

Leg. Finance-House & Senate Finance Comte Files (1991-1992) 871

1 income requirements, do not receive supplemental security income under Title XVI of the Social
2 Security Act, but who are eligible, or would be eligible if they were not in a skilled nursing
3 facility or intermediate care facility, to receive an optional state supplementary payment;

4 (21) individuals in a hospital, skilled nursing facility, or intermediate care facility
5 whose income while in the facility does not exceed 300 percent of the supplemental security
6 income benefit rate under Title XVI of the Social Security Act, but who, because of income, are
7 not eligible for the optional state supplementary payment;

8 (22) individuals under age 21 under supervision of the department, for whom
9 maintenance is being paid in whole or in part from public money and who are in foster homes
10 or private child-care institutions.

11 * Sec. 3. AS 47.07.900 is amended by adding a new paragraph to read:

12 (11) "advanced nurse practitioner services" means services furnished by a person
13 who is certified as an advanced nurse practitioner under AS 08.68.410 that are within the scope
14 of the person's certified authority, whether or not the person is under the supervision of, or
15 associated with, a physician or other health care provider.

5-18-91
JD moved
~~Adopted~~
JK Amend
JK Remove
Objector
Adopted

AMENDMENT

By: Adams

To: SB 11 page 2, line 9:

Insert: (1) Advanced nurse practitioner services: and renumber priorities accordingly.

Page 2, line 25:

Delete [(17) ADVANCED NURSE PRACTITIONER SERVICES;] and renumber remaining priorities accordingly.

Senate Bill 211

"An Act providing for coverage of advanced nurse practitioner services under the Medicaid program; and reordering the priorities granted to optional services offered under the Medicaid program."

This bill would amend AS 47.07.030 to allow Advanced Nurse Practitioners ("ANPs") to enroll as Medicaid providers, provide Medicaid-eligible recipients with those services which Medicaid covers and which are within the scope of their licensure, and directly receive Medicaid reimbursement. This bill also amends AS 47.07.035 to place this new provider group 17th in the list of optional services to be deleted in the event of a funding shortfall.

Currently, many Advanced Nurse Practitioners do receive Medicaid reimbursement, but only indirectly. For any ANP who is employed by a hospital, nursing home, physician's clinic, mental health or rural health clinic, or a physician, the enrolled provider for whom they work receives Medicaid reimbursement for their services.

However, ANPs except nurse midwives who practice independently cannot currently enroll as Medicaid providers.

This situation will change in the Fall of 1991, when Alaska will implement a provision of the Omnibus Reconciliation Act of 1989 which requires all states to grant Medicaid provider status to independently-practicing ANPs who specialize in family or pediatric medicine.

Industry sources indicate that, of 141 ANPs licensed to practice in Alaska, just 37 are either in full or part-time independent practice and are likely to choose to enroll. Of these 37, 24 are family specialists and one is a pediatric specialist. Whether or not SB 211 were to pass, these 25 will shortly be allowed to enroll in Medicaid if they choose to do so. (The department expects virtually all will enroll.)

We therefore believe that SB 211 would initially affect only the following ANPs:

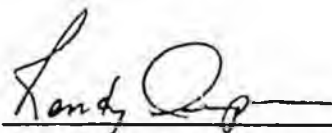
- (a) 4 Mental Health specialists (all part-time practitioners)
- (b) 5 Women's Health Care specialists (all full-time)
- (c) 1 School Nurse Practitioner specialist (part-time)
- (d) 2 Geriatric specialists (one full-time, one part-time)

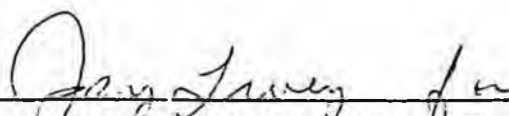
Often, the opportunity to directly receive reimbursement from a major third-party payor can affect patterns of practice. The potential to directly receive Medicaid reimbursement might, over time, induce more ANPs to enter independent practice. This is a pattern that has occurred with other provider groups elsewhere. From conversations with many ANPs over the last two years, we have concluded that this is unlikely to occur in Alaska. The financial disadvantages, the loss of personal freedom, and the very strong traditional practice patterns of ANPs, argue against any significant growth in independent practice as a direct effect of Medicaid reimbursement.

However, those ANPs who currently practice independently do seem to serve a higher percentage of low-income patients than is true of many other provider types. We suspect that ANPs who do enroll in Medicaid will serve a higher percentage of Medicaid recipients than do most physicians, for example.

For many years, the department has had ANPs as employees (both in administrative roles and in direct public health services positions), and has had extensive dealings with ANPs as part of the Medicaid program and as eligibles in health care. In our judgement ANPs have extremely rigorous licensure requirements, a strong tradition of service, and unquestionably high professional standards.

We would respectfully suggest that SB 211 be amended to adjust the 17th-position placement of ANPs within the "prioritization list" of AS 47.07.035. In terms of the numbers of providers, affected recipients, dollars, and relative degree of patient need, we feel that placement of this optional service first in services listed is more appropriate. (Please note that those services listed first are intended to be deleted first in a funding shortfall.)


For: _____
Kimberly B. Busch, Acting Director
Division of Medical Assistance



Theodore A. Mala, MD, MPH
Commissioner
Dept. of Health & Social Services



Official Business

Alaska State Legislature

Senate

SENATOR VIRGINIA COLLINS

Pouch V
State Capitol
Juneau, Alaska 99811

SPONSOR STATEMENT

Senate Bill 211

Senate Bill 211, "An Act providing for coverage of advanced nurse practitioner services under the Medicaid program; and reordering the priorities granted to optional services offered under the Medicaid program"

Currently Alaska allows only nurse midwives who practice independently to enroll as Medicaid providers. In the fall of 1991, family or pediatric advanced nurse practitioners who practice independently will be able to enroll.

Independently practicing advanced nurse practitioners who have a different designation of title, such as geriatric nurse practitioner or women's health care nurse practitioner, are not able to enroll as Medicaid providers under current State law.

This bill would allow all advanced nurse practitioners in independent practice to enroll. Regardless of speciality title, these nurse practitioners currently may perform the identical service for a patient. Yet only those who are in the nurse midwife, family, or pediatric practitioner category are, or in the fall would be, allowed to enroll as a Medicaid provider.

A memorandum from the Division of Legal Services questions the constitutionality of this under our state equal protection clause. (Memorandum attached)

Should funding become inadequate, there is a statutory mechanism for dealing with shortfalls. That mechanism appears in this bill and advanced nurse practitioners are added to the list.

In Alaska, where nursing shortages are ever-present, this bill would encourage nursing professionals rather than discriminate against certain speciality groups within the general category. At least 13 states currently permit direct payment for nurse practitioner services, including Oregon. This bill is supported by the Organization of Alaskan Nurse Practitioners.

3E 21

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

P.O. Box Y, Juneau, Alaska 99811
(907) 465-3867 or 465-2450
FAX (907) 465-2029

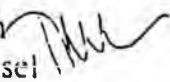
Delivered to: 240 Main Street
Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM

February 19, 1991

SUBJECT: Constitutional Issues - Advanced Nurse Practitioners (7LS-0778)

TO: Senator Virginia Collins

FROM: Terri Lauterbach 
Legislative Counsel

You have asked whether it would be constitutional for the Alaska Medicaid program to cover directly only the services of pediatric and family nurse practitioners without covering directly the services of other advanced nurse practitioners.^{1/} You are concerned that there may be a violation of the equal protection clause of the state constitution.

In our opinion, offering direct reimbursement under Medicaid to only certain types of ANP's probably results in the kind of arbitrary classification prohibited under the state's equal protection clause. Since direct reimbursement of some types of ANP's is optional under federal law, however, the state Medicaid statutes would need to be amended to correct this constitutional deficiency.

The state's equal protection clause is found in art. 1, sec. 1, Constitution of the State of Alaska, which provides that "...all persons are equal and entitled to equal rights, opportunities, and protection under the law..."

The Alaska Supreme Court has interpreted this clause to offer broader protection than the corresponding federal clause.^{2/} In so doing, our court has said that in order for a classification to be valid, it must be reasonable, not arbitrary, and must bear a fair and substantial relation to a legitimate governmental objective, and, depending on the importance of the individual's interest involved, a greater or lesser

^{1/} You have told me that some of the other types of advanced nurse practitioners are women's health, adult, neo-natal, school nurse, geriatric, and psychiatric.

^{2/} This is why the classifications may be valid under the federal constitution but not valid under the state constitution. However, I am not aware of any case **upholding** different treatment of these ANP classifications on the federal level either; they may turn out to also violate the federal constitution.

burden will be placed on the state to show this fair and substantial relationship.^{3/} Our courts have also said that the guarantee of equality of treatment prohibits a classification that denies to one group of persons the enjoyment of certain rights that are afforded to another group when, considering the purpose of the state program, there is no reasonable basis for not treating both groups the same.^{4/}

In the situation you have described to me, the services of two types of ANP's will be covered directly under the Medicaid program, as required under federal law, but the services of all other ANP's will not be covered directly, even though federal law would allow them to be and even though they may provide exactly the same type of service.^{5/}

Since services of all ANP's are covered when the ANP is associated with a physician or a hospital and federal law would only allow coverage of services performed within the scope of an ANP's certification, there does not appear to me to be any basis for saying that the services of other ANP's would be of an unacceptable quality.

You have also told me that, regardless of a particular ANP's certification, many of the services performed by one ANP are the same as those performed by ANP's with other types of certifications.

I also note that the Medicaid program covers all physician services, regardless of the fact that some physicians have specialties and some do not. In other words, the Medicaid program covers a given service performed within the scope of a physician's licensure and does not distinguish among family physicians, general physicians, pediatricians, gynecologists, etc., when they perform services that all are authorized to perform.

Furthermore, it appears that most of the other ANP specialties you told me about would be especially useful to the Medicaid population, which is primarily pregnant women, women with children, and elderly persons. It would seem that special training in women's health, adult, neo-natal, school nurse, and geriatric areas would be as useful to Medicaid recipients as special training in family and pediatric care.

Finally, I note that the state does not allow this type of discrimination among licensed providers to be practiced by insurance companies. See AS 21.36.090, which specifically lists advanced nurse practitioners among those whose services must be

^{3/} See, for instance, Wilson v. Municipality of Anchorage, 669 P.2d 569 (Alaska 1983).

^{4/} See, for instance, Leege v. Martin, 379 P.2d 447 (1963).

^{5/} "Direct" coverage means that the ANP does not have to be associated with a physician or other health care provider, like a hospital.

Senator Virginia Collins
February 19, 1991
Page 3

covered by insurance policies if the services are within the scope of their lawful authority. It would be rather inconsistent for the state to practice a type of discrimination that it prohibits private parties from practicing.

Given these facts, I am unable to conceive a constitutionally sound basis for the state to refuse to cover directly the services of all ANP's after it has started to cover directly the services of some ANP's. This seems to be exactly the kind of arbitrary classification prohibited under our state equal protection clause. It would deny to some ANP's the opportunity to be directly reimbursed for services that other ANP's are directly reimbursed for. It gives to some ANP's the opportunity to participate directly in the Medicaid program while denying that opportunity to other ANP's.

The insidiousness of this classification must be balanced against whatever legitimate governmental objective is served by the classification.

It is stated in AS 47.07.010 that the purpose of the Medicaid program is to provide "uniform and high quality medical care" to needy persons of the state. According to you, there is some evidence that ANP's provide the **only** medical care available in some rural communities and that many persons in these communities are eligible for Medicaid. The goal of providing Medicaid services to these people would not be served by a policy of covering only some types of ANP's when it may be another type of ANP that is in the community, providing the same basic services. Even when other health care providers are available, increased access to ANP's means increased access to health care delivery.

A second objective of the classification may be to save money by not covering services of some practitioners. While saving money is a legitimate goal, use of an arbitrary classification of providers is not well-tailored to that goal. There is already a statutory mechanism for dealing with shortfalls if the legislature fails to appropriate enough money for the Medicaid program. That mechanism is the priority listing of optional coverages in AS 47.07.035. The legislature has determined which **services** should be cut first when there is not enough money to cover everything. Therefore, there is no need to discriminate against **providers** of those services in order to save money.

In conclusion, there seems to me to be no legitimate basis for directly reimbursing some types of ANP's and not others, as long as they are delivering services that are within the scope of their practice.

However, because of the way the federal law is written, a change in Alaska's Medicaid law is required to achieve an equitable result. Under the federal law, direct reimbursement of some ANP's is **mandatory** and direct reimbursement of other

Senator Virginia Collins
February 19, 1991
Page 4

ANP's is **optional**. Under the Alaska statutory scheme, federally mandated provisions of Medicaid automatically become part of our program under AS 47.07.030(a). In order to add something that is optional under federal law, the state must amend AS 47.07.030(b).

Please let me know if you have questions about this memo or if I can be of other assistance.

TML:lmb/mai
91-054.lmb

Enclosure

FEB 25 1991

POSITION STATEMENT ON
THIRD PARTY REIMBURSEMENT FOR NURSE PRACTITIONERS
Prepared by P.E.E.R., the Organization
of Alaskan Nurse Practitioners
August, 1987

P.E.E.R.'s Position

P.E.E.R. strongly supports the policy of issuing direct third party payment as reimbursement for professional services rendered by all licensed Nurse Practitioners (NPs) in Alaska. The services offered by NPs are legally recognized by the State of Alaska in specific Nurse Practice Acts, and are equivalent, and in some cases, more holistic in approach, than services provided by physicians in primary care. Reimbursement for NP services would benefit the public by:

1. enabling NPs to establish independent practices and clinics by providing a mechanism to finance their businesses. Currently, most NPs are employed by physicians or other entities, in part because they CANNOT receive direct third party payment.
2. offering more freedom of choice to the public in their selection of competent health care providers.
3. potential reduction in health care costs through competition for provision of services.
4. potential expansion of health care services of NPs in the private sector in under-served areas.

The Significant Contribution of Nurse Practitioners in Alaska

Licensed NPs in Alaska are in sufficient numbers to deserve recognition as an important group of health care providers: as of July, 1987, 129 NPs were licensed and claimed residence in the state. Another 40 NPs are estimated to work in federal governmental agencies (such as Elmendorf Hospital or the Indian Health Service); they are not required to apply for state licences in order to practice. This section describes only the licensed NPs.

Family nurse practitioners outnumber the other eight types of nurse practitioners in Alaska (Table 1). Nurse practitioners impact health care services in Alaska in a variety of work settings (Table 2). Only eleven are in independent practice; of those, six practice in rural settings. Independent practice became an option in December, 1984, with the passing of the new regulations that included placement of NPs under the sole jurisdiction of the Alaska Board of Nursing. Five of the independent practitioners are nurse midwives, who may collect fees from third party payers as stipulated in Alaska Statutes, Sec. 47.07.030--others may not, or do so with difficulty.

The majority of Alaskan NPs hold a Bachelor's or Master's

degree in nursing (86) in addition to their specialized nurse practitioner training, and certification through national certifying bodies (Table 3). In contrast to R.N. degree status for entry into NP training programs in the 1960s, the current national trend is for that training to take place in conjunction with Master's degree preparation, illustrated by the Family Nurse Practitioner program at the University of Alaska's College of Nursing and Health Sciences.

No studies have been conducted in Alaska to assess the quality of care provided by nurse practitioners, nor how their care might differ from that of a physician. Numerous studies in the lower 48, however, have shown that . . . "within their area of competence, nurse practitioners provide care whose quality is equivalent to that of care provided by physicians", and that patients are generally satisfied with their care (US Congress, Office of Technology Assessment, 1986, pages 5-6). The American Academy of Nurse Practitioners provides a summary of the recent studies documenting the quality of services provided by NPs (addendum 1; also cites the OTA study mentioned above).

Alaskan NPs have demonstrated their willingness to work in under-served rural areas in Alaska: 51 of the currently employed 126 state-licensed NPs work in settings other than in Anchorage, Fairbanks, or Juneau. Their jobs entail multiple responsibilities and require high levels of expertise (see addendum 2 for an example of a rural practice).

The National Trends

Congress continues to consider a variety of proposals to mandate third party reimbursement for NPs. So far, federally mandated payments are limited to a few State Medicaid programs, Charms, and some programs in the Federal Employees Health Benefit Program (refer to Appendix B, US Congress, Office of Technology Assessment, 1986). At least 13 states currently permit direct payment for NP services, including Oregon, a state that also supports the independent practice of NPs.

Conclusion and Our Recommendations

We contend that without direct reimbursement to NPs in the State of Alaska, the practice settings of NPs are limited, which in turn, effectively limits competition among providers, patient choices of providers, and ultimately, adversely impacts upon health care costs. We therefore recommend that:

1. third party insurers voluntarily offer to provide direct reimbursement for NP services, and/or that
2. the state legislature amend the statutes to mandate such reimbursement to all licensed NPs, not just to nurse midwives as is now the case.

Thanks is extended to Gail McGuill, Executive Director, Alaska Board of Nursing, for her assistance in obtaining the NP data.

SB211

HOUSE COMMITTEE REPORT

(11)

Date Referred: February 13, 1992

FURTHER REFERRALS:

Date of Committee Action: 5/9/92

The FINANCE Committee considered:

CSSB 211(FIN)

CS FOR SENATE BILL NO. 211 (FINANCE) MEDICAID COVERAGE FOR NURSE PRACTITIONERS

"An Act providing for coverage of advanced nurse practitioner services under the Medicaid program; and reordering the priorities granted to optional services offered under the Medicaid program."

RECOMMENDATIONS:

be replaced with HCS CS SB 211 (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 HFC

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) _____

SIGNING <u>DO</u> PASS	DP	/ OTHER RECOMMENDATIONS	DNP	NR	AM
<u>Mike Navarre</u> NAVARRE	<input checked="" type="checkbox"/>	<u>Bob Sharp</u>		<input checked="" type="checkbox"/>	
<u>Mark Boyer</u> BOYER	<input checked="" type="checkbox"/>	<u>Ronnie Barnes</u>		<input checked="" type="checkbox"/>	
<u>Larry Brown</u> BROWN	<input checked="" type="checkbox"/>				
<u>Kovona</u> KOVONA	<input checked="" type="checkbox"/>				
<u>Phillips</u> PHILLIPS	<input checked="" type="checkbox"/>				
<u>J. Ulmer</u> ULMER	<input checked="" type="checkbox"/>				

Mike Navarre NAVARRE
 CHAIRMAN'S SIGNATURE

FISCAL NOTE

**STATE OF ALASKA
1992 LEGISLATIVE SESSION**

BILL NO. HCSCSSB 211 (FI

Revision Date: May 9, 1991

Department Affected: Health & Social Svc

Title: "An Act providing for coverage of Advanced Nurse Practitioners"

BRU: Medicaid

of House Finance Committee

Component: Non-Facility

Sponsor: House Finance Committee

Requestor: _____

COMPONENT SERIAL NO.

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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	40.4	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	40.4	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 FUND	20.2	0	0	0	0	0
FEDERAL FUNDS	20.2	0	0	0	0	0
OTHER FUND SOURCE:	0	0	0	0	0	0
TOTAL	40.4	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.)

Prepared By: Co-Chair Mike Navarre *(Signature)* 465-3706
Co-Chair Eileen MacLean *(Signature)* Phone: 465-4833
 Division: House Finance Committee Date: May 9, 1992

Approved by Commissioner: _____
 Agency: _____ Date: _____

HOUSE CS FOR CS FOR SENATE BILL. NO. 211 (FINANCE)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): SENATORS COLLINS, Pearce, Craft, Rodey

REPRESENTATIVES Ellis, B.Davis

A BILL

FOR AN ACT ENTITLED

1 "An Act providing for coverage of advanced nurse practitioner services under the Medicaid
 2 program; and reordering the priorities granted to optional services offered under the
 3 Medicaid program."

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

5 * Section 1. AS 47.07.030(b) is amended to read:

6 (b) In addition to the mandatory services specified in (a) of this section, the department
 7 may offer only the following optional services: case management and nutrition services for
 8 pregnant women; personal care services in a recipient's home; emergency hospital services;
 9 long-term care noninstitutional services; medical supplies and equipment; advanced nurse
 10 practitioner services; clinic services; inpatient psychiatric facility services for individuals age
 11 65 or older and individuals under age 21; psychologists' services; clinical social workers'
 12 services; prescribed drugs; physical therapy; occupational therapy; chiropractic services; low-dose
 13 mammography screening, as defined in AS 21.42.375(e); treatment of speech, hearing, and
 14 language disorders; adult dental services; prosthetic devices and eyeglasses; optometrists'

1 services; intermediate care facility services, including intermediate care facility services for the
2 mentally retarded; skilled nursing facility services for individuals under age 21; and reasonable
3 transportation to and from the point of medical care.

4 * Sec. 2. AS 47.07.035 is amended to read:

5 Sec. 47.07.035. PRIORITY OF MEDICAL ASSISTANCE. If the department finds that
6 the cost of medical assistance for all persons eligible under this chapter will exceed the amount
7 allocated in the state budget for that assistance for the fiscal year, the department shall eliminate
8 coverage for optional medical services and optionally eligible groups of individuals in the
9 following order:

- 10 (1) clinical social workers' services;
- 11 (2) psychologists' services;
- 12 (3) chiropractic services;
- 13 (4) advanced nurse practitioner services;
- 14 (5) adult dental services;
- 15 (6) [(5)] emergency hospital services;
- 16 (7) [(6)] treatment of speech, hearing, and language disorders;
- 17 (8) [(7)] optometrists' services and eyeglasses;
- 18 (9) [(8)] occupational therapy;
- 19 (10) [(9)] mammography screening;
- 20 (11) [(10)] prosthetic devices;
- 21 (12) [(11)] medical supplies and equipment;
- 22 (13) [(12)] clinic services;
- 23 (14) [(13)] physical therapy;
- 24 (15) [(14)] personal care services in a recipient's home;
- 25 (16) [(15)] prescribed drugs;
- 26 (17) [(16)] long-term care noninstitutional services;
- 27 (18) [(17)] inpatient psychiatric facility services;
- 28 (19) [(18)] intermediate care facility services for the mentally retarded;
- 29 (20) [(19)] intermediate care facility services;
- 30 (21) [(20)] individuals under age 21 who are not eligible for benefits under the
31 federal aid to families with dependent children program because they are not deprived of one or

1 more of their natural or adoptive parents;

2 (22) [(21)] skilled nursing facility services for persons under age 21;

3 (23) [(22)] aged, blind, and disabled individuals who, because they do not meet
4 the income requirements, do not receive supplemental security income under Title XVI of the
5 Social Security Act, but who are eligible, or would be eligible if they were not in a skilled
6 nursing facility or intermediate care facility, to receive an optional state supplementary payment;

7 (24) [(23)] individuals in a hospital, skilled nursing facility, or intermediate care
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9 security income benefit rate under Title XVI of the Social Security Act, but who, because of
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11 (25) [(24)] individuals under age 21 under supervision of the department, for
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15 (13) "advanced nurse practitioner services" means services furnished by a person
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18 associated with, a physician or other health care provider.

7-LS0778G
Lauterbach
2/17/92

amended

HOUSE CS FOR CS FOR SENATE BILL NO. 211 ()

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:

Referred:

Sponsor(s): SENATORS COLLINS, Pearce, Craft, Rodey

REPRESENTATIVES Ellis, B.Davis

A BILL

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 12 (3) [(2)] psychologists' services;
 13 (4) [(3)] chiropractic services;
 14 (5) [(4)] adult dental services;
 15 (6) [(5)] emergency hospital services;
 16 (7) [(6)] treatment of speech, hearing, and language disorders;
 17 (8) [(7)] optometrists' services and eyeglasses;
 18 (9) [(8)] occupational therapy;
 19 (10) [(9)] mammography screening;
 20 (11) [(10)] prosthetic devices;
 21 (12) [(11)] medical supplies and equipment;
 22 (13) [(12)] clinic services;
 23 (14) [(13)] physical therapy;
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8 facility whose income while in the facility does not exceed 300 percent of the supplemental
9 security income benefit rate under Title XVI of the Social Security Act, but who, because of
10 income, are not eligible for the optional state supplementary payment;

11 (25) [(24)] individuals under age 21 under supervision of the department, for
12 whom maintenance is being paid in whole or in part from public money and who are in foster
13 homes or private child-care institutions.

14 * Sec. 3. AS 47.07.900 is amended by adding a new paragraph to read:

15 (13) "advanced nurse practitioner services" means services furnished by a person
16 who is certified as an advanced nurse practitioner under AS 08.68.410 that are within the scope
17 of the person's certified authority, whether or not the person is under the supervision of, or
18 associated with, a physician or other health care provider.

No. 2

FISCAL NOTE

Bill Version: SB 211

(S) Publish Date: 1/16/91

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Revision Date: _____ Department Affected: Health & Social Services
Title: An Act Providing for Coverage of Advanced BRU: Medicaid
Nurse Practitioners Component: Non-Facility
Sponsor: Senator Collins
Requestor: _____

COMPONENT SERIAL NO.	0	2	3	0
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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	17.4	14.1	16.7	19.9	23.5	28.0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	40.4	99.7	123.0	151.8	187.3	231.1
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	57.8	113.8	139.7	171.7	210.8	259.1

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE FUND SOURCE:	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

FUNDING (Thousands of Dollars)

GENERAL FUNDS	27.7	54.0	66.5	81.9	100.6	123.9
FEDERAL FUNDS	30.1	59.8	73.2	89.8	110.2	135.2
OTHER FUND SOURCE:	0	0	0	0	0	0
TOTAL	57.8	113.8	139.7	171.7	210.8	259.1

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.) See attached analysis	Changes in <u>CSSB 211 (Am)</u> reflect NO FISCAL CHANGE from the original fiscal note. This fiscal note is appropriate. <u>1/15/91</u> date <u>[Signature]</u> Comte Aide (initial)
---	---

Prepared By: Kim Busch Phone: 465-3355
 Division: Division of Medical Assistance Date: 1-15-92
 Approved by Commissioner: [Signature]
 Agency: Health and Social Services Date: 1/15/92

Fiscal Note Analysis

SB 211

- (1) We assume: full-time ANP works 40 hrs/week, 48 weeks/year, charges \$90/hour, and is likely to have a patient mix that is approximately 30% Medicaid-eligible. Medicaid pays ANPs 80% of the charges normally billed to the general public. Therefore, a full-time ANP is likely to bill Medicaid for \$41,472 per year (1920 hours x \$90/hr = \$172,800 x 30% x .80 = \$41,472)
- (2) Part-time ANPs work, on average, 30% of full-time ANPs. \$41,472 x 30% = \$12,442 per year
- (3) 6 full-time and 6 part-time ANPs will enroll in Medicaid.

$$\begin{array}{r}
 6 \times \$41,472 = \$248,832 \\
 6 \times 12,442 = \underline{74,652} \\
 \hline
 \$323,484
 \end{array}$$

- (4) Of this theoretical maximum billing, we assume 75% will be for services which Medicaid recipients would have received from an array of other types of enrolled providers. Many of those providers would have billed Medicaid more for their services, so it is reasonable to posit some program savings will occur. However, we have no way to estimate how many recipients will leave each existing provider type (and payment level), so we cannot estimate the savings involved.
- (5) The remaining 25% will be new services, of two types: services which eligible persons now receive from ANPs (and for which ANPs probably receive little or no compensation) and services which eligibles now either defer or do without. From the latter category, the increased access to services patients would experience by adding ANPs as providers may result in services which are more timely or even preventive, thus producing a savings of later, more expensive Medicaid costs. However, again, those savings cannot be quantified.

FY 93

(a) A start date of January 1, 1993 is assumed, since time would be required to modify the Medicaid payment system and recruit, enroll, and train new providers. Benefits costs for FY 93 would therefore be 40.4 (323.5 x .25 x .5)

2073

Benefits are 50% federal (20.2), 50% state funds.

(b) A one-time FY 93 cost is involved in modifying the payment system to accept this provider type. (A major portion of the cost of these changes are already budgeted for adding some ANPs under the OBRA '89 federal mandate.) Only 6 system edits will be required, at a cost of \$1080 per edit = \$6.5. (3.3 fed, 3.2 state)

(c) The systems contractor will travel to on-site-train new providers and provide them with service-specific manuals and materials, at a one time FY 93 cost of 5.0 (2.5 fed, 2.5 state.)

(d) These providers are expected to generate 950 claims in FY 93, (half-year) at a contracted processing cost of \$6.23 per claim. $950 \times \$6.23 = 5.9$. This cost is 70% federal (4.1), 30% state (1.8).

FY 94 and following

(a) FY 93 service costs are doubled for a full year of service, and this adjusted FY 93 cost is increased by 23.4% (4.6% for price increases, 7.0% for increases in the number of eligible recipients, and 11.8% for utilization increases).

(b) Claims processing contractual costs are adjusted for a full FY 93 year (1900 claims), then increased by 18.8% (7.0% for eligibles, 11.8% for utilization increases). The contract price per claim remains at \$6.23.

POSITION PAPER

STATE OF ALASKA ★ DEPARTMENT OF HEALTH & SOCIAL SERVICES

SENATE BILL 211

"An Act providing for coverage of advanced nurse practitioner services under the Medicaid program; and reordering the priorities granted to optional services offered under the Medicaid program."

This bill would amend AS 47.07.030 to allow Advanced Nurse Practitioners (ANPs) to enroll as Medicaid providers, provide Medicaid-eligible recipients with those services which Medicaid covers and which are within the scope of their licensure, and directly receive Medicaid reimbursement. This bill also amends AS 47.07.035 to place this new provider group 17th on the list of optional services to be deleted in the event of a finding shortfall.

Currently, many ANPs do receive Medicaid reimbursement, but only indirectly. For any ANP who is employed by a hospital, nursing home, physician's clinic, mental health or rural health clinic, or a physician, the enrolled provider for whom they work receives Medicaid reimbursement for their services.

However, ANPs, except nurse midwives who practice independently, cannot currently enroll as Medicaid providers.

This situation will change in early 1992, when Alaska will implement a provision of the Omnibus Reconciliation Act of 1989 which requires all states to grant Medicaid provider status to independently-practicing ANPs who specialize in family or pediatric medicine.

Industry sources indicate that, of 141 ANPs licensed to practice in Alaska, just 37 are either in full or part-time independent practice and are likely to choose to enroll. Of these 37, 24 are family specialists and one is a pediatric specialist. Whether or not SB 211 were to pass, these 25 will shortly be allowed to enroll in Medicaid if they choose to do so. (The Department of Health and Social Services expects virtually all will enroll.)

We therefore believe that SB 211 would initially affect only the following ANPs:

- (a) 4 Mental Health specialists (all part-time practitioners;
- (b) 5 Women's Health Care specialists (all full-time);
- (c) 1 School Nurse Practitioner specialist (part-time);
and
- (d) 2 Geriatric specialists (one full-time, one part-time).

DHSS POSITION

DP-92-1

POSITION PAPER


STATE OF ALASKA ★ DEPARTMENT OF HEALTH & SOCIAL SERVICES

Department of Health and Social Services
Position Paper -- SB 211
Page 2

Often, the opportunity to directly receive reimbursement from a major third-party payor can affect patterns of practice. The potential to directly receive Medicaid reimbursement might, over time, induce more ANPs to enter independent practice. This is a pattern that has occurred with other provider groups elsewhere. From conversations with many ANPs over the last two years, we have concluded that this is unlikely to occur in Alaska. The financial disadvantages, the loss of personal freedom, and the very strong traditional practice patterns of ANPs, argue against any significant growth in independent practice as a direct effect of Medicaid reimbursement.


However, those ANPs who currently practice independently do seem to serve a higher percentage of low-income patients than is true of many other provider types. We suspect that ANPs who do enroll in Medicaid will serve a higher percentage of Medicaid recipients than do most physicians, for example.

For many years, the Department of Health and Social Services has had ANPs as employees (both in administrative roles and in direct public health services positions), and has had extensive dealings with ANPs as part of the Medicaid program and as eligibles in health care. In our judgment, ANPs have extremely rigorous licensure requirements, a strong tradition of service, and unquestionably high professional standards.



Kimberly B. Busch, Director
Division of Medical Assistance

DATE: _____



Theodore A. Malá, MD, MPH
Commissioner

DATE: 15 January 1992

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

P.O. Box Y, Juneau, Alaska 99811
(907) 465-3867 or 465-2450
FAX (907) 465-2029

Deliveries to: 240 Main Street
Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM

February 19, 1991

SUBJECT: Constitutional Issues - Advanced Nurse Practitioners (7LS-0778)

TO: Senator Virginia Collins

FROM: Terri Lauterbach
Legislative Counsel *TL*

You have asked whether it would be constitutional for the Alaska Medicaid program to cover directly only the services of pediatric and family nurse practitioners without covering directly the services of other advanced nurse practitioners.^{1/} You are concerned that there may be a violation of the equal protection clause of the state constitution.

In our opinion, offering direct reimbursement under Medicaid to only certain types of ANP's probably results in the kind of arbitrary classification prohibited under the state's equal protection clause. Since direct reimbursement of some types of ANP's is optional under federal law, however, the state Medicaid statutes would need to be amended to correct this constitutional deficiency.

The state's equal protection clause is found in art. I, sec. 1, Constitution of the State of Alaska, which provides that "...all persons are equal and entitled to equal rights, opportunities, and protection under the law...."

The Alaska Supreme Court has interpreted this clause to offer broader protection than the corresponding federal clause.^{2/} In so doing, our court has said that in order for a classification to be valid, it must be reasonable, not arbitrary, and must bear a fair and substantial relation to a legitimate governmental objective, and, depending on the importance of the individual's interest involved, a greater or lesser

^{1/} You have told me that some of the other types of advanced nurse practitioners are women's health, adult, neo-natal, school nurse, geriatric, and psychiatric.

^{2/} This is why the classifications may be valid under the federal constitution but not valid under the state constitution. However, I am not aware of any case upholding different treatment of these ANP classifications on the federal level either; they may turn out to also violate the federal constitution.

Legal Services Opinion

Senator Virginia Collins

February 19, 1991

Page 2

burden will be placed on the state to show this fair and substantial relationship.^{3/} Our courts have also said that the guarantee of equality of treatment prohibits a classification that denies to one group of persons the enjoyment of certain rights that are afforded to another group when, considering the purpose of the state program, there is no reasonable basis for not treating both groups the same.^{4/}

In the situation you have described to me, the services of two types of ANP's will be covered directly under the Medicaid program, as required under federal law, but the services of all other ANP's will not be covered directly, even though federal law would allow them to be and even though they may provide exactly the same type of service.^{5/}

Since services of all ANP's are covered when the ANP is associated with a physician or a hospital and federal law would only allow coverage of services performed within the scope of an ANP's certification, there does not appear to me to be any basis for saying that the services of other ANP's would be of an unacceptable quality.

You have also told me that, regardless of a particular ANP's certification, many of the services performed by one ANP are the same as those performed by ANP's with other types of certifications.

I also note that the Medicaid program covers all physician services, regardless of the fact that some physicians have specialties and some do not. In other words, the Medicaid program covers a given service performed within the scope of a physician's licensure and does not distinguish among family physicians, general physicians, pediatricians, gynecologists, etc., when they perform services that all are authorized to perform.

Furthermore, it appears that most of the other ANP specialties you told me about would be especially useful to the Medicaid population, which is primarily pregnant women, women with children, and elderly persons. It would seem that special training in women's health, adult, neo-natal, school nurse, and geriatric areas would be as useful to Medicaid recipients as special training in family and pediatric care.

Finally, I note that the state does not allow this type of discrimination among licensed providers to be practiced by insurance companies. See AS 21.36.090, which specifically lists advanced nurse practitioners among those whose services must be

^{3/} See, for instance, Wilson v. Municipality of Anchorage, 669 P.2d 569 (Alaska 1983).

^{4/} See, for instance, Leege v. Martin, 379 P.2d 447 (1963).

^{5/} "Direct" coverage means that the ANP does not have to be associated with a physician or other health care provider, like a hospital.

Senator Virginia Collins

February 19, 1991

Page 3

covered by insurance policies if the services are within the scope of their lawful authority. It would be rather inconsistent for the state to practice a type of discrimination that it prohibits private parties from practicing.

Given these facts, I am unable to conceive a constitutionally sound basis for the state to refuse to cover directly the services of all ANP's after it has started to cover directly the services of some ANP's. This seems to be exactly the kind of arbitrary classification prohibited under our state equal protection clause. It would deny to some ANP's the opportunity to be directly reimbursed for services that other ANP's are directly reimbursed for. It gives to some ANP's the opportunity to participate directly in the Medicaid program while denying that opportunity to other ANP's.

The insidiousness of this classification must be balanced against whatever legitimate governmental objective is served by the classification.

It is stated in AS 47.07.010 that the purpose of the Medicaid program is to provide "uniform and high quality medical care" to needy persons of the state. According to you, there is some evidence that ANP's provide the **only** medical care available in some rural communities and that many persons in these communities are eligible for Medicaid. The goal of providing Medicaid services to these people would not be served by a policy of covering only some types of ANP's when it may be another type of ANP that is in the community, providing the same basic services. Even when other health care providers are available, increased access to ANP's means increased access to health care delivery.

A second objective of the classification may be to save money by not covering services of some practitioners. While saving money is a legitimate goal, use of an arbitrary classification of providers is not well-tailored to that goal. There is already a statutory mechanism for dealing with shortfalls if the legislature fails to appropriate enough money for the Medicaid program. That mechanism is the priority listing of optional coverages in AS 47.07.035. The legislature has determined which **services** should be cut first when there is not enough money to cover everything. Therefore, there is no need to discriminate against **providers** of those services in order to save money.

In conclusion, there seems to me to be no legitimate basis for directly reimbursing some types of ANP's and not others, as long as they are delivering services that are within the scope of their practice.

However, because of the way the federal law is written, a change in Alaska's Medicaid law is required to achieve an equitable result. Under the federal law, direct reimbursement of some ANP's is **mandatory** and direct reimbursement of other

Senator Virginia Collins

February 19, 1991

Page 4

ANP's is **optional**. Under the Alaska statutory scheme, federally mandated provisions of Medicaid automatically become part of our program under AS 47.07.030(a). In order to add something that is optional under federal law, the state must amend AS 47.07.030(b).

Please let me know if you have questions about this memo or if I can be of other assistance.

TML:lmb/mai

91-054.lmb

Enclosure

FEB 25 1991

POSITION STATEMENT ON
THIRD PARTY REIMBURSEMENT FOR NURSE PRACTITIONERS
Prepared by P.E.E.R., the Organization
of Alaskan Nurse Practitioners
August, 1987

P.E.E.R.'s Position

P.E.E.R. strongly supports the policy of issuing direct third party payment as reimbursement for professional services rendered by all licensed Nurse Practitioners (NPs) in Alaska. The services offered by NPs are legally recognized by the State of Alaska in specific Nurse Practice Acts, and are equivalent, and in some cases, more holistic in approach, than services provided by physicians in primary care. Reimbursement for NP services would benefit the public by:

1. enabling NPs to establish independent practices and clinics by providing a mechanism to finance their businesses. Currently, most NPs are employed by physicians or other entities, in part because they CANNOT receive direct third party payment.
2. offering more freedom of choice to the public in their selection of competent health care providers.
3. potential reduction in health care costs through competition for provision of services.
4. potential expansion of health care services of NPs in the private sector in under-served areas.

The Significant Contribution of Nurse Practitioners in Alaska

Licensed NPs in Alaska are in sufficient numbers to deserve recognition as an important group of health care providers: as of July, 1987, 129 NPs were licensed and claimed residence in the state. Another 40 NPs are estimated to work in federal governmental agencies (such as Elmendorf Hospital or the Indian Health Service); they are not required to apply for state licences in order to practice. This section describes only the licensed NPs.

Family nurse practitioners outnumber the other eight types of nurse practitioners in Alaska (Table 1). Nurse practitioners impact health care services in Alaska in a variety of work settings (Table 2). Only eleven are in independent practice; of those, six practice in rural settings. Independent practice became an option in December, 1984, with the passing of the new regulations that included placement of NPs under the sole jurisdiction of the Alaska Board of Nursing. Five of the independent practitioners are nurse midwives, who may collect fees from third party payers as stipulated in Alaska Statutes, Sec. 47.07.030--others may not, or do so with difficulty.

The majority of Alaskan NPs hold a Bachelor's or Master's

Nurse Practitioners Position

degree in nursing (86) in addition to their specialized nurse practitioner training, and certification through national certifying bodies (Table 3). In contrast to R.N. degree status for entry into NP training programs in the 1960s, the current national trend is for that training to take place in conjunction with Master's degree preparation, illustrated by the Family Nurse Practitioner program at the University of Alaska's College of Nursing and Health Sciences.

No studies have been conducted in Alaska to assess the quality of care provided by nurse practitioners, nor how their care might differ from that of a physician. Numerous studies in the lower 48, however, have shown that . . . "within their areas of competence, nurse practitioners provide care whose quality is equivalent to that of care provided by physicians", and that patients are generally satisfied with their care (US Congress, Office of Technology Assessment, 1986, pages 5-6). The American Academy of Nurse Practitioners provides a summary of the recent studies documenting the quality of services provided by NPs (addendum 1; also cites the OTA study mentioned above).

Alaskan NPs have demonstrated their willingness to work in under-served rural areas in Alaska: 51 of the currently employed 126 state-licensed NPs work in settings other than in Anchorage, Fairbanks, or Juneau. Their jobs entail multiple responsibilities and require high levels of expertise (see addendum 2 for an example of a rural practice).

The National Trends

Congress continues to consider a variety of proposals to mandate third party reimbursement for NPs. So far, federally mandated payments are limited to a few State Medicaid programs, Champus, and some programs in the Federal Employees Health Benefit Program (refer to Appendix B, US Congress, Office of Technology Assessment, 1986). At least 13 states currently permit direct payment for NP services, including Oregon, a state that also supports the independent practice of NPs.

Conclusion and Our Recommendations

We contend that without direct reimbursement to NPs in the State of Alaska, the practice settings of NPs are limited, which in turn, effectively limits competition among providers, patient choices of providers, and ultimately, adversely impacts upon health care costs. We therefore recommend that:

1. third party insurers voluntarily offer to provide direct reimbursement for NP services, and/or that
2. the state legislature amend the statutes to mandate such reimbursement to all licensed NPs, not just to nurse midwives as is now the case.

Thanks is extended to Gail McGill, Executive Director, Alaska Board of Nursing, for her assistance in obtaining the NP data.

Table 1

Type of Nurse Practitioner Licensed and Residing in Alaska,
July, 1987*

Type of Practitioner	Number
Family Nurse Practitioner (includes 3 with other NP designations)	48
Certified Nurse Midwife (includes 7 with other NP designations)	25
Women's Health Care Practitioner (includes 3 with other NP designations)	22
Pediatric Nurse Practitioner	13
Adult Nurse Practitioner	9
Neonatal Nurse Practitioner	5
School Nurse Practitioner	5
Geriatric Nurse Practitioner	1
Psychiatric Nurse Practitioner	1
	129

*Each NP was given a single designation, although some were certified in several areas. If an NP was a CNM, this was considered her primary designation. If an FNP was also an ANP, the practitioner was included in the FNP group (since the FNP designation covers a broader age-range in clients).

Alaska State Legislature

During Session
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During Interim
3111 C Street, Suite 510
Anchorage, Alaska 99503
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Senator Virginia Collins

CSSB 211 (Finance)

Coverage of All Advanced Nurse Practitioners Under Medicaid

CSSB 211 (Finance) would allow all advanced nurse practitioners to be reimbursed under Medicaid.

Under current state law, Alaska only allows nurse midwives, family, and pediatric advanced nurse practitioners (ANP's) in independent practice to enroll as Medicaid providers.

ANP's having different designations, such as "geriatric" nurse practitioners or "women's health care" nurse practitioners, are not allowed to enroll as Medicaid providers even though they may provide some of the same services as those who are allowed to enroll.

In Alaska, where nursing shortages abound, CSSB 211 (Finance) would encourage the involvement of more ANP's in health care. It corrects the current practice of discrimination against certain specialty groups within the general category of ANP's.

In many rural health clinics in Alaska, physicians must be flown in at a cost of several thousand dollars so that Medicaid patients can be treated. If all ANP's were allowed to enroll as Medicaid providers, that cost would likely be reduced.

CSSB 211 (Finance) also places ANP services on the priority list of optional services offered under the Medicaid program.

The Organization of Alaskan Nurse Practitioners and the Alaska Nurses Association support CSSB 211 (Finance).

additional Sponsor Statement

SB 213

[X] HOUSE COMMITTEE REPORT

(11)

Date Referred: May 18, 1991

FURTHER REFERRALS:

Date of Committee Action: 5-18-91

The FINANCE Committee considered:

CSSB 213(FIN)

CS FOR SENATE BILL NO. 213 (FINANCE)

AMERADA HESS RECEIPTS

"An Act relating to State v. Amerada Hess with respect to transfers to the dividend fund; and providing for an effective date."

RECOMMENDATIONS:

be replaced with HCS CS SB 213 (Juo) 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: Juo letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) AK Penn Fund Corp

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>	X				
<i>[Signature]</i>	X				
<i>[Signature]</i>	X				
<i>Mark Boyen</i>					
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>					
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				

[Signature]
CHAIRMAN'S SIGNATURE

Alaska State Legislature



House of Representatives
House Judiciary Committee

P. O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-4990
(907) 465-4712

HOUSE JUDICIARY LETTER OF INTENT

HCS CSSB 213 (JUD)

The Revisor of Statutes is requested to insert paragraph
(C) of Section 1. in a note under AS 22.20.020.



Chairman Dave Donley

Date: 5/17/91

FISCAL NOTE

REQUEST:

Revision Date: _____ Affected Agency: Ak. Perm. Fund Corp
 Title: Act relating to transfers BRU: Ak. Perm. Fund Corp
 to dividend fund
 Sponsor: Rules/Gov. Components: Ak. Perm. Fund Corp
 Requestor: Senate Finance

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	0.0	0.0	0.0

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

REVENUE	*					
---------	---	--	--	--	--	--

FUNDING: (THOUSANDS OF DOLLARS)

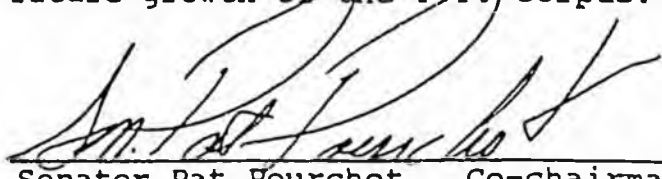
General Fund						
Federal Fund						
Other	*					
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

* Provisions of this bill will reduce the Permanent Fund Dividends and retain monies within the corpus of the fund. See attached sheets on P.F.D. and future growth of the P.F. corpus.


 Senator Pat Fourchot, Co-chairman
 Senate Finance Committee
 Phone: 465-3879
 Date: 3-Apr-91

DISTRIBUTION (BY PREPARER)
LEGISLATIVE FINANCE
LEGISLATIVE SPONSOR

REQUESTOR
OFFICE OF MANAGEMENT AND BUDGET
AGENCY(IES)

HOUSE CS FOR CS FOR SENATE BILL NO. 213 (JUDICIARY)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): SENATE RULES/GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to State v. Amerada Hess with respect to transfers to the dividend fund;

2 and providing for an effective date."

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

4 * Section 1. INTENT. (a) The legislature intends that the issue raised by the defendants' challenge
5 for cause in State v. Amerada Hess, et al., LJU-77-847 Civ. (Superior Court, First Judicial District) be
6 resolved by the Alaska Supreme Court as quickly as possible so that the trial set for November 4, 1991,
7 is not delayed. The legislature, therefore, respectfully requests the Department of Law to seek immediate
8 review of the superior court ruling, and also requests the Alaska Supreme Court to issue a decision as
9 soon as possible, if necessary, in advance of a formal opinion.

10 (b) The legislature also requests that the state seek an early decision in this case on whether, in
11 light of Alaska Civil Rule 47(c)(12), a juror must be disqualified, if the juror has no financial interest
12 in the outcome of the case other than that of a taxpayer or a permanent fund dividend recipient.

13 (c) It was not the intent of the legislature in enacting AS 22.20.022 to allow the disqualification
14 of a judge, if the judge has no financial interest in the outcome of the case other than that of a taxpayer

1 or a permanent fund dividend recipient.

2 * Sec. 2. AS 43.23.045(b) is amended to read:

3 (b) Notwithstanding AS 37.13.145 [ANY CONTRARY PROVISION OF LAW], each
4 year the commissioner shall transfer to the dividend fund 50 percent of the income of the Alaska
5 permanent fund earned during the fiscal year ending on June 30 of the current year and available
6 for distribution under AS 37.13.140. [HOWEVER, INCOME EARNED ON MONEY
7 AWARDED AFTER TRIAL IN STATE V. AMERADA HESS, ET AL., 1JU-77-847 CIV.
8 (SUPERIOR COURT, FIRST JUDICIAL DISTRICT) SHALL BE TREATED IN THE SAME
9 MANNER AS OTHER INCOME OF THE ALASKA PERMANENT FUND, EXCEPT THAT
10 IT IS NOT AVAILABLE FOR DISTRIBUTION TO THE DIVIDEND FUND, AND SHALL
11 BE ANNUALLY DEPOSITED INTO THE PRINCIPAL OF THE ALASKA PERMANENT
12 FUND.]

13 * Sec. 3. AS 43.23.045 is amended by adding a new subsection to read:

14 (e) Notwithstanding (b) of this section, income earned on money awarded in or received
15 as a result of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial
16 District), including settlement, summary judgment, or adjustment to a royalty-in-kind contract that
17 is tied to the outcome of this case, or interest earned on the money, or on the earnings of the
18 money shall be treated in the same manner as other income of the Alaska permanent fund, except
19 that it is not available for distribution to the dividend fund, and shall be annually deposited into
20 the principal of the Alaska permanent fund.

21 * Sec. 4. AS 43.23.045(e), enacted by sec. 3 of this Act, is repealed on the day that the revisor of
22 statutes certifies to the legislature that the Alaska Supreme Court has made a final determination that,
23 in the absence of AS 43.23.045(e), added by sec. 3 of this Act, no judge or juror is disqualified from
24 serving as judge or juror solely because the judge or juror may qualify to receive a permanent fund
25 dividend.

26 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).



Alaska Permanent Fund Corporation

P.O. Box 4-1000 Juneau, Alaska 99802-4100


(907) 465-2047

11

MEMORANDUM

DATE: March 29, 1991

TO: Senator Pat Pourchot
Co-Chair, Senate Finance

FROM: Jim Kelly 
Research & Liaison Officer

SUBJECT: Analysis of Senate Bill No. 213

Attached are two financial projections prepared by the Alaska Permanent Fund Corporation at your request.

Financial Projection #1: This is the status quo case as of February 28, 1991. It provides the benchmark against which to compare and contrast any changes to current law.

Financial Projection #2: This projection depicts the impacts of enacting SB 213. The State Constitution mandates that the Fund receive at least 25 percent of all royalty-in-kind (RIK) payments received by the State. SB 213 would add the stipulation that all income earned on the Fund's share of the RIK claims which are awarded after trial in State v. Amerada Hess forever be excluded from Permanent Fund dividend calculations and instead be deposited to Fund principal. For the purpose of this analysis, it is assumed, in accordance with the Department of Law's most recent estimates, that the RIK payment will be made on January 1, 1992 and will total \$62.5 million (25 percent of \$250 million).

You specifically asked for an analysis which reflects the positive impact on Permanent Fund principal of SB 213. Included on the following page is a chart which provides that information in tabular form. By the year 2005,

2 of 7

the difference in principal would total \$223 million which is derived from the following sources:

* initial deposit of \$62.5 million;

* subsequent annual deposits of income earned on that deposit totaling \$165 million;

* the \$4.5 million difference between \$223 million and \$227.5 million (\$62.5 million plus \$165 million) is accounted for by the increased inflation-proofing shortfall in the case of SB 213. If there were no inflation-proofing shortfalls in future years, the positive impacts on principal under SB 213 would be even greater.

(in millions of \$)			
FY	Principal Status Quo	Principal SB 213	Difference
91	10,890	10,890	
92	11,674	11,742	69
93	12,675	12,754	79
94	13,757	13,849	92
95	14,912	15,018	106
96	16,141	16,262	121
97	17,386	17,490	105
98	18,587	18,702	115
99	19,831	19,957	127
0	21,125	21,264	139
1	22,465	22,618	153
2	23,858	24,026	168
3	25,300	25,434	135
4	26,796	26,998	203
5	28,357	28,580	223



Alaska Permanent Fund Corporation

FINANCIAL PROJECTIONS (in millions)

as of February 28, 1991

GROWTH OF FUND PRINCIPAL						
FY	FY Begin Balance	Appropriations	Dedicated		FY End Balance	Inflation Proofing Shortfall
			State Revenues*	Inflation Proofing		
78	0		54		54	
79	54		84		139	
80	139		344		483	
81	483	900	385		1,769	
82	1,769	800	400		2,969	
83	2,969	400	421	231	4,021	
84	4,021	300	366	151	4,838	
85	4,838	300	368	235	5,741	
86	5,741		323	216	6,281	
87	6,281	1,264 **	170	148	7,864	
88	7,864		418	303	8,585	
89	8,585		228	360	9,173	
90	9,173		267	454	9,894	
91	9,894		437	559	10,890	
92	10,890		228	556	11,674	
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97	16,141		310	936	17,386	51
98	17,386		307	894	18,587	168
99	18,587		292	952	19,831	181
0	19,831		282	1,012	21,125	195
1	21,125		266	1,074	22,465	209
2	22,465		255	1,139	23,858	225
3	23,858		238	1,205	25,300	240
4	25,300		221	1,275	26,796	257
5	26,796		215	1,347	28,357	274
Cumulative Totals Projected For FY 1991 - 2005:			3,824	14,202		1,799

USE OF FUND INCOME					
Net Income	Distributions			Reserves	
	Dividends	Inflation Proofing	General Fund	Add (Delete)	FY End Balance
2			1		
8			7		
32	12		12		
150	28		28	59	59
368	71		71	186	244
471	108	231	110	110	354
530	175	151		203	557
658	217	235		206	763
1,021	303	216		501	1,264 **
1,069	391	148		529	529
789	424	303		62	591
868	460	360	4	44	635
916	487	454	4	(30)	605
928	481	559		(112)	493
1,021	477	556		(13)	480
1,159	514	718		(72)	408
1,247	553	779		(85)	323
1,342	598	844		(101)	222
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1,653	759	894			
1,765	813	952			
1,882	870	1,012			
2,003	929	1,074			
2,129	991	1,139			
2,260	1,054	1,205			
2,395	1,120	1,275			
2,535	1,189	1,347			
25,305	11,708	14,202			

REALIZED RATE OF RETURN ASSUMPTIONS:

	Nominal	Inflation	Real
FY 91:	8.50%	5.41%	3.09%
FY 92:	8.50%	5.00%	3.50%
FY 93-05:	9.00%	6.00%	3.00%

* SOURCE: Dedicated State oil revenue estimates are from the Department of Revenue (DOR) Fall 1990 Low-Case Revenue Forecast.

** The FY 86 Earnings Reserve Account end balance was appropriated by the legislature to the principal of the Permanent Fund effective July 1, 1986.

STATUS QUO

3/28/91

P 482



2

Alaska Permanent Fund Corporation

FINANCIAL PROJECTIONS (in millions)

as of February 28, 1991

GROWTH OF FUND PRINCIPAL						
FY	FY Begin Balance	Appro- priations	Dedicated State Revenues*	Inflation Proofing	FY End Balance	Inflation Proofing Shortfall
78	0		54		54	
79	54		84		139	
80	139		344		483	
81	483	900	385		1,769	
82	1,769	800	400		2,969	
83	2,969	400	421	231	4,021	
84	4,021	300	366	151	4,838	
85	4,838	300	368	235	5,741	
86	5,741		323	216	6,281	
87	6,281	1,264 **	170	148	7,864	
88	7,864		418	303	8,585	
89	8,585		228	360	9,173	
90	9,173		267	454	9,894	
91	9,894		437	659	10,890	
92	10,890	65	228	559	11,742	
93	11,742	6	284	722	12,754	
94	12,754	7	304	784	13,849	
95	13,849	8	311	850	15,018	
96	15,018	9	315	921	16,262	
97	16,262	10	310	909	17,490	86
98	17,490	11	307	894	18,702	175
99	18,702	12	292	952	19,957	189
0	19,957	13	282	1,012	21,264	203
1	21,264	14	266	1,074	22,618	219
2	22,618	16	255	1,138	24,026	235
3	24,026	17	236	1,205	25,484	252
4	25,484	19	221	1,274	26,998	270
5	26,998	21	215	1,346	28,580	288
Cumulative Totals Projected						
FY 1991 - 2005:	227	3,824	14,198	1,916		

USE OF FUND INCOME					
Net Income	Distributions			Reserves	
	Dividends	Inflation Proofing	General Fund	Add (Delete)	FY End Balance
2			1		
8			7		
32	12		12		
150	28		28	59	59
368	71		71	185	244
471	108	231	110	110	354
530	175	151		203	557
658	217	235		206	763
1,021	303	216		501	1,264 **
1,069	391	148		529	529
789	424	303		62	591
868	460	360	4	44	635
916	487	454	4	(30)	605
928	481	559	RIK Income	(112)	493
1,024	477	559	3	(16)	477
1,165	514	722	6	(76)	400
1,254	553	784	7	(90)	310
1,349	599	850	8	(107)	203
1,450	652	921	9	(132)	72
1,554	707	909	10	(72)	
1,663	759	894	11		
1,777	813	952	12		
1,895	870	1,012	13		
2,017	929	1,074	14		
2,144	991	1,138	16		
2,276	1,054	1,205	17		
2,413	1,120	1,274	19		
2,556	1,189	1,346	21		
25,465	11,708	14,198	165		

REALIZED RATE OF RETURN ASSUMPTIONS:

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FY 91:	8.50%	5.41%	3.09%
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5 87

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

WALTER J. HICKEL, GOVERNOR

REPLY TO:

- 1031 W 4th AVENUE SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 276-3550
FAX: (907) 276-3697
- KEY BANK BUILDING
100 CUSHMAN ST. SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 452-1568
FAX: (907) 456-1317
- P.O. BOX K— STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 463-5295

March 27, 1991

The Honorable Pat Pourchot
Alaska State Senate
Co-Chairman Senate Finance Committee
P. O. Box V
Juneau, AK 99811-3100

Re: Requested information
regarding SB 213

Dear Senator Pourchot:

This letter is in response to your request this morning respecting the fiscal impact of SB 213 on the permanent fund dividend. The following chart, based on the Alaska Permanent Fund Corporation's model for calculation of dividends, sets forth the approximate impact on individual dividends, were all of the state's RIK claims (which SB 213 would exclude from the dividend stream) paid on January 1, 1992.

1991	\$ 0.00
1992	0.19
1993	1.52
1994	2.79
1995	4.01
1996	5.19
1997	6.32
1998	6.55
1999	6.77
2000	7.13
2001	7.33
2002	7.51
2003	7.69
2004	8.01
2005	8.16

With adoption of SB 213 the 15-year total loss to a permanent fund dividend recipient is approximately \$79.17, having a net present value of \$37.65.

The Honorable Pat Pourchot
Alaska State Senate

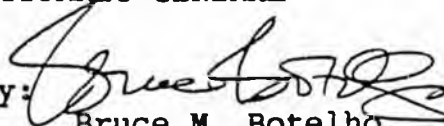
March 27, 1991
Page 2

Should you wish further information, please do not
hesitate to contact my office.

Sincerely,

CHARLES E. COLE
ATTORNEY GENERAL

By:



Bruce M. Botelho
Assistant Attorney General

BMB:tg

PLEASE MICROFILM TOP PAGE ONLY

DOCUMENTS WHICH HAVE NOT BEEN
FILMED BUT ARE AVAILABLE IN THE
ORIGINAL FILE INCLUDE:

→ TRIAL COURT DOCUMENT
ANS Royalty Litigation
State of AK v. ARCO, Atlantic Richfield et al

SB 213

SENATE FINANCE COMMITTEE REPORT

DATE: 3/18/91

FURTHER:

Date of 5-Day Notice: 3-20-91
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 3/27/91
(actually delivered 4/4/91)

Finance Committee considered SB 213

Transfers to the dividend fund; efd.

and recommended:

- replace with _____ CS SB 213 (FW)
- 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):

APPROVES PREVIOUS:

Dept/Date:
 fiscal note(s) _____

Dept/Date:
 fiscal note(s) _____

zero fiscal note(s) _____
SFC. 0 4/3/91

zero fiscal note(s) _____

appropriation-no fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

Al Williams
James Hoffman
James Curran
[Signature]

Bill Smith No Rec
Ruth Kelly No Rec

1. [Signature] 2. [Signature] Do pass
 Co-Chairs: Signatures and Recommendations

F I S C A L N O T E

REQUEST:

Revision Date: _____ Affected Agency: Ak. Perm. Fund Corp
Title: Act relating to transfers
to dividend fund BRU: Ak. Perm. Fund Corp
Sponsor: Rules/Gov. Components: Ak. Perm. Fund Corp
Requestor: Senate Finance

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	0.0	0.0	0.0

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

REVENUE	*					
---------	---	--	--	--	--	--

FUNDING: (THOUSANDS OF DOLLARS)

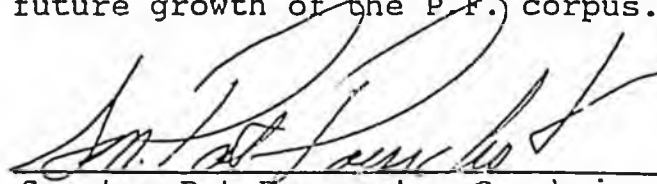
General Fund						
Federal Fund						
Other	*					
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

* Provisions of this bill will reduce the Permanent Fund Dividends and retain monies within the corpus of the fund. See attached sheets on P.F.D. and future growth of the P.F. corpus.



Senator Pat Fournot, Co-chairman
Senate Finance Committee

Phone: 465-3879
Date: 3-Apr-91

DISTRIBUTION (BY PREPARER
LEGISLATIVE FINANCE
LEGISLATIVE SPONSOR

REQUESTOR
OFFICE OF MANAGEMENT AND BUDGET
AGENCY(IES)

CS FOR SENATE BILL NO. 213 (FINANCE)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE RULES/GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to State v. Amerada Hess with respect to transfers to the dividend fund;
2 and providing for an effective date."

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

4 * Section 1. AS 43.23.045(b) is amended to read:

5 (b) Notwithstanding any contrary provision of law, each year the commissioner shall
6 transfer to the dividend fund 50 percent of the income of the Alaska permanent fund earned
7 during the fiscal year ending on June 30 of the current year and available for distribution.
8 However, income earned on money awarded [AFTER TRIAL] in, or received as a result of,
9 State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial District), including
10 settlement, summary judgment or adjustment to a royalty-in-kind contract that is tied to
11 the outcome of this case, or interest earned on the money, or on the earnings of the money
12 shall be treated in the same manner as other income of the Alaska permanent fund, except that
13 it is not available for distribution to the dividend fund, and shall be annually deposited into the
14 principal of the Alaska permanent fund.

1 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR ADAMS

TO: SB 213

Page 1, line 1, after "relating to":

Insert "State v. Amerada Hess with respect to"

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Revision Date: _____
 Title: An Act relating to transfers to dividend fund; and providing for an effective date.
 Sponsor: Senate Rules Committee
 Requestor: by request of the Governor

Department Affected: Alaska Permanent Fund Corp.
 BRU: Alaska Permanent Fund Corporation
 Component: #109 AK Permanent Fund Corporation

COMPONENT SERIAL NO.

0	1	0	9
---	---	---	---

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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-
---------	-----	-----	-----	-----	-----	-----

REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER	-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: -0-

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Jim Kelly, Research & Liaison Officer Phone: (907) 465-2047

Division: Alaska Permanent Fund Corporation Date: 3/18/91

Approved by Commissioner: *Mark C. Howe*

Agency: Alaska Permanent Fund Corporation Date: 3/18/91

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



Alaska Permanent Fund Corporation

P.O. Box 4-1000 Juneau, Alaska 99802-4100


(907) 465-2047

117

MEMORANDUM

DATE: March 29, 1991

TO: Senator Pat Pourchot
Co-Chair, Senate Finance

FROM: Jim Kelly 
Research & Liaison Officer

SUBJECT: Analysis of Senate Bill No. 213

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You specifically asked for an analysis which reflects the positive impact on Permanent Fund principal of SB 213. Included on the following page is a chart which provides that information in tabular form. By the year 2005,

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Alaska Permanent Fund Corporation

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1,159	514	718		(72)	408
1,247	553	779		(85)	323
1,342	598	844		(101)	222
1,441	652	914		(125)	98
1,545	707	936		(98)	
1,653	759	894			
1,765	813	952			
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REALIZED RATE OF RETURN ASSUMPTIONS:

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FY 92:	8.50%	5.00%	3.50%
FY 93-05:	9.00%	6.00%	3.00%

* SOURCE: Dedicated State oil revenue estimates are from the Department of Revenue (DOR) Fall 1990 Low-Case Revenue Forecast.

** The FY 86 Earnings Reserve Account end balance was appropriated by the legislature to the principal of the Permanent Fund effective July 1, 1986.

STATUS QUO

3/28/91



Alaska Permanent Fund Corporation

FINANCIAL PROJECTIONS (in millions)

as of February 28, 1991

GROWTH OF FUND PRINCIPAL						
FY	FY Bgn Balance	Appropriations	Dedicated		FY End Balance	Inflation Proofing Shortfall
			State Revenues*	Inflation Proofing		
78	0		54		54	
79	54		84		139	
80	139		344		483	
81	483	900	385		1,769	
82	1,769	800	400		2,969	
83	2,969	400	421	231	4,021	
84	4,021	300	366	151	4,838	
85	4,838	300	368	235	5,741	
86	5,741		323	216	6,281	
87	6,281	1,264 **	170	148	7,864	
88	7,864		418	303	8,585	
89	8,585		228	360	9,173	
90	9,173		267	454	9,894	
91	9,894		437	559	10,890	
92	10,890	65	228	559	11,742	
93	11,742	6	284	722	12,754	
94	12,754	7	304	784	13,849	
95	13,849	8	311	850	15,018	
96	15,018	9	315	921	16,262	
97	16,262	10	310	909	17,490	86
98	17,490	11	307	894	18,702	175
99	18,702	12	292	952	19,957	189
0	19,957	13	282	1,012	21,264	203
1	21,264	14	266	1,074	22,618	219
2	22,618	16	255	1,138	24,026	235
3	24,026	17	236	1,205	25,484	252
4	25,484	19	221	1,274	26,998	270
5	26,998	21	215	1,346	28,580	288
Cumulative Totals Projected:						
FY 1991 - 2005:	227		3,824	14,198		1,916

USE OF FUND INCOME					
Net Income	Distributions			Reserves	
	Dividends	Inflation Proofing	General Fund	Add (Delete)	FY End Balance
2			1		
8			7		
32	12		12		
150	28		28	59	59
368	71		71	185	244
471	108	231	110	110	354
530	175	151		203	557
658	217	235		206	763
1,021	303	216		501	1,264 **
1,069	391	148		529	529
789	424	303		62	591
868	460	360	4	44	635
916	487	454	4	(30)	605
928	481	559	RIK income	(112)	493
1,024	477	559	3	(16)	477
1,165	514	722	6	(76)	400
1,254	553	784	7	(90)	310
1,349	593	850	8	(107)	203
1,450	652	921	9	(132)	72
1,554	707	909	10	(72)	
1,663	759	894	11		
1,777	813	952	12		
1,895	870	1,012	13		
2,017	929	1,074	14		
2,144	991	1,138	16		
2,276	1,054	1,205	17		
2,413	1,120	1,274	19		
2,556	1,189	1,346	21		
25,465	11,708	14,198	165		

REALIZED RATE OF RETURN ASSUMPTIONS:

	Nominal	Inflation	Real
FY 91:	8.50%	5.41%	3.09%
FY 92:	8.50%	5.00%	3.50%
FY 93-05:	9.00%	6.00%	3.00%

* SOURCE: Dedicated State oil revenue estimates are from the Department of Revenue (DOR) Fall 1990 Low-Case Revenue Forecast.

** The FY 86 Earnings Reserve Account end balance was appropriated by the legislature to the principal of the Permanent Fund effective July 1, 1986.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

March 27, 1991

WALTER J. HICKEL, GOVERNOR

REPLY TO:

1031 W 4th AVENUE SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 276-3550
FAX: (907) 276-3697

KEY BANK BUILDING
100 CUSHMAN ST. SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 452-1568
FAX: (907) 456-1317

P.O. BOX K— STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 463-5295

The Honorable Pat Pourchot
Alaska State Senate
Co-Chairman Senate Finance Committee
P. O. Box V
Juneau, AK 99811-3100

Re: Requested information
regarding SB 213

Dear Senator Pourchot:

This letter is in response to your request this morning respecting the fiscal impact of SB 213 on the permanent fund dividend. The following chart, based on the Alaska Permanent Fund Corporation's model for calculation of dividends, sets forth the approximate impact on individual dividends, were all of the state's RIK claims (which SB 213 would exclude from the dividend stream) paid on January 1, 1992.

1991	\$ 0.00
1992	0.19
1993	1.52
1994	2.79
1995	4.01
1996	5.19
1997	6.32
1998	6.55
1999	6.77
2000	7.13
2001	7.33
2002	7.51
2003	7.69
2004	8.01
2005	8.16

With adoption of SB 213 the 15-year total loss to a permanent fund dividend recipient is approximately \$79.17, having a net present value of \$37.65.

The Honorable Pat Pourchot
Alaska State Senate

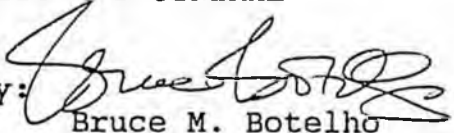
March 27, 1991
Page 2

Should you wish further information, please do not
hesitate to contact my office.

Sincerely,

CHARLES E. COLE
ATTORNEY GENERAL

By:


Bruce M. Botelho
Assistant Attorney General

BMB:tg



CAPTAIN COOK CHAPTER

an affiliate of

The Retired Officers Association
 P.O. BOX 772
 Elmendorf AFB, Alaska 99506-0772



24 March 1991

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

Dear Senator Kerttula,

The members of the Captain Cook Chapter of The Retired Officers Association (TROA) would like to take this opportunity to thank you for your continuing fine work in support of veterans needs. In particular, we would like to thank you for sponsoring Senate Bills 44 and 45.

The Retired Officers Association is a national organization comprised of retired members of the officer corps from the seven uniformed services of the United States (Army, Navy, Air Force, Marine Corps, Coast Guard, NOAA and NHC). There are nearly a half million members nationally and some 400 in Alaska. The Captain Cook Chapter is the single TROA chapter in the state. Those TROA members who are not truly retired include a large number of managers and professionals working at second careers. We have in our chapter men and women who fill positions in the community varying from Deans of Colleges to Engineers and Doctors.

TROA members are only the tip of the iceberg, however. Records show 5000 plus DoD retirees in Alaska with approximately 300 listed as disabled. Your records show between 63 and 73 thousand total veterans in the state retired and simply separated. That is a sizable clientele no matter how it is classified.

The Retired Officers Association serves the needs of our members in a variety of ways. TROA acts in political support or opposition to issues of concern on both the national and state levels. In the past, we have been more active at the national level than here in Alaska. The proposed veteran's home in SB 44 and 45 is a project which the Captain Cook Chapter has had as a long term objective since its inception. We recognize the great need for an extended care facility in Alaska for veterans.

SERVICE TO COUNTRY AND OUR MEMBERS

Monthly Magazine :: Insurance - Champus and Medicare Supplements :: Employment Service :: Retirement Advice and Assistance :: Survivor Administrative Assistance Service (SAAS) :: Financial Services :: Travel Service

At our bi-monthly meeting held last Saturday, SB 44 and 45 were discussed. The membership present voted unanimously to support the passage of both bills. Further, I was directed to make that support a matter of record through this letter.

Alaskan Veterans have always had to go "outside" for care in their declining years and when they were in ill health. As has been noted in correspondence provided by your office on the subject, the 90 day limitation imposed by the VA precludes the long term care which is often needed. There well may be unused beds available in state health care facilities as noted by those objecting to the bills. The problem is the cost of these facilities if, in fact, beds do exist in the quantities necessary to solve the problem of veterans in need. When we were looking into the problem actively last year, it became apparent that even on the retired pay of O-5's and O-6's (LTCOL and COL) we could not cover the costs over a long haul. That problem is multiplied several-fold for the enlisted retiree and even more acute for those without pension income.

It has been suggested that it might be possible to get additional support from the VA for home care or more funds for community service programs. Retired LTCOL Webster, our chapter president, just returned from a National TROA Conference in Washington. Long term care facilities were not discussed, per se, but the general tenor of commentary from our TROA representatives who work directly with the people on the hill is that any extensions in veterans care are very unlikely. In fact, we are trying to hold the line on what we have, nationally. The position we are taking nationally is that we will pay our way, but don't ask for more than our share. COLA is a case in point which has been addressed in Alaska Senate Joint Resolution 15 this session.

The single largest item in the federal budget is debt service - interest on existing loans. Under these conditions, extended care for veterans is at best unlikely. Further, I understand that if home care is expanded, it would have to be expanded in 22 other states to remain equatable. This simply is not going to happen.

The one thing which we see as not being addressed in the proposal outline supplied by your staff is the problem of spouses. If the veteran occupying a residential or nursing bed in the home has a surviving spouse, will he or she be able to share the facility? Very often the presence of a spouse or her or his absence will make the difference between survival and not for an infirm person. We firmly believe that the issue should be addressed and that provisions for spouses included.

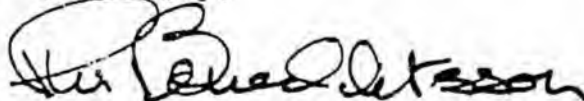
We have no problems with the veteran paying his or her own way, subject to availability of resources. Given the specific availability of total resource vs need, individual payments can and should be made. This area needs clarification in either bill or regulation, however.

TROA members while on active duty were professionals. We served as your regular forces and, in wartime, very often bought the time necessary for the nation to gear up. For this we receive a pension. Our situation is no different, however, from the VietNam ex-draftee with two years active duty in The Saint Francis Shelter in Anchorage, when either of us is ill, old or just beyond our capability to cope.

We paid our dues. We thank you and like-minded legislators for your support in planning a veterans home - a haven for those less fortunate than we - who also paid their dues.

I have copied this letter to all members of the State Senate and, on behalf of all Alaska Veterans, and Alaskan members of TROA ask that SB 44 and 45 be supported in committee and passed on the floor.

Sincerely,



P.W. Benediktsson
CDR USN Ret.
Chairman Legislative Committee

cc: Members of The Alaska Senate
State Director of Veterans Affairs

WALTER J. HICKEL
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 18, 1991

The Honorable Richard I. Eliason
President of the Senate
P.O. Box V
Juneau, AK 99811

Dear President Eliason:

Under the authority of Article III, section 18, of the Alaska Constitution, I am transmitting a bill relating to transfers to the permanent fund.

The bill has one purpose: to prevent any monies related to the North Slope Royalty case from entering the permanent fund dividend stream. This measure is necessitated by a court ruling that the current statute, AS 43.23.045(b), does not sufficiently eliminate the risk of unconstitutional bias. Failure to eliminate it would require Alaska courts to be disqualified from hearing the North Slope Royalty case (more popularly known as the Amerada Hess case).

This issue was first raised in 1987 when three oil company defendants filed a lawsuit in federal district court to enjoin the Amerada Hess case from proceeding to trial in any court in Alaska. They claimed that they could not receive a fair trial in Alaska because every judge and juror had a financial interest in the outcome of the case by reason of their respective annual permanent fund dividends which would be increased by the earnings derived from any damages awarded to the state in Amerada Hess.

In June, 1988, the federal district court dismissed the action, ruling that the due process issue must be addressed in the state court before it may be asserted in the federal court. The companies appealed. At oral argument in March, 1989 the Ninth Circuit Court of Appeals encouraged the parties to seek a legislative solution. Governor Cowper immediately sought corrective legislation, ultimately adopted as ch. 38, SLA 1989, and signed into law on May 12, 1989. It provided that:

income earned on money awarded after trial in State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial District) shall be treated in the same manner as other income of the Alaska permanent fund, except that it is not available for distribution to the fund, and shall be annually deposited into the principal of the Alaska permanent fund.

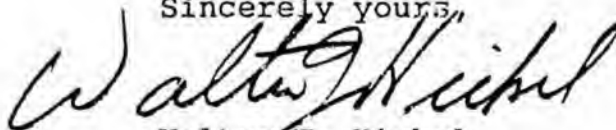
Independently, on April 12, 1989, the Ninth Circuit affirmed the district court's disposition of the matter, requiring the oil companies to raise the issue of disqualification in the state superior court. The companies sought further review by the United States Supreme Court, but their petition was denied.

Finally, last October the companies filed the long awaited motion to disqualify the Alaska courts. Oral arguments were heard on February 21. On March 14, Judge Carpeneti issued his ruling in which he held that AS 43.23.045(b) removes most, but not all, of the sources of revenue flowing to the permanent fund dividend fund that creates the bias. He also found, however, that the statute failed to prevent additional monies from going to the fund as a result of the so-called Amerada Hess price adjustment clauses in royalty-in-kind (RIK) contracts. According to Judge Carpeneti, this failure to deal with RIK recoveries would require the Alaska court to disqualify itself. The court concluded:

The court's decision will become final, unless, within 75 days of the date of this order, the legislature enacts curative legislation; that is, legislation which clearly and explicitly precludes Alaska Permanent Fund monies realized by the state as a result of "Amerada Hess contract adjustments" in RIK contracts, or interest earned on such monies, or on the earnings of such monies, from being placed in the dividend fund.

The attached bill specifically addresses Judge Carpeneti's ruling respecting the RIK adjustments, but also affirms the breadth of coverage Judge Carpeneti explicitly found already existed in AS 43.23.045(b), thus eliminating a potential appeal by the companies. Early action on this bill will again guarantee that Alaska courts will decide this case. It is slated for trial in Juneau beginning November 4, 1991.

Sincerely yours,



Walter J. Hickel
Governor

Judge steps aside in state's suit for oil royalties

Effect of decision on permanent fund brings up conflict of interest for Alaska jurists, Carpeneti rules

By DAVID POSTMAN
Daily News reporter

JUNEAU — The judge who has been hearing the state's royalty lawsuit against Alaska oil producers for eight years says he must disqualify himself because a victory for the state could mean bigger permanent fund dividends for him and his family.

In fact, Superior Court Judge Walter Carpeneti said in a ruling released Friday, "The impartiality of any Alaska judge in this litigation

might reasonably be questioned, requiring disqualification."

Carpeneti agreed with the oil companies in the \$580 million royalty case that if the state wins a judgment against the companies, some of the money would go to the Alaska Permanent Fund and trickle down to each Alaskan who receives an annual dividend from the oil revenue savings account.

In the lawsuit, filed in 1977, the state claims North Slope oil producers shorted

it \$902 million in royalties from the Prudhoe Bay and Kuparuk River oil fields between 1977 and 1986.

"We are pleased with the decision," said Jim Palmer, spokesman for BP Exploration (Alaska). The state claims BP owes \$321 million, the largest remaining claim.

Attorney General Charlie Cole said the oil companies have a double standard.

"I'm disappointed the major producers use the Alaska judicial system for the prosecution of their claims

against the state and others but, when the state sues them, they claim they can't get treated fairly," Cole said.

"The state is every bit prepared to carry on the litigation against them in Coos Bay, Oregon, or Bozeman, Montana, or anywhere else."

The oil companies have been trying to get the case, known as Amerada Hess, out of Alaska for four years. In 1987, the oil producers went to federal court to ar-

gue that Alaska judges and juries would be prejudiced against their case because a judgment would boost permanent fund dividends.

The federal courts said it was a matter for the state courts to deal with. But the problem appeared to go away in 1989 when the legislature passed a bill that would keep money won in the suit from going to permanent fund dividends.

But the legislature did not

Please see Back Page, **SUIT**

SUIT: Superior Court judge disqualifies himself

Continued from Page A-1

address all the implications of a state victory.

During the period covered in the suit, the state took part of its royalties from the oil companies in cash and part in oil. The state in turn sold its royalty oil to refin-

eries and a Fairbanks electrical utility.

The oil companies argued that if the state won and the court agreed the royalty oil was underpriced, the refineries and the utility who bought from the state would be required to make up the difference on their contracts.

And that, according to court testimony, would amount to \$300 million flowing to the state, part of which would make its way into the Alaska Permanent Fund.

That would mean a per-person increase of \$81 in the total of permanent fund dividends paid over the next 15

years, according to oil company testimony. That would be worth about \$35.87 in today's dollars, according to Carpeneti's decision.

Carpeneti has held off making his decision final for 75 days to give lawmakers a chance to pass a new bill which would fix the prob-

from oil royalties case

lem. If lawmakers can keep the money from going to permanent fund dividends, Carpeneti will stay on the case.

Gov. Wally Hickel is expected to submit legislation Wednesday to do that, Assistant Attorney General Bruce

Botelho said Monday.

But Botelho said the state may also appeal the ruling because of what it might mean for future cases. He said it could be a bad precedent if every company with a royalty dispute with the state claimed the case could not be heard in Alaska.

ANCH. DAILY NEWS — Tues. March 1991

RE: SB 213

SB 216

SENATE FINANCE COMMITTEE REPORT

DATE: 4/27/92

FURTHER:

DATE TURNED INTO OFFICE:

5/5/92

The Finance Committee considered SENATE BILL NO. 216

"An Act authorizing moose and caribou farming."

and recommends:

replace with _____ CS SB 216 (FINANCE)
or adopt previous _____ CS _____
 attaches amendment(s)

same title
 new title
 technical title change (HB only)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES: Dept/Date

zero fiscal notes _____

fiscal notes _____

appropriation--no fiscal note

PREVIOUS FISCAL NOTES: Dept/Date

zero fiscal notes DFBG 4/2/92

fiscal notes _____

DO PASS:

Sub Study

OTHER RECOMMENDATIONS:

*No Rec
Fish Dept (NO REC)*

1. *Pat Hynes* no rec

Co-Chair: Signature/Recommendation

2. _____

Co-Chair: Signature/Recommendation

FISCAL NOTE

Bill Version: SB 216
 (S) Publish Date: 4-27-92

STATE OF ALASKA
 1992 LEGISLATIVE SESSION

Revision Date: _____ Department Affected: Fish and Game
 Title: An Act authorizing moose and BRU: Wildlife Conservation
caribou farming. Component: Wildlife Conservation
 Sponsor: Senator Dick Shultz
 Requestor: Senate Resources Committee COMPONENT SERIAL NO.

0	4	7	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						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE FUND SOURCE: 1024	0.0	0.0	0.0	0.0	0.0	0.0
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FUNDING: (Thousands of Dollars)

Changes in CSSO 216 (FIN) have no fiscal impact. This fiscal note is appropriate. 5/5/92 date KSN Comte Aide (initial)

Changes in CSSB 216 (RES) have no fiscal impact. This fiscal note is appropriate. 4/27/92 date TLO Comte Aide (initial)

	0.0	0.0	0.0	0.0	0.0	0.0
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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: No FY 92 impact.

ANALYSIS: (Attach a separate page if necessary.)
 This analysis assumes that (unlike farmed elk, bison, muskoxen, reindeer) surplus moose or caribou are not defined as "domestic mammals;" the sale, transfer or transport of live animals may be regulated by the department; passage of the bill will not result in widespread, uncontrolled private ownership of these species.

Prepared By: Phil Koehl ^{PK} Phone: 465-4190
 Division: Division of Wildlife Conservation Date: 4/1/92
 Approved by Commissioner: [Signature]
 Agency: Department of Fish and Game Date: 4/2/92

CS FOR SENATE BILL NO. 216 (FINANCE)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS SHULTZ, Frank

A BILL

FOR AN ACT ENTITLED

1 "An Act authorizing bison, moose, deer, and caribou farming and relating to game
2 farming."

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

4 * Section 1. AS 03.05.010(a) is amended to read:

5 (a) The commissioner of natural resources shall

6 (1) direct, administer, and supervise promotional and experimental work, extension
7 services, and agricultural projects for the purpose of promoting and developing the agricultural
8 industry within the state including such fields as horticulture, dairying, cattle raising, fur farming,
9 game farming, grain production, vegetable production, and development of other agricultural
10 products;

11 (2) procure and preserve all information pertaining to the development of the
12 agricultural industry and disseminate that information to the public;

13 (3) assist prospective settlers and others desiring to engage in the agricultural
14 industry in the state with information concerning areas suitable for agriculture and other activities

1 and programs essential to the development of the agricultural industry in the state;

2 (4) review the marketing, financing, and development of agricultural products
3 inside the state including transportation, with special emphasis upon local production, and
4 negotiate for the marketing of agricultural products of the state with federal and state agencies
5 operating in the state;

6 (5) regulate and control the entry into the state and the transportation, sale, or use
7 inside the state of plants, seeds, vegetables, shell eggs, fruits and berries, nursery stock, animal
8 feeds, remedies and mineral supplements, fertilizers, and agricultural chemicals in order to
9 prevent the spread of pests, diseases, or toxic substances injurious to the public interest, and to
10 protect the agricultural industry against fraud, deception, and misrepresentation; in this connection
11 the commissioner may require registration, inspection, and testing, and establish procedures and
12 fees; and

13 (6) regulate game [THE] farming of captive game animals, other than those
14 animals acquired from the state under AS 16.40, and their progeny [ELK] in a manner
15 similar to the manner in which the commissioner regulates domestic animals and livestock, to
16 the extent that is appropriate;

17 (7) regulate game farming of captive game animals acquired from the state
18 under AS 16.40 and their progeny, with the concurrence of the commissioner of fish and
19 game, in a manner similar to the manner in which the commissioner regulates domestic
20 animals and livestock, to the extent that is appropriate.

21 * Sec. 2. AS 03.05.011(b) is amended to read:

22 (b) The commissioner of environmental conservation shall regulate game [THE] farming
23 of captive game animals, other than those acquired from the state under AS 16.40, and their
24 progeny [ELK] in a manner similar to the manner in which the commissioner regulates domestic
25 animals and livestock, to the extent that is appropriate.

26 * Sec. 3. AS 03.05.011 is amended by adding a new subsection to read:

27 (c) The commissioner of environmental conservation, with the concurrence of the
28 commissioner of fish and game, shall regulate game farming of captive game animals acquired
29 from the state under AS 16.40 and their progeny in a manner similar to the manner in which the
30 commissioner regulates domestic animals and livestock, to the extent that is appropriate.

31 * Sec. 4. AS 03.25.010 is amended to read:

1 Sec. 03.25.010. COMMISSIONER AUTHORIZED TO EMPLOY VETERINARIANS.

2 The commissioner may either independently or in cooperation with the United States Department
3 of the Interior or a college or a university or like institution employ veterinarians for periods
4 found to be to the best advantage for the purpose of aid and service to the fur raising industry
5 and game farming industry, and for the purpose of aid and service to those engaged in raising
6 livestock and other domestic animals.

7 * Sec. 5. AS 03.25.020 is amended to read:

8 Sec. 03.25.020. DUTIES OF VETERINARIANS. Veterinarians shall

9 (1) visit the fur farms and game farms of the state, study problems incidental
10 to raising fur bearing animals and captive game animals and advise those engaged in the
11 industry in matters pertaining to the breeding and care of fur bearing animals and captive game
12 animals and the prevention and cure of diseases of fur bearing animals and captive game
13 animals;

14 (2) prepare, publish, and distribute such data as the veterinarian, with the advice
15 and consent of the commissioner, considers useful to those engaged in the industry;

16 (3) make reports to the commissioner when required by the commissioner for
17 transmittal to the state legislature;

18 (4) initiate and carry on experiments, on or in connection with a fur farm or game
19 farm, with relation to the care and feeding of fur bearing animals or captive game animals, the
20 improvements of the breed, or the cure or prevention of any disease to which they may be subject
21 or the extermination of the parasites by which they may be attacked, and in this connection
22 employ and pay for the necessary assistance and rent and use of necessary facilities;

23 (5) perform other duties as may be prescribed by the commissioner as are not
24 inconsistent with the duties specifically imposed by this chapter;

25 (6) study problems incidental to the raising of livestock and other domestic
26 animals, and advise those engaged therein upon matters pertaining to the breeding, care, and the
27 prevention and cure of diseases of livestock and other domestic animals.

28 * Sec. 6. AS 03.40.010 is amended to read:

29 Sec. 03.40.010. BRANDS AND MARKS. Any person owning cattle, reindeer, caribou,
30 buffalo, bison, musk ox, moose, deer, elk [MUSKOX,] sheep, horses, mules, or asses [,] may
31 adopt a brand or mark. After recording the brand or mark as provided in AS 03.40.030, the

1 person has the exclusive right to its use.

2 * Sec. 7. AS 03.40.050 is amended to read:

3 Sec. 03.40.050. USE WITHOUT CERTIFICATE PROHIBITED. A person may not
4 brand any horse, cattle, reindeer, caribou, buffalo, bison, musk ox, moose, deer, elk,
5 [MUSKOX] mulê, or ass, unless the person using the brand holds a written certificate of
6 acceptance from the commissioner.

7 * Sec. 8. AS 16.40.010 is amended to read:

8 Sec. 16.40.010. DISPOSITION OF SURPLUS GAME ANIMALS [BUFFALO AND
9 MUSK OXEN]. Whenever it is determined by the department that a surplus [EXISTS IN THE
10 HERDS] of buffalo, bison, moose, deer, caribou, or [AND] musk oxen exists [UNDER ITS
11 CONTROL], the department may, under regulations adopted by it, grant the surplus or portions
12 of the surplus [IT] to persons, groups, associations, partnerships, or corporations for the purpose
13 of raising and breeding the animals as domestic stock for commercial purposes, or for scientific
14 and educational purposes. A person, group, association, partnership, or corporation may receive
15 animals only after proving to the satisfaction of the department

16 (1) intent to raise and breed the animals; [AND]

17 (2) possession of facilities for maintaining the animals under positive control
18 sufficient to prevent injury to animals or handlers; and

19 (3) the ability to

20 (A) manage the animals in a manner consistent with standards of good
21 animal husbandry;

22 (B) maintain the animals in good health;

23 (C) prevent and detect the spread of disease and parasites to wild
24 game;

25 (D) prevent and detect the spread of disease and parasites from
26 domestic animals to the captive game animals.

27 * Sec. 9. AS 16.40.010 is amended by adding new subsections to read:

28 (b) A person who receives animals under (a) of this section after the effective date of this
29 subsection shall

30 (1) brand or mark each animal received and the progeny of any animal received
31 with an appropriate mark, brand, or tattoo as approved by the commissioner of natural resources

1 under AS 03.40 and with a highly visible, numbered ear tag;

2 (2) register the animals received, other captive game animals however acquired,
3 and the progeny of those animals with the commissioner of fish and game, the Department of
4 Natural Resources, and the Department of Environmental Conservation within 30 days after the
5 animals are acquired;

6 (3) construct and maintain a fence that is adequate to prevent the escape of
7 captive game animals and to exclude wild game;

8 (4) establish and maintain a contractual relationship with a veterinarian to examine
9 all captive game animals semi-annually;

10 (5) notify the commissioner of fish and game of the birth, sale, slaughter, escape,
11 or death of captive game animals;

12 (6) provide at the person's cost for a complete necropsy by a veterinarian
13 approved by the commissioner of fish and game to determine the cause of death of all captive
14 game animals;

15 (7) notify the commissioner of fish and game within 24 hours after wild big game
16 enters a facility where captive game animals are present.

17 (c) A person who receives animals under (a) of this section after the effective date of this
18 subsection may not raise captive game animals and domestic livestock on the same facility.

19 * **Sec. 10.** AS 16.40.020 is amended to read:

20 Sec. 16.40.020. SALE OF MEAT. The sale of buffalo, bison, moose, deer, caribou,
21 or musk oxen meat resulting from the slaughter of animals obtained under AS 16.40.010, or their
22 offspring is authorized. The slaughter of animals and sale of meat authorized under this
23 section are subject to AS 03, regulations adopted under AS 03, and other applicable law.