAL FUNDS	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE:	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

**POSITIONS:**

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

**Estimate of current year impact:**

ANALYSIS: (Attach a separate page if necessary.)  
By excluding persons who have eligibility for Medicaid from state insurance coverage (Sec. 21.55.140), CSSB 74 would have no fiscal effect on Medicaid costs.

Prepared by: Kimberly B. Busch *Kimberly B. Busch* Phone: 465-3355

Division: Medical Assistance Date: 5-5-92

Approved by Commissioner: Theodore A. Mala, MD, MPH *[Signature]*

Agency: Health and Social Services Date: 5/5/92

Distribution (by Preparer: Leg. Fin., Legislative Sponsor, Requestor, OML/DBR, Gov. Legis. Ofc., & Impacted Agency(ies))

## HOUSE CS FOR CS FOR SENATE BILL NO. 74 (FINANCE)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): SENATORS KERTTULA, Cotten, Menard, Rodey, Eliason, Uehling, Sturgulewski, Craft, Shultz,  
Collins

## A BILL

## FOR AN ACT ENTITLED

1 "An Act relating to pooled health insurance for individuals who are uninsured or denied  
2 adequate coverage; and providing for an effective date."

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

4 \* Section 1. PURPOSE. It is the purpose of this Act to provide access to health insurance to all  
5 residents of the state who are presently denied adequate health insurance or who are considered  
6 uninsurable.

7 \* Sec. 2. AS 21 is amended by adding a new chapter to read:

8 CHAPTER 55. STATE HEALTH INSURANCE.

9 ARTICLE 1. COMPREHENSIVE HEALTH INSURANCE ASSOCIATION.

10 Sec. 21.55.010. CREATION; MEMBERSHIP. There is established a nonprofit  
11 incorporated legal entity to be known as the Comprehensive Health Insurance Association.  
12 Membership consists of all licensed hospital or medical service corporations in the state that offer  
13 subscriber contracts for major medical coverage and all insurers licensed to transact health  
14 insurance in the state that offer policies for major medical coverage on an expense incurred basis.

1 All members shall maintain membership in the association as a condition of doing health  
2 insurance business, or being able to offer subscriber contracts, in the state.

3 Sec. 21.55.020. BOARD OF DIRECTORS; ORGANIZATION. (a) The board of  
4 directors of the association shall be made up of seven individuals. Five board members shall be  
5 selected by participating members, subject to approval by the director of the division of  
6 insurance, and two board members shall be consumers selected by the director of the division  
7 of insurance. The director or the director's designee shall serve as a nonvoting ex officio  
8 member of the board. In determining voting rights at members' meetings, a member is entitled  
9 to vote in person or proxy. The vote shall be a weighted vote based upon the member's  
10 premiums for health insurance for major medical coverage on an expense incurred basis, or the  
11 member's subscriber fees, derived from or on behalf of state residents in the previous calendar  
12 year, as determined by the director. In approving members of the board, the director shall  
13 consider, among other things, whether all types of participating members are fairly represented.  
14 Members of the board may be reimbursed from the association for expenses incurred by them  
15 as members, but may not otherwise be compensated by the association for their services. The  
16 costs of conducting meetings of the association and its board of directors shall be borne by  
17 members of the association.

18 (b) The board shall study and report to the legislature at least once every three years on  
19 the effectiveness of this chapter. The report must include an analysis of the effectiveness of this  
20 chapter in promoting rate stability, product availability, and affordability of coverage. The report  
21 may contain recommendations for legislative or other regulatory action.

22 Sec. 21.55.030. GENERAL POWERS. The association may

- 23 (1) exercise the powers granted to insurers under the laws of the state;  
24 (2) sue or be sued;  
25 (3) enter into contracts with insurers, similar associations in other states, or with  
26 other persons for the performance of administrative functions;  
27 (4) establish administrative and accounting procedures for the operation of the  
28 association; and  
29 (5) receive funds from sources other than members of the association.

30 Sec. 21.55.040. PLAN OF OPERATION. (a) The association shall submit to the  
31 director a plan of operation and amendments necessary or suitable to assure the fair, reasonable,

1 and equitable administration of the association. The plan of operation and amendments become  
2 effective upon approval in writing by the director. If the association fails to submit a suitable  
3 plan of operation by a date that is 180 days after the effective date of this Act, or if at subsequent  
4 time the association fails to submit suitable amendments to the plan, the director may, after notice  
5 and hearing, adopt reasonable regulations necessary or advisable to effectuate the provisions of  
6 this chapter. These regulations shall continue in force until modified by the director or  
7 superseded by a plan submitted by the association and approved by the director.

8 (b) All members of the association shall comply with the plan of operation.

9 (c) The plan of operation shall

10 (1) establish procedures whereby all the powers and duties of the association  
11 under this chapter will be performed;

12 (2) establish procedures for handling assets of the association;

13 (3) establish the amount and method of reimbursing members of the board of  
14 directors under AS 21.55.020;

15 (4) establish regular places and times for meetings of the board of directors;

16 (5) establish procedures for records to be kept of all financial transactions of the  
17 association, its agents, and the board of directors;

18 (6) provide that a member insurer aggrieved by a final action or decision of the  
19 association may appeal to the director within 30 days after the action or decision;

20 (7) establish procedures whereby selections for the board of directors will be  
21 submitted to the director;

22 (8) contain additional provisions necessary or proper for the execution of the  
23 powers and duties of the association.

24 Sec. 21.55.050. ADMINISTRATIVE PROCEDURE ACT. The association is exempt  
25 from the Administrative Procedure Act (AS 44.62).

26 Sec. 21.55.060. TAX EXEMPTION. The association is exempt from the payment of fees  
27 and taxes levied by the state or any of its political subdivisions except taxes levied on real or  
28 personal property.

## 29 ARTICLE 2. STATE HEALTH INSURANCE PLANS.

30 Sec. 21.55.100. TYPES OF INSURANCE PLANS. (a) The association shall make  
31 available to residents who are high risks an individual state plan of health insurance. The

1 association shall offer three alternatives related to deductibles as described in AS 21.55.120 and  
2 may offer additional deductible alternatives.

3 (b) The association shall make available to residents who are high risks, eligible for and  
4 covered by Medicare, 65 years of age or older, and eligible under this chapter at least one  
5 Medicare supplement plan that meets the minimum policy standards and minimum benefit  
6 standards established by regulations adopted by the director under AS 21.89.060.

7 (c) The association may not refuse to offer coverage under a state plan to residents who  
8 are high risks and who are eligible under this chapter. The association may not refuse coverage  
9 under a state plan to residents who are high risks, are eligible under this chapter, apply for  
10 coverage, and pay the required premium.

11 Sec. 21.55.110. MINIMUM BENEFITS OF STATE HEALTH INSURANCE PLAN.

12 Except as provided in AS 21.55.120 - 21.55.140, the minimum standard benefits of a health  
13 insurance plan offered under AS 21.55.100(a) shall be benefits with a lifetime maximum of  
14 \$1,000,000 per individual for usual, customary, reasonable, or prevailing charges or, when  
15 applicable, the allowance agreed upon between a provider and the writing carrier for charges, for  
16 the following medical services performed for an individual covered by the plan for the diagnosis  
17 or treatment of nonoccupational disease or nonoccupational injury:

18 (1) hospital services;

19 (2) subject to the limitations of AS 21.36.090(d), professional services that are  
20 rendered by a physician or by a registered nurse at the physician's direction, other than services  
21 for mental or dental conditions;

22 (3) the diagnosis or treatment of mental conditions, as defined in regulations of  
23 the director, rendered during the year on other than an inpatient basis, up to a yearly maximum  
24 benefit of \$4,000;

25 (4) legend drugs requiring a physician's prescription;

26 (5) services of a skilled nursing facility for not more than 120 days in a policy  
27 year;

28 (6) home health agency services up to a maximum of 270 visits in a calendar year  
29 if the services commence within seven days following confinement in a hospital or skilled  
30 nursing facility of at least three consecutive days for the same condition, except that in the case  
31 of an individual diagnosed by a physician as terminally ill with a prognosis of six months or less

1 to live, the home health agency services may commence irrespective of whether the covered  
2 person was previously confined or, if the covered person was confined, irrespective of the seven-  
3 day period, and the yearly benefit for medical social services may not exceed \$200;

4 (7) hospice services for up to six months in a calendar year;

5 (8) use of radium or other radioactive materials;

6 (9) outpatient chemotherapy;

7 (10) oxygen;

8 (11) anesthetics;

9 (12) nondental prosthesis and maxillo-facial prosthesis used to replace any  
10 anatomic structure lost during treatment for head and neck tumors or additional appliances  
11 essential for the support of the prosthesis;

12 (13) rental, or purchase if purchase is more cost effective than rental, of durable  
13 medical equipment that has no personal use in the absence of the condition for which it was  
14 prescribed;

15 (14) diagnostic x-rays and laboratory tests;

16 (15) oral surgery for excision of partially or completely unerupted impacted teeth  
17 or excision of a tooth root without the extraction of the entire tooth;

18 (16) services of a licensed physical therapist rendered under the direction of a  
19 physician;

20 (17) transportation by a local ambulance operated by licensed or certified  
21 personnel to the nearest health care institution for treatment of the illness or injury and round trip  
22 transportation by air to the nearest health care institution for treatment of the illness or injury if  
23 the treatment is not available locally; if the patient is a child under 12 years of age, the  
24 transportation charges of a parent or legal guardian accompanying the child may be paid if the  
25 attending physician certifies the need for the accompaniment;

26 (18) confinement in a licensed or certified facility established primarily for the  
27 treatment of alcohol or drug abuse or in a part of a hospital used primarily for this treatment, for  
28 a period of at least 45 days within any calendar year;

29 (19) alternatives to inpatient services as defined by the association in the state  
30 plan benefits;

31 (20) second surgical opinions;

1 (21) other services that are medically necessary in the treatment or diagnosis of  
2 an illness or injury as may be designated or approved by the director.

3 Sec. 21.55.120. DEDUCTIBLES AND COPAYMENTS. (a) A state plan other than a  
4 Medicare supplement plan may require deductibles of \$200 a person, \$500 a person, or \$1,000  
5 a person. The amount of the deductible may not be greater when a service is rendered on an  
6 outpatient basis than when that service is offered on an inpatient basis. Expenses incurred during  
7 the last three months of a calendar year and actually applied to an individual's deductible for that  
8 year shall also be applied to that individual's deductible in the following calendar year. The  
9 \$200 maximum, the \$500 maximum, and the \$1,000 maximum may be adjusted yearly to corre-  
10 spond with the change in the medical care component of the Consumer Price Index, as adjusted  
11 by the director. The base year for the computation shall be the first full calendar year of  
12 operation of the association.

13 (b) A state plan other than a Medicare supplement plan shall require a maximum  
14 copayment of 20 percent for charges for all types of health care in excess of the deductible and  
15 50 percent for services described in AS 21.55.110(3) in excess of the deductible.

16 (c) The sum of the deductible and copayments required in any calendar year under a plan  
17 may not exceed a maximum limit of \$2,000 per covered individual. Covered expenses incurred  
18 after the applicable maximum limit has been reached shall be paid at the rate of 100 percent of  
19 usual, customary, reasonable, or prevailing charges, except that expenses incurred for treatment  
20 of mental and nervous conditions shall be paid at the rate of 50 percent. The \$2,000 maximum  
21 shall be adjusted yearly to correspond with the change in the medical care component of the  
22 Consumer Price Index as adjusted by the director.

23 (d) In this section, "Consumer Price Index" means the Consumer Price Index for all  
24 urban consumers for the Anchorage Metropolitan Area compiled by the Bureau of Labor  
25 Statistics, United States Department of Labor.

26 Sec. 21.55.130. PREEXISTING CONDITIONS. (a) A preexisting condition exclusion  
27 in a state plan may not exclude coverage of a preexisting condition unless

28 (1) the condition first manifested itself within the period of three months  
29 immediately before the effective date of coverage in a manner that would cause a reasonably  
30 prudent person to seek diagnosis, care, or treatment; or

31 (2) medical advice or treatment was recommended or received within the period

1 of three months immediately before the effective date of coverage.

2 (b) A policy may not exclude coverage for a loss due to preexisting conditions for a  
3 period greater than six months following the effective date of coverage.

4 (c) A state plan issued to a person whose previous subscriber contract, health policy, or  
5 Medicare supplement policy was involuntarily terminated shall credit the time covered under the  
6 previous contract or policy toward an exclusion for preexisting conditions under the state plan  
7 if the previous contract or policy had a similar preexisting condition exclusion and the person  
8 applies for a state plan within 31 days after termination of the previous contract or policy. If a  
9 person covered by this subsection is accepted by the writing carrier and pays a specified premium  
10 for retroactive coverage, the state plan is effective retroactively to the date that the person's  
11 previous contract or policy terminated.

12 Sec. 21.55.140. PERSONS, CARE, AND SERVICES NOT COVERED. (a) A state plan  
13 may not provide benefits for charges for the following:

14 (1) care for an injury or disease either

15 (A) arising out of and in the course of an employment subject to a  
16 workers' compensation or similar law or where the benefit is available to be provided  
17 under a workers' compensation policy or equivalent self-insurance to a sole proprietor,  
18 business partner, or corporation officer; or

19 (B) to the extent benefits are payable without regard to fault under a  
20 coverage statutorily required to be contained in a motor vehicle or other liability insurance  
21 policy or equivalent self-insurance;

22 (2) treatment for cosmetic purposes other than surgery for the prompt repair of  
23 an accidental injury sustained while covered or for replacement of an anatomic structure removed  
24 during treatment of tumors;

25 (3) travel, other than transportation covered under AS 21.55.110(17);

26 (4) private room accommodations to the extent it is in excess of the institution's  
27 most common charge for a semiprivate room;

28 (5) services or articles to the extent that the charge exceeds the reasonable charge  
29 in the locality for the service;

30 (6) services or articles that are determined not to be medically necessary, except  
31 for the fabrication or placement of the prosthesis as specified in AS 21.55.110(12) and (2) of this