

Leg. Finance-House & Senate Finance Comte Files (1991-1992) 872

CS FOR SENATE BILL NO. 216 ()

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY

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] mule, 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 is 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.

DEPARTMENT OF FISH AND GAME
REVISED POSITION PAPER

Bill No: CSSB 216(Res) (4/27/92)

Sponsor: Senator Shultz

Division: Wildlife Conservation

Bill Title: An Act authorizing bison, moose, deer, and caribou farming and relating to game farming.

Department Position: Opposed

Background/Legislative Intent: This bill would amend AS 16.40.010-.020 and sections of Title 3; allow for the private ownership of a variety of native big game species to be raised as domestic animals for commercial purposes; and legalize the sale of the meat of those species. The department, in consultation with the Board of Game, would be responsible for determining when a surplus of these species existed that could be made available for disposition to private ownership. Regulation would be the responsibility of the commissioners of the Departments of Environmental Conservation and Natural Resources.

Analysis of Bill/Program Effects: Public ownership of wildlife and prohibiting sale of game meat are foundations of wildlife management in North America. We believe the passage of legislation legalizing these activities would be a major error and detrimental to successful wildlife management in Alaska. The department has concerns about the potential for genetic contamination of native game populations by escaped farmed game animals, the likelihood that game farming will introduce or spread diseases and parasites to Alaska's native wild game populations; displacement and wildlife conflicts that will result from appropriating existing wildlife habitat for game farming/ranching purposes; and enforcement problems that will result from increased opportunities to poach and market live game, big game trophies, and wild game meat. We have the following additional concerns about how game farming would be regulated under this bill:

- (1) This bill provides for the regulation of game farming by the commissioners of natural resources (page 2, lines 13-15) and environmental conservation (page 2, lines 17-20) "with concurrence of the commissioner of fish and game" in much the same way that elk farming is currently regulated. In fact, since elk farming was authorized by the legislature in 1987, neither the Department of Natural Resources nor the Department of Environmental Conservation has adopted or proposed a single regulation directed toward elk farming. The first elk farm established in the state, located on the Kenai Peninsula, was derived from a farmed herd in Montana that has since proven to be infected with bovine tuberculosis (thus far, the elk in Alaska have tested negative for the disease, but tests for game animals have not been perfected). In Alberta, at least 36 people have contracted bovine Tb from elk; over 2,000 animals have been destroyed in an effort to halt the spread of the disease; the province has spent over \$10 million dollars on that effort; Tb in Alberta is still out of control. All

species included in this bill would also be susceptible to Tb, other diseases, and parasites potentially injurious to native Alaskan wildlife.

If no regulations are adopted, concurrence by the commissioner of fish and game is meaningless. If the DNR and DEC make the same effort to regulate game farming as has been made for elk farming, there essentially will be no regulation, and this section of the bill will be meaningless.

- (2) This bill provides for the inspection of game farms by the state veterinarian in much the same manner as fur farms must be inspected (page 2, lines 30-31; page 3, lines 1-3). In fact, due to a shortage of personnel, financial resources or other reasons, DEC no longer issues permits or inspects fur farms and has been under orders from the commissioner of environmental conservation since March 1985 not to do so unless so requested by a particular fur farmer or "unless there is a compelling reason to do so, such as an outbreak of rabies." With the cessation of DEC's involvement, all regulation of the fur farm industry has ceased; fur farm permits are no longer issued and few fur farmers apply for or possess small business licenses; minimum facility standards for adequate caging, humane treatment, and fenced perimeters have been discarded; the interagency general concurrence agreement of the Alaska Coastal Management Program on furfarming was aborted; and no state agency or other entity has any record of how many fur farms are in the state or where they are located.

An example of the impacts of this lack of responsible regulation was demonstrated at a Wasilla fur farm shortly after DEC's disengagement. In 1987 a fur farm containing hundreds of foxes was abandoned; the animals were starving and reportedly diseased; facilities were vandalized and an estimated 70 animals were illegally released to the wild; in spite of ADF&G's objections, DNR (Division of Agriculture), in order to recover outstanding debts from a \$320,000 agricultural loan, auctioned the remaining animals to many persons who were not legitimate fur farmers and therefore legally could not possess foxes. Since then, on at least two occasions arctic foxes have been reported running free in the Kenai/Soldotna area where they have bitten local residents.

If the compulsory inspections of fur farms' under AS 03.25.020 are indicative of the type of inspections that can be expected for game farms, then this section of the bill is meaningless.

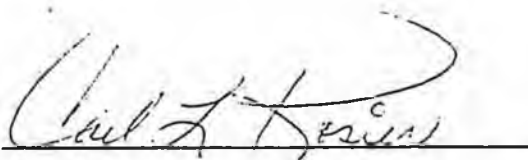
- (3) This bill provides for branding and marking of game farm animals (page 3, lines 19-27). Because the marking is voluntary, however, the provision is meaningless as a way of keeping track of these animals. For example, a herd of "domestic" bison escaped confinement in Delta last year. The majority of the animals mixed with the wild Delta Junction bison herd, and it has not been possible to distinguish which animals escaped captivity.
- (4) This bill requires that game farmers who receive surplus game animals from the state must have the ability to detect and prevent the spread of disease and parasites from captive game animals to wild game and from domestic animals to captive game animals (page 4, lines 13-16). The experience of other states and provinces has been that escapes of game farm animals are a given. In Alberta an estimated minimum 1% of farmed

animals escape captivity. Preventing contact between captive animals and wild animals when game farms are located in prime wildlife habitat is a virtual impossibility.

The detection and prevention of disease is no more certain. The presence of bovine Tb, for example, may not be detectable until two years following infection, and animals that test negative for Tb may still carry and spread the disease. Carriers of the meningeal worm parasite cannot be consistently identified. *Spongiform encephalopathy* is a fatal, incurable brain degeneration that can only be identified post mortem. Even if these and/or other diseases could be diagnosed and controlled by persons who receive surplus game animals from the state, the legislation makes no requirement for farmers who subsequently acquire the offspring of surplus game animals from breeders or other sources to also demonstrate competence in disease control to the department.

(Please refer to the department briefing paper on moose farming for additional information.)

Commissioner's Signature



Date

5/4/92

5/4/92

SENATE BILL 216

(work draft)

DIFFERENCE BETWEEN RESOURCES CS AND FINANCE CS

The Senate Resources CS for SB 216 incorrectly lumped two groups of game farm animals together. One group is typically obtained through normal importation of animals from other game farms. The other group would come from wild stocks within the state.

It is the intent of the sponsor to allow DNR and DEC to regulate both groups of animals the same way they regulate all other agricultural animals. However it is also the intent of the sponsor to provide additional oversight by Fish and Game if the animals originate from wild state stocks.

This CS accomplishes these two goals along with exempting Elk which is already in statute and was never intended to be in this legislation. Elk on game farms are currently regulated by DNR and DEC under present statute.

(SEE Page 2, lines 13 through 24)

The effective date changes in Section 9 simply clarify that stipulations in Section 9 do not apply retroactively to those persons now game farming.

- by Dave Stancliff
- Sen Skultz

INFO
From
DR. Wood

WILD GAME ENHANCEMENT/GAME RANCHING/GAME FARMING

By
ALAN
EPPS
UOFA

INTRODUCTION.

Alaska has a diversity of fish and wildlife, much of which is found in relatively low densities, generally in remote situations and/or seasonally. One of the attractions for non-Alaskans, as well as many Alaskans, is the opportunity to view, photograph, catch and shoot one or many individuals from within this renewable resource group. The above provides an economic opportunity which to date has only received limited attention through guiding operations for both consumptive and non-consumptive purposes, and the limited fur industry which includes wild harvest and some fur farming.

The economic opportunities for rural Alaska, particularly with the establishment of large parcels of private land, warrant consideration by private enterprise as well as state government. It is probable that existing state policies will require modification before Alaska will realize the benefits enjoyed by other areas of the world.

To date, Alaska has primarily managed hunters, trappers and fisherman as they practiced wild harvest of fish and game populations. Limited attempts have occurred in the areas of habitat modifications, transplanting and stocking. World-wide experience suggests that habitat enhancement and intensive management of the animals themselves results in increased populations of fish and wildlife. These efforts can range from relatively simple habitat manipulations, through game ranching and aquaculture to intensive game, fish or fur farming. Such efforts in Alaska are likely to benefit Alaskans and a wider diversity of society than is currently enjoyed.

At present, enjoyment and use of much of Alaska's wildlife resource is limited by poor access and undeveloped marketing schemes. In many areas, wildlife is the only renewable resource present. Timber production is marginal or non-existent in most of the state, and farming of agronomic crops is feasible only in selected areas of favorable climate and soils. However, wildlife is present in most of the state in forms which can potentially be used on a sustained basis to provide meat, hunting and viewing pleasure, hides, fiber and other materials for crafts. Considering the renewable nature of this resource in the absence of other such resources, it becomes apparent that ways of more



Sen. Dick Smith

Fairbanks North Star Borough

Assembly

809 Pioneer Road

P.O. Box 71267

Fairbanks, Alaska 99707-1267

907 459-1401

TO: The Members of the Interior Delegation

FROM: Harold Gillam
Assemblymember

DATE: April 28, 1992

SUBJ: Moose Farming Resolution

The Borough Assembly passed a resolution last Thursday night urging that the legislature pass legislation this session that would allow for "Moose Ranching."

This is not a new concept for it has been done with success in Russia. Wild animal ranching is done in several states of the union. It is also done in Canada. Reindeer ranching is done on a very limited basis today and is restricted to only Alaska natives. Prior to the restriction (1939) it was done on a large scale in Western Alaska and was considered one of the greatest resources, next to mining, in Northwestern Alaska. There has been considerable study by the University of Alaska concerning the Musk Ox.

It is a viable concept that will not cost the State any money to implement, for with a simple change of the law there are people that are willing to invest their own money, time and effort to make it a success.

I would urge you to allow these people the chance to make a success of this endeavor and to show that the State of Alaska is willing to encourage individual initiative.

Sincerely,

Harold Gillam



UNIVERSITY OF ALASKA FAIRBANKS

Department of Plant and Animal Sciences
School of Agriculture and Land Resources Management

Fairbanks, Alaska 99775-0080
Phone (907) 474-7188 • FAX (907) 474-7439

January 10, 1992

Senator Dick Shultz
Interior Senate
Government of State of Alaska
Tok, AK

Dear Senator Shultz:

Mr. Doug Welton has asked me to write you and address the issue of commercial game production. This communique offers a very brief understanding of what has happened in other parts of the world, is happening here, and will continue to happen.

Commercial game production is not new to Alaska. Only the time scale and present needs of the industry are current. The important aspect is that goals can be accomplished more completely and efficiently when all parties involved compromise and work together. From my past experience, all parties involved with this industry, as with others, usually have the same concerns and interests. The difference is perhaps a slight change in the angle of approach. This is why open minds among all user groups, some regulation but not over-regulation, and a value of importance can potentially lead to continual development of this new industry of game farming/production.

I have attached the brief described above and several other documents that may be of interest. If I can be of assistance please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Lyle A. Renecker".

Lyle A. Renecker
Assistant Professor
Head of Reindeer Research Program

Handwritten note:
D
M
R

Proposed State Policy in Support of Alaskan Agriculture

- * Provide greater consumer availability of Alaskan grown products in the marketplace through inspection, certification, labeling, promotional and informational programs.
- * Continue to make agriculture land available in a range of parcel sizes throughout the state.
- * Make state land available for agriculture under a variety of provisions including fee-simple title with fair market value purchase or homestead credits.
- * Preserve the long-term availability of agriculture land by the creation of a 500,000 acre agricultural land bank to be managed and administered by the Division of Agriculture.
- * Support unrestricted domestic breeding and raising of all animals, including game species.
- * Make grazing leases available for up to a 30 year term with contraction at least every 10 years to the area developed and utilized.
- * Support the movement of agricultural materials and products through a farm-to-market road priority and an agricultural discount on the state ferry system.
- * Assure the availability of a financing source for farm operating loans (i.e., seed, fertilizer).
- * Facilitate the development and use of agriculture in conjunction with other Alaskan resource uses and needs (i.e., fishmeal, forestry).
- * Focus the state's agricultural technology investment on protecting and enhancing the quality of Alaskan ^{soils} seed, plants, produce, and agricultural products.
- * Facilitate the formation and operation of co-operative ownership of major agricultural facilities and the development of farmer's markets.

WARD FARMS
P.O. BOX 290
SOLDOTNA, AK. 99669
262-6159

To: Senate Finance Committee

Re: CS Senate Bill 216b

I would like to provide testimony on two aspects of this bill.

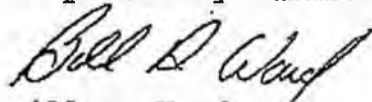
1) This bill originally was intended to allow the private ownership of surplus Alaska indigenous wild game animals, specifically moose & caribou. The rewrite of this bill will affect the existing legal farming of Elk. The farming of Elk is legislatively authorized under AS 03.05.010 para. 6, AS03.05.011(b) & AS 16.05.331. SB 216 would alter the AS 03.05 statutes to delete the reference to Elk as a farmed animal and replace with the generic term of "game farming". This may impose Elk farming to the restrictive language of the balance of the bill. The intent of this bill as it pertains to the farming of surplus Alaska game animals does not apply to Elk and Elk should be specifically excluded from reference in this bill. Elk are being raised as a domestic farm animal and should remain under the authority of Div. of Agriculture and the State Veterinarian.

RECOMMENDATION: Do not alter AS 03.05.010 para (6) or AS 03.05.011b Insert a new paragraph to deal specifically with the management of surplus Alaska game animals.

2) The manner in which this bill was rewritten will seriously affect the ability for an individual to raise animals. It was rewritten without any input from industry, it is very restrictive, it requires the combined regulation of three departments to administer statutes (an impossible task), and will unfairly restrict private enterprise. There are points to the bill I agree with but there are aspects that are based on false information intended to restrict or eliminate game farming.

RECOMMENDATION: Table this bill until there is adequate input from industry, the State, and the scientific community to insure that the statutes properly address the concerns and needs of private business and the Alaska.

Respectfully Submitted:



Bill D. Ward

FACSIMILE COVER PAGE

WARD FARMS
P.O. BOX 290 - SOLDOTNA, ALASKA 99669
PH. 907-262-6159 FAX 907-262-7278

DATE: 5/2/92 CONSISTS OF 4 PAGES INCL. COVER

PLEASE DELIVER THIS TRANSMISSION TO:

NAME: Guzzo Burnett

COMPANY: Senator Paschot's Office

FAX NO.: 465 - 2069

TRANSMITTED BY: Bill Ward

HARD COPY OF THIS TRANSMISSION WILL FOLLOW VIA MAIL YES NO

I am also sending a copy to
Dore Sandcliff @ Senator Shalby's office.
Would you please ~~also~~ make sure all
members of the Finance Committee receive
copies of this as well.

Thank you for your help.
If you have any questions, please call or
leave a message @ 262-5135 recorder.

Bill Ward

WARD FARMS
P.O. BOX 290
SOLDOTNA, AK. 99669
262-6159

GENERAL INFORMATION FOR THE COMMITTEE
REGARDING GAME FARMING IN ALASKA

I have owned and raised elk in Alaska since 1990. I am on the Board of Directors for the North American Elk Breeders Association which represents the elk industry throughout the United States and Canada. There are approximately 1000 game farms in North America with 20,000 privately owned Elk. I have attended and participated in numerous meetings regarding animal health, disease control, and government regulation. I have testified before the USDA and assisted with legislation placed before Congress to identify Elk as a farmed livestock. I was asked to testify before the National Research Council regarding Bovine Tuberculosis. I am a member of the United States Animal Health Assn. I am aware of the status of elk farming in other states & provinces. I believe that I am legitimately qualified to provide accurate information on behalf of private elk farmers. When any issue is brought forth that affects my business I should have the right to provide input and testimony on behalf of the private sector.

The Department of Fish & Game is categorically opposed to any form of private ownership of game and game farming. Any input they will provide will be influenced by that philosophy & bias. Their testimony is tainted in that regard and should not be accepted without authenticating it from other sources. When any animal is raised in private ownership under agriculture conditions, the F&G should not have regulatory control. They are not trained in the agriculture management of animals, they have no experience, they are not supportive, and they are not interested in managing animals for agriculture purposes. In my discussions with F&G I concur that they have a legitimate interest in insuring that 1) there is no risk of disease to wild stocks, (animal health & disease testing is controlled by the State Veterinarian with the proper authority), 2) animals should be marked to maintain positive ownership identification in case of escape or question of ownership.

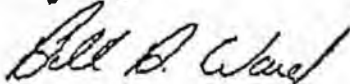
The issue of disease is a used by opponents of game farming to create doubt and cause hysteria. All animals domestic and wild are at risk for disease. Wild game have disease that is endemic and controlled by natural means. Domestic animals including private game animals are subject to strict testing requirements to detect and prevent disease while wild animals aren't tested. The State Veterinarian, Dr. Bert Gore is satisfied that current import testing regulations will prevent the import of disease into Alaska. Do not allow the hysteria of the disease issue to cloud your judgement unless there is honest scientific rational to substantiate it. As long as rational people agree on accurate testing standards to detect and prevent disease then the safety of all animals is assured. The owners of these domestic animals have a much greater financial stake at risk and don't want unhealthy animals either.

Elk, Bison, Reindeer, & some of the other game animals can provide a significant contribution to the agriculture industry. Alaska has many positive features for game farming that other states don't have. Elk and game animals will prosper in the Alaska environment, markets for animals raised in Alaska are good due to the clean and healthy environment, and producers can make a profit.

In my personal experience in raising Elk I can state that:

- 1) My animals are well cared for and prospering on our farm.
- 2) I do not have any disease in my herd and I have the test results to prove it.
- 3) The public reaction to my Elk Farm has been very positive and supportive.
- 4) Interest is high and agriculture has gained a new level of respect.
- 5) I have good markets for my elk products and established buyers are willing to purchase at a good price.
- 6) I enjoy and respect the animals that I am raising and I expect to be raising elk full time as my sole business within 5 years.

Signed:



Bill D. Ward

Game Ranching in Western Canada

Lyle A. Renecker and Henry M. Kozak

Trends in the world meat markets have been towards leaner meats as people become more conscious of fat, cholesterol, and energy values. As a result, beef markets have become depressed. Venison is naturally a lean meat with a low percentage of intramuscular fat but high levels of protein. Thus, the sale of meat from wild ungulates raised on commercial game ranches could serve as an alternative to meet the demands for leaner meats.

Recently, Geist (1985) presented a view that game ranching is a threat to conservation of wild ungulates. Earlier, Odum (1971) showed the need to diversify wildlife management, such that a mixture of protective (parks and reserves), productive, and multiple-use systems are practiced. In this article, we will attempt to clarify many of the misconceptions about game ranching and outline the benefits of this new promising industry.

Historical Perspective

Wild indigenous herbivores have been closely associated with human occupation of North America for thousands of years. Paleolithic man exploited large numbers of herbivores in North America more than 100,000 years ago (Martin 1973). In recent times, wild game has been used as subsistence food. As settlements in North America expanded, there was uncontrolled decimation of wild herbivores. Present management concepts are designed to place controls on removal rates of wildlife and guarantee a supply of wild stock for sport hunting. However, with this view of wildlife management, there is a lack of diversity as outlined by Odum (1971) to service the variable needs of the public. In Alberta, resources are generally managed as multiple-use or compromise systems which attempt to satisfy the conflicting demands of several users. Parks are few and the area reserved for resource protection within their boundaries is relatively small. Game ranching is a means of providing this missing dimension to wildlife management. It adds the concept of conservation to lands allocated to agriculture by reversing the transformation of natural habitat to cultivation. As a result, the many rare and threatened species in the highly productive prairie and aspen parkland will be perpetuated.

Interest in game ranching as a commercial enterprise has grown during recent years in western Canada. Initially, Elk Island National Park, Alberta, Canada, served as the model for large-scale management of a mixed-species assemblage of native ungulates (Telfer and Scotter 1975). The herbivore guild, most suited for extensive game ranching in habitats of prairie parkland and aspen-dominated boreal forest zones of western Canada, is a combination of bison, wapiti, and moose, of which bison is the largest contributor in biomass

and productivity (Renecker et al. 1987).

Game Ranching or Farming

Game ranching is a production strategy whereby high fencing costs are diluted by increasing size of the land base and management inputs are minimized. Here, carrying capacity is maximized through a mixed-species grazing system. Because of this need for a large contiguous land base (>25 km²) (Hudson and Blyth 1986) there are few opportunities for private landowners to establish extensive ranches.

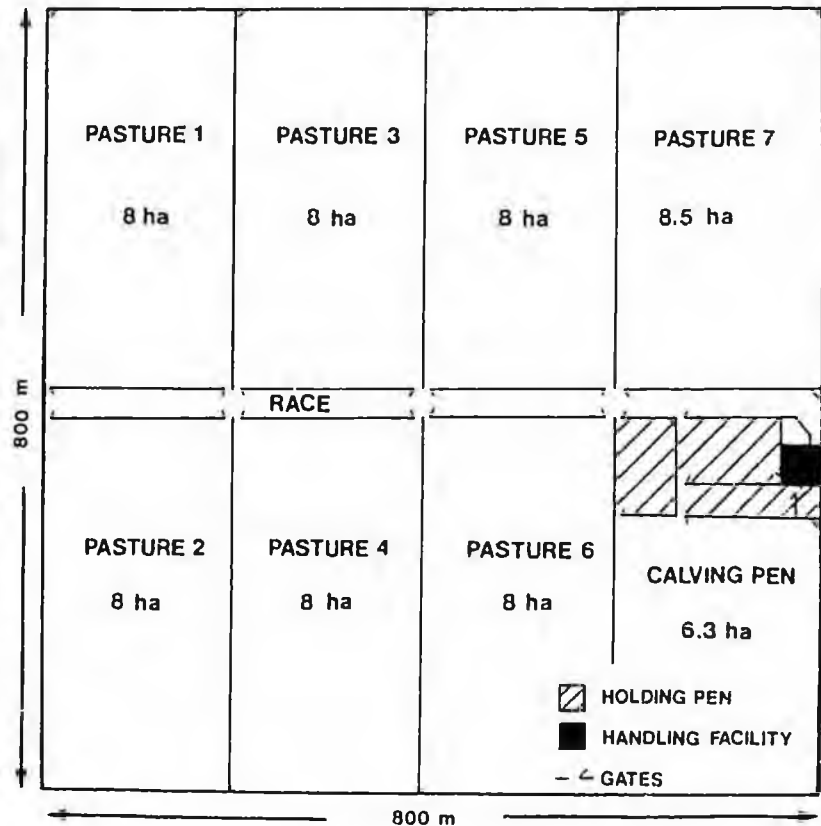


A mixture of open grassland, and forested areas and wetlands, such as found in Elk Island National Park, are necessary to exploit a mixed-species grazing strategy on extensive ranches.

Indian and Metis settlements are the best candidates for this strategy since they are associated with large tracts of communally owned land necessary for the mixed-species approach (Hudson 1981). Additionally, game ranching is an opportunity for native people to acquire a feeling of self-importance and income in a manner which is compatible with their traditional concepts. For example, the opportunities produced by this new wildlife industry, which are similar to the traditional lifestyle of native peoples, have been realized by the Oglala Sioux in South Dakota for many years (Cole 1975). The first commercial large scale or extensive game ranch in Canada was established in 1980 on land of the Kikino Metis Settlement in north-central Alberta.

With large properties, it becomes more difficult to control animal movements for calving, velvet antler removal, autumn rut and round-ups, and to take advantage of all economic opportunities. For example, the initial direction of the Kikino Metis Settlement venture was towards a large scale management system with a low labour requirement. However, experience revealed a greater need for control of animal populations (Renecker and Biewald 1985). The trend of this operation has been to intensify with the addition of subdivisional fences to gain fall control over animal movement. In New Zealand, early game farmers first raised red deer on extensive properties in the harsh environments of mountain hillsides. The trend was soon changed towards an intensive style of pastoral management on lowland ranges with sheep replacing the deer on hillsides. This shift in range use and

Authors are research assistants, Department of Animal Science, University of Alberta, Edmonton, Alberta, Canada T6G 2P5.



Intensive wapiti farms are smaller properties with internal fences which adopt full control over animal movements and permit supplementary feeding programs.

harvesting of wild stocks is already at least equal to the regulated harvest for some ungulates (Renecker et al. 1986). By legalizing the sale of meat and other by-products from farmed native ungulates, pressure is removed from wild populations as world markets become saturated. Illegal ventures would become less profitable as prices are controlled thereby reducing the motivation to poach and the entry of illicit products into the marketplace.

Velvet antlers and venison are wildlife tissues stimulating the most concern because of their commercial value. Arguments state that velvet antlers can easily be taken at any point in time during their development. However, velvet antlers are only of commercial value to Korean buyers as a folk medicine for about one week each year. Decimation of wild stock for velvet antlers is not a real problem because of the low opportunity for encounter of wild stock in boreal and montane habitats. Super A Grade velvet antlers occur in early June prior to the last bifurcation of the growing antler. Complete sedation and restraint of the animal are required to ensure that the animal and its antlers can be handled with the necessary care. Damage to the velvet immediately dictates a lower grade and eliminates a profit margin and the motivation for illegal entry of this product into the marketplace. It would be impossible for persons without experience in techniques of animal immobilization, animal behavior and velvet antler removal to remove a product of any value. Also, world supplies have been high, markets extremely volatile and few buyers will deal with quantities of less than one tonne.

Because supply now meets demand, there are more constraints on quality of Super A grade velvet which leads to lower overall prices. As a result, most commercial operations in New Zealand are not orientated specifically for velvet antler production. In order to sell antler velvet in Alberta, an individual must be in possession of a valid big game farm permit. The permit holder is obligated to submit monthly records of animal inventory to the Government. The sale of products must match the animal inventory thereby eliminating the entry of illegal products to the marketplace.

Illicit sales of meat from wild stock has been foreseen as a potential problem of the sale of meat from commercially raised animals. Currently, the federal meat regulations require ante-mortem inspection which ensures observation before slaughter. The marketplace will also stipulate conformity in carcass quality such that the cosmetic characteristics and moisture content of the carcass will be standardized by grain feeding animals for 30-60 days prior to slaughter. This will assure foreign and domestic buyers of a consistent and high quality product for the marketplace. European markets have rigorous standards for slaughter facilities in countries which export venison into the European economic community. Initially, only one such facility will be available in Canada. Finally, all saleable cut meats can be vacuum packaged with a distinctive government seal, thus policing "street peddling" and illegal marketing of venison. Ultimately, the fact remains that commercial buyers of this specialty product will not trade with illicit sources and jeopardize their

SB 220

SENATE FINANCE COMMITTEE REPORT

DATE: 3/6/92

FURTHER:

DATE TURNED INTO OFFICE: _____

The Finance Committee considered

SENATE BILL NO. 220

"An Act granting employees of a state residential psychiatric facility status as peace officers under the public employees' retirement system; and providing for an effective date."

DIED

and recommends:

replace with _____ CS _____ (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

DO PASS:

1. _____

Co-Chair: Signature/Recommendation

PREVIOUS FISCAL NOTES: Dept/Date

zero fiscal notes _____

fiscal notes _____

OTHER RECOMMENDATIONS:

2. _____

Co-Chair: Signature/Recommendation

CS FOR SENATE BILL NO. 220 (STATE AFFAIRS)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered: 3/6/92
Referred: Finance

Sponsor(s): SENATORS RODEY, Collins

A BILL

FOR AN ACT ENTITLED

1 "An Act granting status as peace officers under the public employees' retirement system
2 to correctional nurses and to certain state employees employed at a residential psychiatric
3 facility; and providing for an effective date."

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

5 * Section 1. AS 39.35.680(28) is amended to read:

6 (28) "peace officer" or "fire fighter" means an employee occupying a position as
7 a peace officer, chief of police, correctional officer, correctional superintendent, correctional
8 nurse, fire fighter, fire chief, or probation officer or a state employee at a residential
9 psychiatric facility employed in a position that requires interacting directly with patients
10 at the facility, limited to physicians, physician's assistants, registered nurses, psychiatric
11 nursing assistants, practical nurses, technical assistants, ward clerks, social workers, mental
12 health clinicians, psychologists, activity therapists, occupational therapists, housekeepers,
13 and janitors;

14 * Sec. 2. A member who was employed, before the effective date of this Act, either as a correctional

1 nurse or by the state at a residential psychiatric facility with job duties that required interacting directly
2 with patients at the facility may convert the credited service for the position to credited service as a
3 peace officer by claiming the service as peace officer service before the member is appointed to
4 retirement. When the member claims this retroactive credited service, an indebtedness of the member
5 to the system shall be established. The indebtedness is equal to (1) the contributions to the system that
6 the employee would have made if the service had counted as peace officer service, less (2) the
7 contributions to the system that the member actually made. Interest as prescribed by regulation accrues
8 on this indebtedness beginning July 1, 1992. Any outstanding indebtedness that exists at the time the
9 member is appointed to retirement will require an actuarial adjustment to the benefits payable based upon
10 the service.

11 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

SENATE BILL NO. 220

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY SENATORS RODEY, Collins

Introduced: 3/22/91

Referred: State Affairs and Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act granting employees of a state residential psychiatric facility status as peace
 2 officers under the public employees' retirement system; and providing for an effective
 3 date."

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

5 * Section 1. AS 39.35.680(28) is amended to read:

6 (28) "peace officer" or "fire fighter" means a state employee employed at a
 7 residential psychiatric facility or an employee occupying a position as a peace officer, chief
 8 of police, correctional officer, correctional superintendent, fire fighter, fire chief, or probation
 9 officer;

10 * Sec. 2. A member who was employed by the state at a residential psychiatric facility in a position
 11 in the public employees' retirement system before the effective date of this Act may convert the credited
 12 service for that position to credited service as a peace officer by claiming the service as peace officer
 13 service before the member is appointed to retirement. When the member claims this retroactive credited
 14 service, an indebtedness of the member to the system shall be established. The indebtedness is equal

1 to (1) the contributions to the system that the employee would have made if the psychiatric facility
2 service had counted as peace officer service, less (2) the contributions to the system that the employee
3 actually made. Interest as prescribed by regulation accrues on this indebtedness beginning July 1, 1992.
4 Any outstanding indebtedness that exists at the time the member is appointed to retirement will require
5 an actuarial adjustment to the benefits payable based upon the psychiatric facility service.
6 * **Sec. 3.** This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. CSSB 220 (State Affairs)

Revision Date: 3/6/92 Dept. Affected Health & Social Services
 Title: An Act granting status as peace officers under Public Employees retirement system BRU: Institutions & Administration
 Component: Alaska Psychiatric Institute
 Sponsor: Senators Rodey and Collins
 Requestor: Senate HESS COMPONENT SERIAL NO. 0311

Expenditures/Revenues

(Thousands of Dollars)

OPERATING	FY93	FY94	FY95	FY96	FY97	FY98
PERSONAL SERVICES	42.4	43.2	44.1	45.0	45.9	46.8
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	42.4	43.2	44.1	45.0	45.9	46.8
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING:

(Thousands of Dollars)

GENERAL FUND 1006	42.4	43.2	44.1	45.0	45.9	46.8
FEDERAL FUNDS						
OTHER						
TOTAL	42.4	43.2	44.1	45.0	45.9	46.8

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: none

ANALYSIS: (Attach a separate page if necessary)	
FY93 salary costs of covered positions	\$7,995,970
times percentage difference in retirement rate	0.0053
	\$42,379
Assumed merit creep rate of 2% for future years All GF is Mental Health Trust 1006.	

Prepared by: Richard Renninger *Richard Renninger* Phone: 465-3331
 Division: Administrative Services Date: 4/7/92
 Approved by Commissioner: Theodore A. Mala MD, MEd *Theodore A. Mala* Date: 7 April 1992
 Agency: Department of Health and Social Services

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

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. CSSB 220 (STA)

Revision Data: _____ Department Affected: Department of Corrections
 Title: "An Act granting status as BRU: Statewide Operations
peace officers..." Component: Various
 Sponsor: Senator Rodey
 Requestor: Senate Finance 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	26.6	27.4	28.2	29.1	29.9	30.8
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	26.6	27.4	28.2	29.1	29.9	30.8

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

GENERAL FUND	26.6	27.4	28.2	29.1	29.9	30.8
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	26.6	27.4	28.2	29.1	29.9	30.8

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: 0

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached Analysis.

Prepared By: Diane Schenker, Legislative Liaison Phone: 465-3376
 Division: Office of the Commissioner Date: 03/11/92
 Approved by Commissioner: Lloyd Hames, Commissioner
 Agency: Department of Corrections Date: 03/11/92

CONTINUATION OF FISCAL ANALYSIS

CSSB 220 (STATE AFFAIRS): An Act granting status as peace officers under the public employees' retirement system to correctional nurses and to certain state employees employed at a residential psychiatric facility; and providing for an effective date.

The Department pays 15.64% of an employee's gross pay for retirement benefits if the employee does not fall under peace officer status. The Department pays 16.97% of a peace officer's gross pay toward retirement benefits. For every employee added to peace officer status, the Department would increase its cost by 1.33% of the employee's gross pay.

There are 42 nurse positions in the Department of Corrections. Based on a survey of the gross pay of these employees, the Department would have to pay an additional \$26,600 per year if this bill passes. Assuming a 3% inflation/COLA for FY94-97, the costs will increase each year.

FISCAL NOTE

No. 2

Bill Version: SB220

(S) Publish Date: 3-6-92

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Revision Date: _____
Title: An act granting employees of a state residential psychiatric facility status of peace officers under PERS.
Sponsor: Rodey
Requestor: Senate State Affairs

Department Affected: Administration
BRU: Retirement and Benefits
Component: Retirement and Benefits
COMPONENT SERIAL NO. 64

Expenditures/Revenues: (Thousands of Dollars)

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

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

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

POSITIONS

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

Estimate of current year impact: _____ \$0

Changes in SSB220 (STA) have no fiscal impact. This fiscal note is appropriate.

ANALYSIS: (attach a separate page if necessary.)

3-5-92
date Comte Aide (initial)

Prepared By: Gary Bader
Division: Retirement and Benefits

Phone: 465-4470
Date: February 21, 1992

Approved by Commissioner: Nancy Bear Usara
Agency: Department of Administration

Date: 2/24/92

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB & Impacted Agency(ies).
Rev 11/91 Page 1 of 1

FISCAL NOTE

BILL NO. CSSB 220(SA)

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Revision Date: _____
 Title: An act granting employees of a state residential psychiatric facility status of peace officers under PERS.
 Sponsor: Rodey
 Requestor: Senate State affairs

Department Affected: All State
 BRU: All State
 Component: All State
 COMPONENT SERIAL NO. _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	304.1	304.1	304.1	304.1
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	304.1	304.1	304.1	304.1

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

GENERAL FUND	0	0	304.1	304.1	304.1	304.1
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE	0	0	0	0	0	0
TOTAL	0	0	304.1	304.1	304.1	304.1

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: \$0

ANALYSIS: (attach a separate page if necessary.)

This bill will have no cost to other Political Subdivisions of the State.

Prepared By: Garv Bader *Garv Bader*
 Division: Retirement and Benefits

Phone: 465-4470
 Date: March 5, 1992

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

Date: 3/12/92

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB & Impacted Agency(ies).
 Rev 11/91 Page 1 of 2

Committee Substitute for Senate Bill 220 (SA)
Analysis of Fiscal Implications to the Retirement Funds
Prepared by Division of Retirement and Benefits
Department of Administration
March 5, 1992

Analysis: This bill is intended to include Public Employees' Retirement System (PERS) members who serve as employees of a state residential psychiatric facility under "Peace Officer/Firefighter" coverage. They are currently covered under the "All Other" category. We have assumed that this bill will increase the "Peace Officer/Firefighter" participation and decrease the "All Other" participation in PERS by 256 members.

This bill is estimated to increase the state FY 95 PERS contribution rate by .05%. The state payroll is estimated to be \$608,286,654 in FY 95 and remain stable each year thereafter.

The state cost of \$304.1 is calculated as follows:

State FY 95 payroll	\$ 608,286,654
Increase in PERS rate	<u>X</u> .05%
TOTAL FY 95 STATE COST.....	<u>\$ 304.1</u>

This bill will increase the PERS accrued liabilities by \$1.7 million and result in a decrease of .01% in the funding ratio of the PERS fund.

FISCAL NOTE

No. 1

Bill Version: SB220

(S) Publish Date: 3-6-92

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Revision Date: _____
Title: An act granting employees of a state residential psychiatric facility status of peace officers under PERS.
Sponsor: Rodey
Requestor: Senate State Affairs

Department Affected: All State
BRU: All State
Component: All State
COMPONENT SERIAL NO. _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	486.6	486.6	486.6	486.6
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	486.6	486.6	486.6	486.6

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

GENERAL FUND	0	0	486.6	486.6	486.6	486.6
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE	0	0	0	0	0	0
TOTAL	0	0	486.6	486.6	486.6	486.6

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.)

This bill will have no cost to other Political Subdivisions of the State.

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

Phone: 465-4470
Date: February 21, 1992

Approved by Commissioner: Nancy Bear Usery
Agency: Department of Administration

Date: 2/22/92

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB & Impacted Agency(ies).
Rev 11/91

Senate Bill 220
Analysis of Fiscal Implications to the Retirement Funds
Prepared by Division of Retirement and Benefits
Department of Administration
February 21, 1992

Analysis: This bill is intended to include Public Employees' Retirement System (PERS) members who serve as employees of a state residential psychiatric facility under "Peace Officer/Firefighter" coverage. They are currently covered under the "All Other" category. We have assumed that this bill will increase the "Peace Officer/Firefighter" participation and decrease the "All Other" participation in PERS by 440 members.

This bill is estimated to increase the state FY 95 PERS contribution rate by .08%. The state payroll is estimated to be \$608,286,654 in FY 95 and remain stable each year thereafter.

The state cost of \$486.6 is calculated as follows:

State FY 95 payroll	\$ 608,286,654
Increase in PERS rate	<u>X</u> .08%
TOTAL FY 95 STATE COST.....	<u>\$ 486.6</u>

This bill will increase the PERS accrued liabilities by \$3 million and result in a decrease of .01% in the funding ratio of the PERS fund.

REPORT TO SENATE STATE AFFAIRS COMMITTEE

by
Curtis W. Young
2/26/92

Throughout my report I shall refer from time to time to a study which was completed by Roberta Helmuth, RN, Ed. Coordinator and Heather McCracken, RN, of Alaska Psychiatric Institute (API). The study covers the period March 1, 1987 through February 28, 1989 and gives actual statistics which will show the need for the passage of SB 220. This study will be made available to all interested parties and for the remainder of this report shall be referred to as the API Study.

Nursing is one of the most dangerous ways to earn a living, according to the Bureau of Labor Statistics. Its most recent survey of workplace injuries found that nine industries--hospitals and nursing care facilities among them--reported at least 100,000 individual injuries in 1989.

According to the API Study under Findings, in the period March 1, 1987 through February 28, 1989, a period of 24 months, there were 1397 reports of patient assaults on staff. Sixteen of the reports were dropped from the example as invalid due to incomplete information. Of the 1381 remaining assaults, 1147 had no staff injury reported. Staff injuries occurred in 234 or 17 percent of the assaults. These injuries ranged from scratches to dislocated shoulders and concussions.

In a psychiatric facility such as API, the direct care nursing staff, which includes RNs, LPNs, and PNAs, are specially trained to deal with assaultive behavior. However, they are not specially salaried since the consensus of opinion appears to be that dealing with assaultive behavior is part of their accepted duties. Unfortunately, the lack of adequate compensation for hazardous duties results in a large turnover in the direct care nursing staff, which in turn contributes to the high incidence of injury because new staff are not always adequately trained or experienced in dealing with violent patients. API's Annual Reports of New Hires from 1986 through 1991 show that over 50 percent of the turnovers for each year were in Nursing.

Another factor which contributes to patient assaults on staff is the Bill of Patients' Rights which entitles a patient to refuse medication. According to Table V of the API Study, 22 percent of a total of 234 assaultors had no medications ordered, 25 percent were refusing ordered medications for a total of 47 percent of the assaultors who were not receiving medications. Patients suffering from Schizophrenic disorders are the most likely to assault staff; unfortunately they are also the most likely to refuse medication which could control the assaultive behavior.

Violence exists in psychiatric settings, and direct care staff are routinely exposed to patient violence and threats of violence. In addition, the situation often has far-reaching consequences as well. There is the stress caused by the knowledge that they can be assaulted at any time and, of course, once a staff member has been assaulted there is a tendency to try to minimize the emotional reactions to the assault. When this occurs, victims may not resolve the psychological impact of the assault and professional and personal consequences may result. For example, the victim may exhibit decreased work performance, interactional difficulties with co-workers, a desire for a job change, or family and social problems.

Another stress causing factor is the daily exposure to Hepatitis B, HIV, Staph infections, etc. Staff are continually at risk of becoming infected themselves and/or carrying the infection home to their families.

According to the API Study, under Related Factors, the quarterly figures from 1987 and 88 show a steady and marked increase in staff injuries. Also, in accordance with hospital policy, none of the records (except charts on the units) were flagged in any manner to alert the caregiver to a history of assaultive behavior. It was found that 54 percent of the assaultors had a history of previous assaults.

It is clear that under the described conditions it is no surprise that there is a large turnover in staff, given the fact that there is no real incentive to entice these people to remain on the job. Certainly the wages these people receive do not justify remaining in a position where they are exposed to violence on a daily basis. In fact, most direct care staff do not receive as high a wage as do janitorial and dietary staff. SB 220 would at least provide some reward to those dedicated enough to remain in a dangerous job situation long enough to retire.

There can be no argument that employees of a state residential psychiatric facility deserve to be granted status as peace officers under the public employees' retirement system, given the type of work they perform and the hazards they face on a daily basis.



KENAI POLICE DEPT.

107 SOUTH WILLOW ST., KENAI, ALASKA 99611

TELEPHONE 283-7879

March 18, 1992

The Honorable Senator Paul A. Fischer
PO Box V
Juneau, Alaska 99811

Dear Senator Paul Fischer,


SB220 would revise the "peace officer" classification in a manner to include all State employees who appear to have any contact with A.P.I. I would suggest that the scope of the revision is not warranted. If the Senate does determine that the "peace officer" classification should be broadened in application, I would propose that police/fire emergency dispatchers be included in that classification.

Police/Fire emergency dispatchers work in a highly stressed environment. As a result all agencies experience a high turnover rate in these positions and very few retirements. Many of these individuals are involved in process service for their agencies, a "peace officer" function. Many are trained as Emergency Medical Dispatchers which involves a great deal of responsibility and pressure. Training standards for these positions are being constantly upgraded as this has become one of the latest fields of public safety litigation.

High turnover rates in this job classification are experienced statewide. This results in increased costs, and possible legal exposures, for both State and local governments. Classification in the "peace officer" retirement system would provide both appropriate recognition for the tasks performed, as well as an initiative to reduce turnover.

I would appreciate any comments you may have, as well as having this letter forwarded to the appropriate committees and bill sponsors.

Respectfully,


Richard A. Ross
Chief of Police

RAR/lw

MEMORANDUM

State of Alaska

TO: Mr. Frank Crum
Nursing Director

DATE: April 25, 1989

FILE NO:

TELEPHONE NO:

FROM: Roberta Helmuth, RN, Educ. Coord. SUBJECT: Staff Injury Audit Report
Heather McCracken, RN

Attached is a report summarizing some of the data compiled during investigation of staff injuries resulting from patient assaults.

As the principal investigators in this project, we request permission to submit for publication pending Education and Research Committee approval of the research.

*Roberta Helmuth, Ed. Coord.
Heather McCracken, Nursing Director*

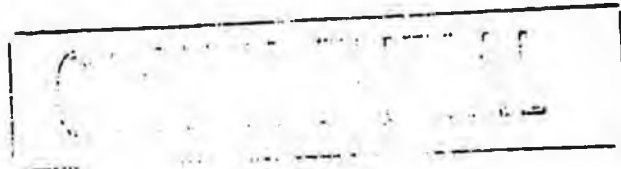
A.P.I. Study

A STUDY OF STAFF INJURIES AT THE ALASKA PSYCHIATRIC INSTITUTE

by Roberta Helmuth, RN, BA
and Heather McCracken, RN, BA

In recent months numerous nursing staff have been assaulted by patients resulting in injuries requiring time off work. The rising number and severity of staff injuries was noted by nursing administration and referred to the Nursing Quality Assurance Committee for review. The committee concurred with a proposal to research the problem utilizing an audit process. Nursing Education staff designed an audit tool and implemented the project. ¹

Due to the urgent need for the results of the research, the Nursing Director assigned one staff member from Nursing Education to work full time on gathering the audit data to enable rapid generation of a report from the data.



Ms. Helmuth is Education Coordinator, and Ms. McCracken is a Nursing Instructor at the Alaska Psychiatric Institute, 2900 Providence Drive, Anchorage, Alaska 99508.

¹ All data not otherwise credited was retrieved by an audit of records of patients who assaulted staff during the audit period, March '87 - February '89. The data will be presented for publication elsewhere.

FINDINGS

In the period March 1, 1987 through February 28, 1989 there were 1397 reports of patient assaults on staff. Sixteen (16) of the reports were dropped from the sample as invalid due to incomplete information. Of the 1381 remaining assaults, 1147 had no staff injury reported. Staff injuries occurred in 234 (17%) of the assaults. These injuries ranged from scratches to dislocated shoulders and concussions.

A month by month comparison of incidence of injury to patient census did not demonstrate any correlation in these two factors. (Table I)

TABLE I

MONTH	INJURIES	MONTHLY CENSUS
3/87	9	128
4/87	9	137
5/87	7	153
6/87	9	137
7/87	8	125
8/87	12	121
9/87	6	121
10/87	0	120
11/87	6	118
12/87	12	119
1/88	5	119
2/88	17	120
3/88	9	127
4/88	7	131
5/88	12	119
6/88	8	125
7/88	16	134
8/88	11	131
9/88	9	124
10/88	5	115
11/88	19	115
12/88	12	114
1/89	11	129
2/89	15	114

A breakdown of assaults by patient unit was done. (Table II)

TABLE II

UNIT	Total Assaults	Assaults with Injury	Assaults without Injury
Third	106	18	88
AAU	156	27	129
PSU	368	78	290
DTU	386	46	340
STP	31	6	25
ICP	102	20	82
YTP	232	39	193

Table III data was retrieved from Medical Record Departments annual reports and details the average daily census per unit and % of bed occupancy on the unit. Table III data covers FY '88, the only complete fiscal year within the audit period. Within that limited time frame, ~~there is a strong correlation between numbers~~

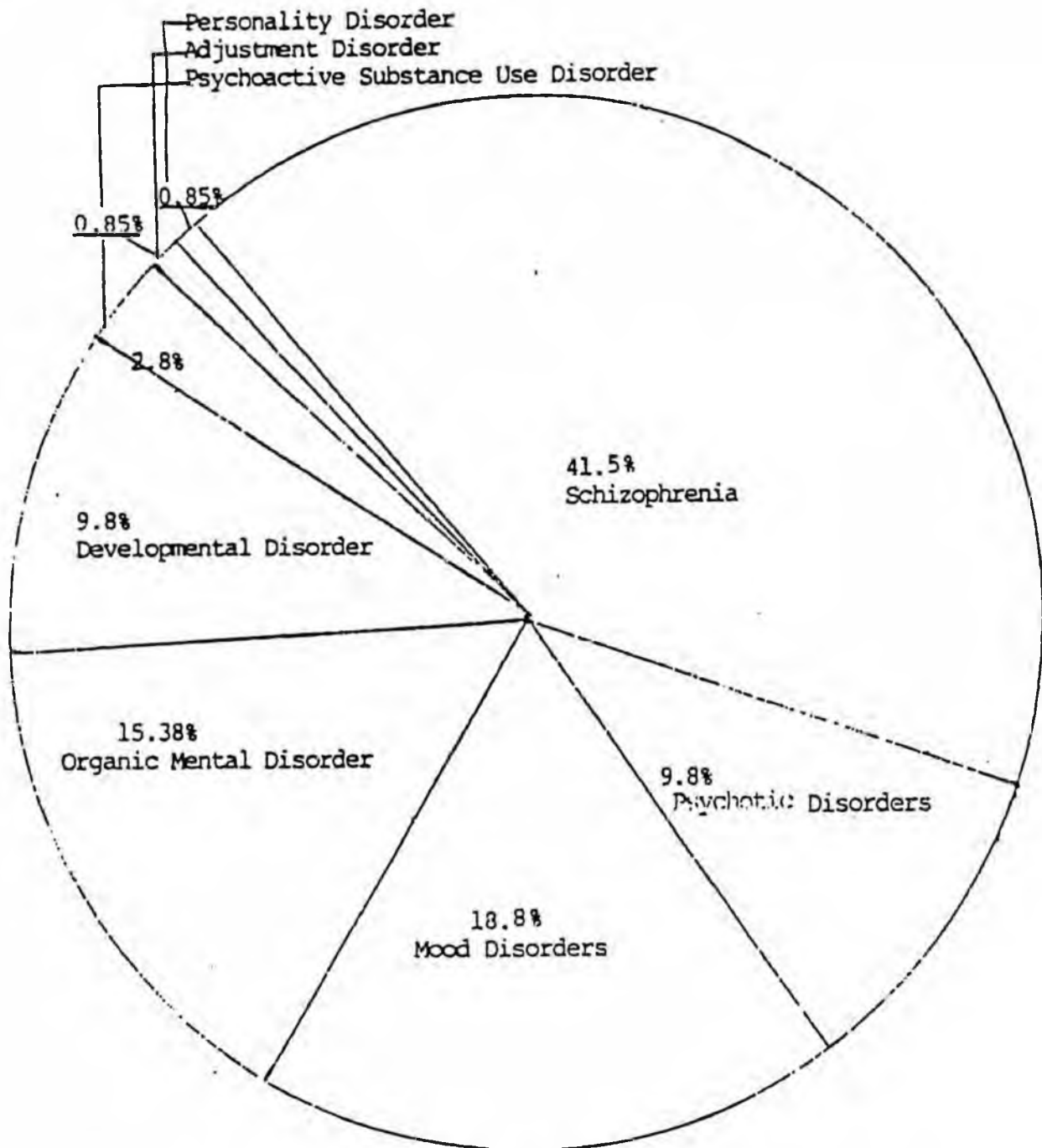
TABLE III

CONFIDENTIAL

UNIT	Average census FY'88	Bed Capacity	% of Capacity
Third	32	48	66.6
AAU	14	16	87.5
PSU	8	14	57.1
DTU	22	24	91.6
STP	17	20	85.0
ICP	17	20	85.0
YTP	13	32	40.6

Table IV shows a breakdown of the Primary diagnosis , per DSM-III-R classification, of patients committing assaults resulting in staff injuries. It is significant to note that 70.1% of these people fall into three (3) broad categories: Schizophrenia, Psychotic Disorders not elsewhere classified, and Mood Disorders. Traditionally, the majority of these three (3) categories have been successfully treated/controlled with medications.

TABLE IV



Categories as designated in the DSM-III-R

Table V is a breakdown of assaultors by DSM-III-R diagnostic categories. This table identifies how many patients in each category had no psychotropic medications ordered, how many were refusing ordered medications and the per category percentage not on medication.

TABLE V

DSM-III-R Categories	Total number of Patients	Number with no Psychotropics Ordered	Number Refusing	Total % not on Medication
Schizophrenic Disorders	97	14	26	41%
Psychotic Disorders	23	4	4	35%
Mood Disorders	44	9	17	59%
Organic Mental Disorders	36	5	7	33%
Developmental Disorders	23	8	5	57%
Psychoactive Substance Use	7	7	0	100%
Personality Disorders	2	2	0	100%
Adjustment Disorders	2	2	0	100%

In summation, 22% of the total 234 assaultors had no medications ordered, 25% were refusing ordered medications for a total of 47% of the assaultors who were not receiving medications. In the review of diagnostic categories, 34 patients (including developmental disorders, psychoactive substance use disorders, personality disorders, and adjustment disorders), may or may not be appropriate for medication depending upon physician interpretation of their individual circumstances. Keeping in mind the 34 patients represent 14.5% of the 234 assaultors, there remains 32.5% of the assaultors in this review who fall into categories traditionally treated by medications. This segment either had no medication ordered or were refusing ordered medication.

CONFIDENTIAL

RELATED FACTORS

Risk Management data regarding staff injuries was reviewed. The quarterly figures from '87 and '88 show a steady and marked increase since the fourth quarter of 1987, corroborating our data.

All API nursing staff have been trained in the Mandt system since 1979. The focus of the system is prevention and de-escalation utilizing verbal skills prior to using physical techniques. It prepares staff to use verbal and physical skills in situations requiring intervention.

In accordance with hospital policy, none of the records (except charts on the unit) were flagged in any manner to alert the care giver to a history of assaultive behavior. We defined "history of assaultive behavior" for the purposes of this research as more than one assault. It was found that 54% of the assaultors had a history of previous assaults.

While compiling various sets of statistics it was discovered that three (3) patients accounted for 46 (19.7%) of the injuries. In the interest of prevention a memo of 4/18/89 as forwarded to you prior to report completion.

The researcher's attempts to correlate reports of injury with workmen's compensation filings were unsuccessful.

CONFIDENTIAL

PERSONNEL REPORT

NOVEMBER 11, 1990

NUMBER OF PCN's: 304

NUMBER OF FULL-TIME EQUIVALENTS: 292

	<u>Number PCN's</u>	<u>Part-Time & Seasonal</u>	<u>Number FTE's</u>	<u>Vacancies</u>
Medical Staff	11	1	10.5	4
Ancillary Services	4	1	3.5	1
Nursing Services	164	20	154	4
RN's	72 (*)	3	70.5	3
LPN's	3	0	3	0
PNA's	83	17	74.5	1
Clerical	6	0	6	0
Social Services	9	0	9	1
Psychology	7	0	7	1
Forensics	4	0	4	0
Activity Therapy	10	0	10	1
<u>SUPPORTING SERVICES:</u>				
Administration (Includes Volunteer Services Coordinator and Chaplain)	14	2	13	4
Medical Records	11	0	11	0
Maintenance	14	0	14	2
Housekeeping	22	0	22	1
Business Office	9	0	9	1
Dietary	21	0	21	0
Supply	4	0	4	0
TOTALS	304	24	292	20 (FTE's 18)

Includes 2 Mental Health Clinician II positions with nursing specialty.

Presently there are 2 non-perms. working in Maintenance which are not indicated on this report.

JG/bj/MISC4 4152

r. 11/1/90
t. 11/6/90

MEMORANDUM

State of Alaska

TO: Curtis Young
PNA

DATE: March 18, 1991

FILE NO:

TELEPHONE NO

FROM: *Donna C. Todtenhagen*
Donna C. Todtenhagen
Admin Support Tech

SUBJECT: Requested statistics

Following are that statistics you requested for calendar years 1988, 1989 and 1990:

	1990	1989	1988
Admissions	834	979	1074
Discharges	833	1004	1069
Assaults	647	897	591
Locked quiet room	742	860	639
Restraints	356	526	290

cc: Reta J. Sullivan, ART
Medical Record Administrator

MEMORANDUM

State of Alaska

TO: Al Finneseth
Administrator

DATE: January 24, 1991

FILE NO:

TELEPHONE NO:

THRU:

SUBJECT: Workmen's Compensation
Report, 1990

FROM: Jim Gordon
Administrative Assistant I

<u>Calendar year</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>	<u>1990</u>
Total Days Lost Due to Injury	210.9	258.73	448.6	803.1	319.2
Total Days Lost Due to Non-Patient Injury	93.5	84	353.7	593.7	84.6
Total Days Lost Due to Patient-Connected Injury	117.4	174.73	94.9	209.4	234.6

For the calendar year 1990, API had a total of 2394 hours lost from work due to injuries.

There were 106 incidents reported, 36 involving lost time (12 of which resulted from a combative patient).

There were 70 incidents filed which did not result in any lost time, of these 32 were small abrasions and bumps suffered while subduing patients.

There were five staff injuries resulting in more than 150 hours away from the job. Three were the result of combative or uncooperative patients. One was the result of a fall in gym activities. One was a recurring hand injury that required surgery.

Additionally, there were 412 hours carried over as a result of prior year injuries that were not included in this report.

JG/ojb/MISC33/5024

r. & t. 1/25/91

1990

Reports Involving No Lost Time

Lifting.....6
Walking.....2
 In Hospital.....1
 On Grounds.....1
Gym Activities.....7
Responding to Aide Calls.....4
Miscellaneous.....19
Combative Patients.....32
TOTAL.....70

Reports Involving Lost Time

Lifting.....5
Walking.....6
 In Hospital.....1
 On Grounds.....5
Gym Activities.....4
Responding to Aide Calls.....2
Miscellaneous.....7
Combative Patients.....12
TOTAL.....36

JG/ojb/MISC33/5024

r. & t. 1/25/91

API ANNUAL REPORT
New Hires

	TOTAL	NURSING
1991	95	61
1990	100	59
1989	120	82
1988	126	65
1987	171	109
1986	94	48
NUMBER PCN's	304	164

* NOTE: Over 50 percent new hires occurred in Nursing.



TELECOPY COVER SHEET

Anchorage Legislative Information Office
Office - (907) 561-7007 Fax - (907) 562-4376

TO: Juneau LIO

ATTN: (S) State Affairs FAX: _____ PHONE: _____

FROM: Curtis W. Young PHONE: _____

INSTRUCTIONS: Please give to committee.
Regarding SB 220 meeting 1:30pm
2-26-92

SENT: Date 2-26-92 Time 1:17

DISPOSAL OF ORIGINAL: Discard _____ Hold for Pickup _____

NUMBER OF PAGES: 13 (counting cover sheet)

TRANSMITTED BY: Barbara

SB

223

COMMITTEE REPORT

DATE: 3/22/91

FURTHER:

Date of 5-Day Notice: 2-13-92
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 2-20-92

Finance Committee considered SB 223

Assignments of the right to receive a permanent fund dividend; efd.

and recommended:

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

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

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):
 fiscal note(s) _____ Dept/Date: _____

APPROVES PREVIOUS:
 fiscal note(s) _____ Dept/Date: _____

zero fiscal note(s) _____
OR. 2-20-92

zero fiscal note(s) _____

appropriation-no fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

J. Duncan
Al Sanders
Tom Hoff
Rich Bell

1. Bob Lambert no rec 2. Al Vetter NO Rec
 Co-Chairs: Signatures and Recommendations

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. SB 223

Revision Date: February 20, 1992
Title: An Act relating to assignments of the right to receive a PFD
Sponsor: Senate Rules Committee
Requestor: Senate Finance

Agency Affected: Revenue
BRU: Permanent Fund Dividend Division
Components: Permanent Fund Dividend Division
COMPONENT SERIAL NO. 9 8 1

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: See attached analysis.

ANALYSIS: See Attached.

Prepared By: Thomas C. Williams
Division: Permanent Fund Dividend Division

Phone: 465-2323
Date: February 20, 1992

Approved by Commissioner: David J. ...
Agency: Revenue

Date: 2/20/92

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

ALASKA DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND DIVISION
SB 223 ANALYSIS

As of February 20, 1992

This legislation was introduced last year at the request of the Department of Revenue. It would place into statute a regulation which was effective from April 1, 1989 through November 14, 1991.

On April 1, 1989 the Department adopted 15 AAC 23.220(a) which prohibited PFD assignments to anyone other than a government agency. Prior to the enactment of the regulation, an ever increasing number of individuals were assigning their right to a dividend to other individuals or companies, often in exchange for a cash payment. As a result, the Department was receiving a substantially increasing number of assignments to process. More importantly, there was an increasing temptation for individuals to file fictitious and duplicate applications in order to sell them. Accordingly, the Department was also receiving more invalid applications, requiring additional screening and review efforts to ensure ineligible applicants were not paid.

Despite the adoption of the regulation, Frontier Financial Services still purchased several thousand 1989 dividends. When the Department did not honor those assignments, Frontier Financial Services challenged the regulation in Court. On November 15, 1991 Superior Court Judge Dana Fabe struck down this regulation stating the Department had no authority to enact it.

Passage of SB 223 early in the current legislative session is very important. It would be in the State's best interest if this legislation were enacted early enough so the Governor could sign it by March 31, 1992, before the beginning of the 1992 PFD filing period.

Without such legislation we face a significant disruption to the 1992 and subsequent year programs. The division would be faced with the task of trying to process an extremely large number of assignments. It would be increasingly difficult to determine if applicants who assigned their dividend were eligible. Not only would the Department have to respond to more public inquiries and process more paperwork, the Department would have to refocus and increase its review effort to ensure ineligible applicants are not paid. This would adversely impact the Department's ability to conduct timely reviews and resolve appeals.

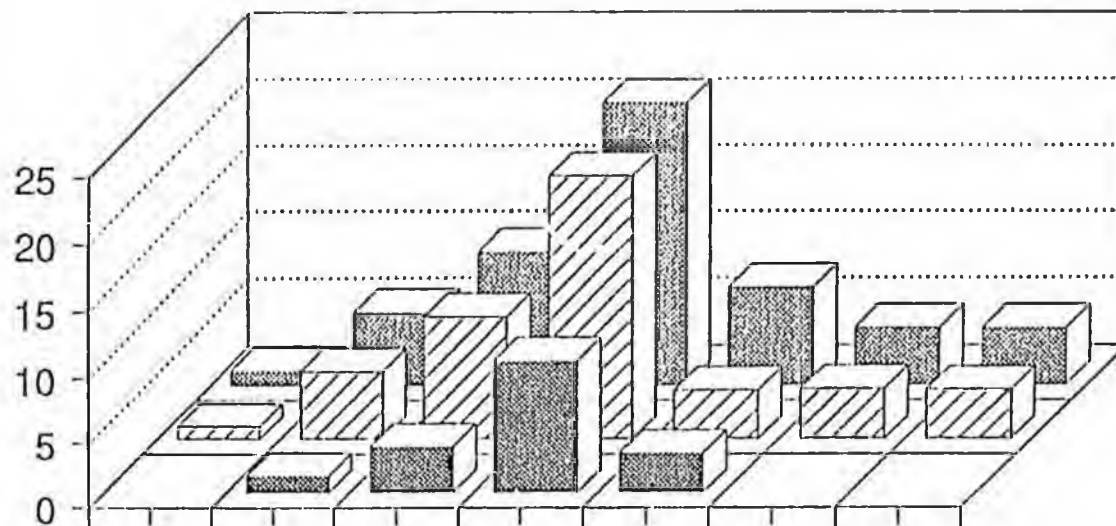
On December 18, 1991 the Department requested an opinion from the Attorney General as to whether or not this legislation would violate or be contrary to any constitutional or other legal provisions regarding the rights of individuals to contract. A copy of the Department of Law's December 31, 1991 opinion concluding there is no legal or constitutional impediment to a statute restricting the assignments of permanent fund dividends is attached. That opinion references HB 234, a bill identical to SB 223 introduced last year in the House.

In addition, we have attached a bar graph depicting assignment activity from 1985 through 1991.

PERMANENT FUND DIVIDEND ASSIGNMENTS

For 1985 - 1991 Dividend Years

Thousands



	1985	1986	1987	1988	1989	1990	1991
Total Assignments	1.047	5.401	9.907	21.132	7.248	4.261	4.256
Matched to File	0.985	5.153	9.243	19.783	3.732	3.847	3.779
Assignments to Buyer		1.282	3.567	10.123	3.041		

Assignments to Buyer
 Matched to File
 Total Assignments

As of January 16, 1992

SENATE BILL NO. 223

IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 3/22/91
Referred: Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to assignments of the right to receive a permanent fund dividend; and
2 providing for an effective date."

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

4 * Section 1. AS 43.23 is amended by adding a new section to read:

5 Sec. 43.23.067. ASSIGNMENTS. (a) Except as provided in (b) of this
6 section, a person eligible to receive a permanent fund dividend may not assign the
7 right to the dividend. An attempted assignment of the right to receive a permanent
8 fund dividend is against public policy and is void.

9 (b) A person may assign the right to receive a permanent fund dividend to
10 a federal, state, or municipal government agency or to a court.

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

WALTER J. HICKEL
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 22, 1991

223

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

Dear President Eliason:

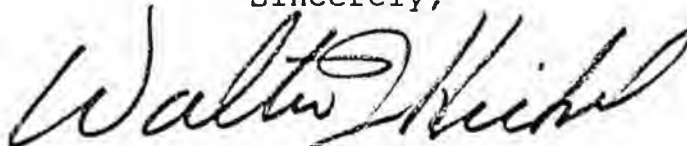
Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill limiting assignments of permanent fund dividends to government agencies and courts. This bill would merely codify in statute a current regulation of the Department of Revenue, 15 AAC 23.220(a).

The regulation limiting assignments of permanent fund dividends was adopted by the Department of Revenue for three reasons:

1. to end the usurious purchase of dividends by commercial buyers for extraordinary discounts;
2. to reduce the incentive to file fictitious or duplicate applications; and
3. to reduce the number of assignments, which were creating an administrative burden for the department.

15 AAC 23.220(a) is currently being challenged in court for lack of statutory authority. If the state loses the litigation and the regulation is found to be invalid, absent the enactment of this proposed legislation there could be a significant disruption to the 1991 and subsequent year programs. In order to prevent such a disruption, I am recommending the prompt adoption of this legislation, and I urge your support of it.

Sincerely,



Walter J. Hickel
Governor

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

P.O. BOX 5
JUNEAU, ALASKA 99811-0400
PHONE: (907) 465-2300
TELEFAX: (907) 465-2389

February 3, 1992

The Honorable Pat Pourchot
Co-Chair, Senate Finance Committee
Alaska State Senate
State Capital
Juneau, AK 99801-1182

Dear Senator Pourchot:

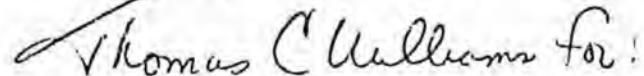
The Department requests a hearing before the Senate Finance Committee on SB 223, an act relating to assignments of the right to receive a Permanent Fund Dividend (PFD).

This legislation was requested by the Department of Revenue and approved for introduction last year by the Department of Law. Identical legislation was introduced in the House last year as HB 234. It was heard by the House State Affairs Committee and passed out to the next committee of referral, the House Judiciary Committee.

On November 15, 1991 Superior Court Judge Dana Fabe struck down our regulation prohibiting PFD assignments to anyone other than a government agency. Therefore, passage of SB 223 or HB 234 early in this legislative session is very important. It would be in the State's best interest if this legislation were enacted by March 31, 1992, before the beginning of the 1992 PFD filing period. Accordingly, we would very much appreciate it if you would schedule a hearing on SB 223 at the Committee's earliest convenience.

We have forwarded an updated fiscal note dated January 31, 1992. Please do not hesitate to contact PFD Division Director Tom Williams at 465-2323 if you require more information regarding this legislation. Thank you very much.

Sincerely,



Darrel J. Rexwinkel
Commissioner

DJR:TCH:bro
92-029

cc: Thomas C. Williams, Director
Permanent Fund Dividend Division
Alaska Department of Revenue

Tracy McGill, Legislative Liaison
Department of Revenue

ALASKA DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND DIVISION
SB 223 ANALYSIS
As of January 31, 1992

This legislation was requested by the Department of Revenue and approved for introduction last year by the Department of Law.

In 1989 the Department adopted 15 AAC 23.220(a) which prohibited PFD assignments to anyone other than a government agency in order to:

- 1) end the usurious arbitrage of Permanent Fund Dividends by commercial buyers who had applicants assign them their dividends in return for an immediate discounted payment;
- 2) stem the increasing temptation for individuals to file fictitious and duplicate applications in order to sell them; and
- 3) stem the substantial increase in the number of assignments the Department was having to process.

Despite the adoption of the regulation, Frontier Financial Services still purchased several thousand 1989 dividends. When the Department did not honor those assignments, Frontier Financial Services challenged the regulation in Court. On November 15, 1991 Superior Court Judge Dana Fabe struck down this regulation stating the Department had no authority to enact it.

Passage of SB 223 early in the current legislative session is very important. It would be in the State's best interest if this legislation were enacted early enough so the Governor could sign it by March 31, 1992, before the beginning of the 1992 PFD filing period.

Without such legislation we face a significant disruption to the 1992 and subsequent year programs. The division would be faced with the task of trying to process an extremely large number of assignments. It would be increasingly difficult to determine if applicants who assigned their dividend were eligible. Consequently, the integrity of the program could be seriously jeopardized.

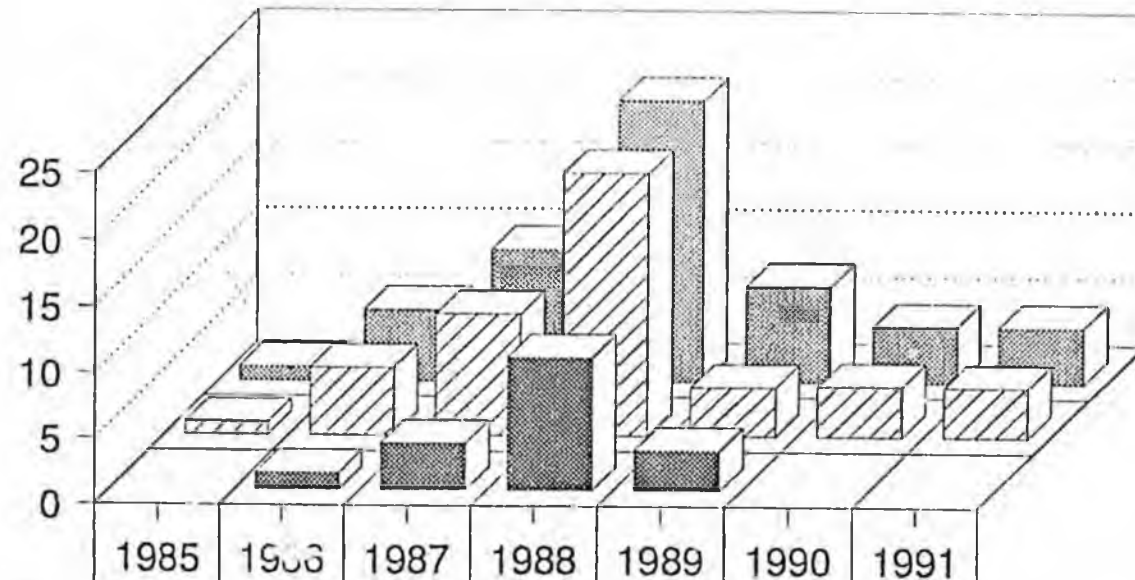
On December 18, 1991 the Department requested an opinion from the Attorney General as to whether or not this legislation would violate or be contrary to any constitutional or other legal provisions regarding the rights of individuals to contract. A copy of the Department of Law's December 31, 1991 opinion concluding there is no legal or constitutional impediment to a statute restricting the assignments of permanent fund dividends is attached. That opinion references HB 234, a bill introduced last year in the House identical to SB 223.

In addition we have attached a bar graph depicting assignment activity from 1985 through 1991.

PERMANENT FUND DIVIDEND ASSIGNMENTS

For 1985 - 1991 Dividend Years

Thousands



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Assignments to Buyer		1.282	3.567	10.123	3.041		

Total Assignments
 Matched to File
 Assignments to Buyer

As of January 16, 1992

MEMORANDUM

RECEIVED

JAN 3 1992

State of Alaska

Department of Law

STATE OF ALASKA
DEPT. OF REVENUE
PFD DIVISION

TO:

Thomas C. Williams, Director
Permanent Fund Division
Department of Revenue

DATE: December 31, 1991

FILE NO.:

663-92-0286

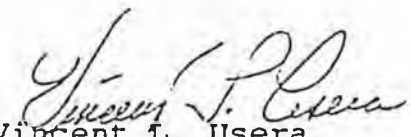
TEL NO.:

465-3600

SUBJECT:

Assignment of PFDs;
constitutionality of HB 234

FROM:


Vincent L. Usera
Assistant Attorney General
Commercial Section - Juneau

You have asked whether enactment of HB 234, a statute forbidding the assignment of a permanent fund dividend (PFD) to entities other than government agencies or courts, would constitute interference with an individual's constitutional right to contract. We conclude that it would not.

Alaska's Permanent Fund Dividend program is unique. It gives rise to the right for all state residents who are eligible, to receive a dividend. *Anthony v. State*, 810 P.2d 155 (Alaska 1991). There is presently no statutory impediment to the assignment of dividends and individuals are not restricted in making assignments. We understand the Division is seeking legislation which would change this by prohibiting any assignment of a PFD to other than a governmental agency or a court.

Restrictions on the right to make various types of assignments may be found in other existing laws. Federal statutes prohibit the assignment of claims against the United States, and the federal government and several states bar the assignment of public contracts. Statutes in practically every state, including Alaska, restrict wage assignments, 1/ some barring them entirely, some restricting to whom or in what amount assignments can legally be made. See *Restatement (Second) of Contracts* ch. 15 (Introductory and Statutory Notes) (1981). Alaska also prohibits any attempted assignment of unemployment benefits, 2/ worker's compensation benefits, 3/ benefits payable from the state pension fund, 4/ or rights to maintenance for handicapped

1/ AS 06.20.290

2/ AS 23.20.405

3/ AS 23.30.160

4/ AS 39.35.500

persons. 5/ 6/ The Restatement also states, "[a] contractual right can be assigned unless . . . the assignment is forbidden by statute or is otherwise inoperative on grounds of public policy . . ." Restatement (Second) of Contracts § 316(2) (1981) (emphasis added). Thus, it becomes clear that, as a general rule, placing statutory restrictions or impediments on or otherwise regulating assignments is not improper and does not violate individual rights to contract.

You raised concerns about article I, section 15 of the Alaska Constitution. 7/ This section, virtually identical in pertinent part to the contracts clause of the U. S. Constitution, 8/ prohibits the impairment of the obligation of contracts, which the U.S. Supreme Court explained "was to be understood as the legal duties imposed upon the contracting parties by the operation of law on the contract." *Eckles v. State*, 760 P.2d 846, 859 (Oregon 1988) (citing *Ogden v. Saunders*, 25 U.S. (12 Wheat.) 213 (1827)).

In a recent leading case in which the subject statute was found to violate the contracts clause, the United States Supreme Court stated:

First of all, it is to be accepted as commonplace that the Contract Clause [of the United States Constitution] does not operate to obliterate the police power of the States. "It is the settled law of this court that the interdiction of statutes impairing the obligation of contracts does not prevent the State from exercising such powers as are vested in it for the promotion of the common weal, or are necessary for the general good of the public, though contracts previously entered into between individuals may thereby be affected. This power, which in its various ramifications is known as the police power, is an exercise of the sovereign right of the Government to protect the lives, health, morals, comfort and general welfare

5/ AS 23.15.170

6/ Several other statutes regulate the subject matter of assignments and the manner in which they may be made.

7/ Article I, section 15, states in pertinent part: "No law impairing the obligation of contracts . . . shall be passed."

8/ U. S. Const. art. I, § 10.

of the people and is paramount to any rights under contracts between individuals."

Allied Structural Steel Co. v. Spannaus, 438 U.S. 234, 241 (1978) reh'g denied 439 U.S. 886 (quoting *Manigault v. Springs*, 199 U.S. 473, 480 (1905)) (emphasis added).

Even though a statute impairs contract rights, it will still be judged on the severity of the impairment, and "[m]inimal alteration of contractual obligations may end the inquiry at its first stage." *Allied Structural Steel* at 245. "[It] is customary in reviewing economic and social regulation, however, [for] courts [to] properly defer to legislative judgment as to the necessity and reasonableness of a particular matter." *United States Trust Co. v. New Jersey*, 431 U.S. 1, 22 (1977), reh'g denied, 431 U.S. 975. See also *Allied Structural Steel; Diamond Glue Co. v. United States*, 187 U.S. 611 (1903). If the legislature enacts HB 234, it is presumed that, since the bill contains a statement of public policy, it will have been found to be necessary and reasonable and would survive any challenge on those grounds.

One additional hurdle a statute must clear to avoid violation of the contracts clause is the requirement that its purpose be reasonably connected to a public rather than private interest. *Veix v. Sixth Ward Building & Loan Assoc. of Newark*, 310 U.S. 32 (1940); *Treigle v. Acme Homestead Assoc.*, 297 U.S. 189 (1936). The bill would apply to all individuals who apply for a PFD and is, therefore, directed to the public at large, not to any individual interest. Thus, the bill does not run afoul of the contracts clause on this ground.

All that being said, however, the most salient point is that the contracts clause can only be violated when it impacts contracts already in effect on the date of a legislative enactment; there can be no violation of the clause where it only affects contracts that might be made in the future. A long line of cases expressly supports this well-settled principle, from *Ogden v. Saunders*, 25 U.S. 213 (1827), through *Exxon Corp. v. Eagerton*, 462 U.S. 176 (1983), on remand 440 So. 2d 1031 (Ala. 1983); and it is found by implication in all cases cited herein. See Annot., 57 L.Ed.2d 1279, § 5[b] (1979). As a practical matter, the contracts of concern - assignments of future PFDs - will not likely be formed if the bill is enacted prior to March 31, 1992. It is highly doubtful anyone would pay for an assignment unless the dividend had been applied for, and applications cannot be made prior to March 31 of a given year. 2/ It is possible that some contracts may

2/ 15 AAC 23.145(a)

have already been formed; however, we feel the bill would still be found constitutional even were it to affect those contracts.

As to other constitutional challenges, we do not believe the bill would run afoul of the equal protection provisions of either the U.S. or Alaska Constitutions, as the bill applies universally to PFD recipients; no class of any sort is excluded. An argument could be advanced that the provision permitting assignment of PFDs to governmental or judicial entities may require equal protection scrutiny, but we believe the provision would pass constitutional muster. The Alaska Supreme Court already has decided that individual rights to a permanent fund dividend are entitled only to minimum protection. It is the law in Alaska that "[a permanent fund] dividend is merely an economic interest and therefore is entitled only to minimum protection under our equal protection analysis." *State v. Anthony*, 810 P.2d 155, 158 (Alaska 1991). The court has adopted a flexible, sliding scale approach to the analysis of equal protection issues. *State v. Erickson*, 574 P.2d 1 (Alaska 1978). Under this approach, the first step is to determine where on the scale to locate the issue. As the right to receive a permanent fund dividend is at the lowest end of the scale, *Anthony*, the Division need only show that the distinction complained of has a fair and legitimate purpose. *Id.* at 12. As articulated by the division, the purpose is to ensure that the courts have a means of affirmatively pursuing restitution and payment of fines and other court-ordered obligations, such as child support. An additional purpose is that the public have a means of meeting legitimate obligations to government by use of the dividend. The state has a legitimate interest in having those obligations met and the public benefits as well. ^{10/} The purpose is reasonable, and the assignability of PFDs to governments and the courts bears a rational relationship to the state's objectives. Thus, the proposed statute does not offend the equal protection clauses contained in either constitution and should be upheld if challenged on those grounds.

We conclude, therefore, that there is no legal or constitutional impediment to a statute restricting assignments of Permanent Fund Dividends.

VLU/ps

^{10/} Many Alaska citizens make voluntary use of the PFD to repay student loans and other obligations to the state. Since it became possible to do so, repayments have increased the amounts available for further lending from these revolving fund programs.

SB

225

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

SB

223

COMMITTEE REPORT

DATE: 3/22/91

FURTHER:

Date of 5-Day Notice: 2-13-92
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 2-20-92

Finance Committee considered SB 223

Assignments of the right to receive a permanent fund dividend; efd.

and recommended:

- replace with _____ CS _____
 - or adopt _____ CS _____
 - attached amendment(s)
 - _____ letter of intent adopted
- same title
 - new title
 - technical title change (HB only)

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):

APPROVES PREVIOUS:

fiscal note(s) _____ Dept/Date: _____

fiscal note(s) _____ Dept/Date: _____

zero fiscal note(s) _____
OR 2-20-92

zero fiscal note(s) _____

appropriation-no fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

J. Duncan
Al Bedard
Lynn Hoff
Michelle

1. Bob Kunkel no rec 2. J. V. Gattuso No Rec
 Co-Chairs: Signatures and Recommendations

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. SB 223

Revision Date: February 20, 1992
Title: An Act relating to assignments of the right to receive a PFD
Sponsor: Senate Rules Committee
Requestor: Senate Finance

Agency Affected: Revenue
BRU: Permanent Fund Dividend Division
Components: Permanent Fund Dividend Division
COMPONENT SERIAL NO. 9 8 1

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: See attached analysis.

ANALYSIS: See Attached.

Prepared By: Thomas C. Williams
Division: Permanent Fund Dividend Division

Phone: 465-2323
Date: February 20, 1992

Approved by Commissioner: David [Signature]
Agency: Revenue

Date: 2/20/92

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

ALASKA DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND DIVISION

SB 223 ANALYSIS

As of February 20, 1992

This legislation was introduced last year at the request of the Department of Revenue. It would place into statute a regulation which was effective from April 1, 1989 through November 14, 1991.

On April 1, 1989 the Department adopted 15 AAC 23.220(a) which prohibited PFD assignments to anyone other than a government agency. Prior to the enactment of the regulation, an ever increasing number of individuals were assigning their right to a dividend to other individuals or companies, often in exchange for a cash payment. As a result, the Department was receiving a substantially increasing number of assignments to process. More importantly, there was an increasing temptation for individuals to file fictitious and duplicate applications in order to sell them. Accordingly, the Department was also receiving more invalid applications, requiring additional screening and review efforts to ensure ineligible applicants were not paid.

Despite the adoption of the regulation, Frontier Financial Services still purchased several thousand 1989 dividends. When the Department did not honor those assignments, Frontier Financial Services challenged the regulation in Court. On November 15, 1991 Superior Court Judge Dana Fabe struck down this regulation stating the Department had no authority to enact it.

Passage of SB 223 early in the current legislative session is very important. It would be in the State's best interest if this legislation were enacted early enough so the Governor could sign it by March 31, 1992, before the beginning of the 1992 PFD filing period.

Without such legislation we face a significant disruption to the 1992 and subsequent year programs. The division would be faced with the task of trying to process an extremely large number of assignments. It would be increasingly difficult to determine if applicants who assigned their dividend were eligible. Not only would the Department have to respond to more public inquiries and process more paperwork, the Department would have to refocus and increase its review effort to ensure ineligible applicants are not paid. This would adversely impact the Department's ability to conduct timely reviews and resolve appeals.

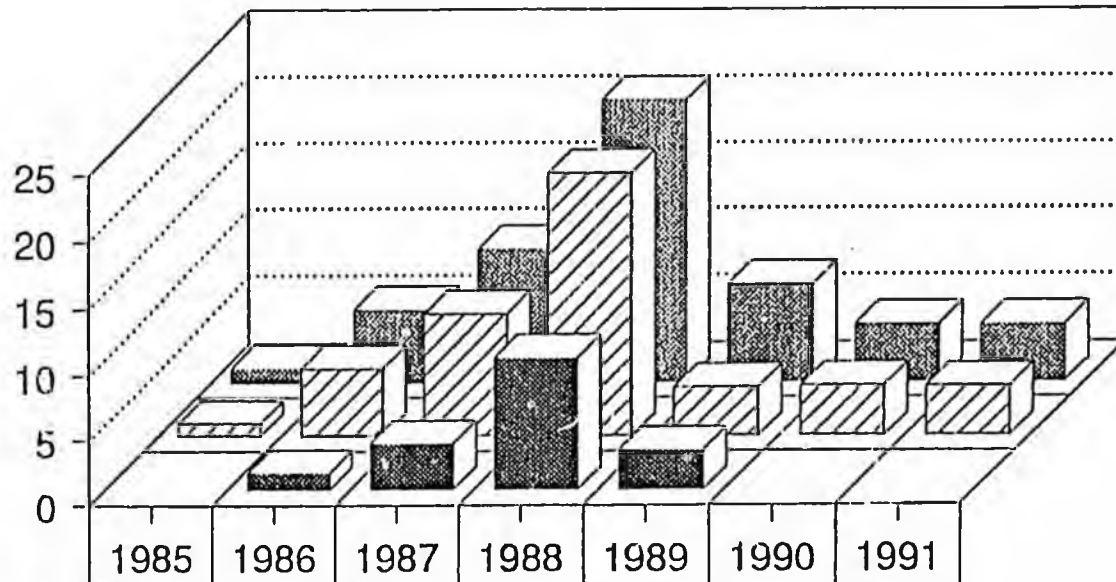
On December 18, 1991 the Department requested an opinion from the Attorney General as to whether or not this legislation would violate or be contrary to any constitutional or other legal provisions regarding the rights of individuals to contract. A copy of the Department of Law's December 31, 1991 opinion concluding there is no legal or constitutional impediment to a statute restricting the assignments of permanent fund dividends is attached. That opinion references HB 234, a bill identical to SB 223 introduced last year in the House.

In addition, we have attached a bar graph depicting assignment activity from 1985 through 1991.

PERMANENT FUND DIVIDEND ASSIGNMENTS

For 1985 - 1991 Dividend Years

Thousands



	1985	1986	1987	1988	1989	1990	1991
Total Assignments	1.047	5.401	9.907	21.132	7.248	4.261	4.256
Matched to File	0.985	5.153	9.243	19.783	3.732	3.847	3.779
Assignments to Buyer		1.282	3.567	10.123	3.041		

Assignments to Buyer
 Matched to File
 Total Assignments

As of January 16, 1992

SENATE BILL NO. 223

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 3/22/91

Referred: Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to assignments of the right to receive a permanent fund dividend; and
2 providing for an effective date."

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

4 * Section 1. AS 43.23 is amended by adding a new section to read:

5 Sec. 43.23.067. ASSIGNMENTS. (a) Except as provided in (b) of this
6 section, a person eligible to receive a permanent fund dividend may not assign the
7 right to the dividend. An attempted assignment of the right to receive a permanent
8 fund dividend is against public policy and is void.

9 (b) A person may assign the right to receive a permanent fund dividend to
10 a federal, state, or municipal government agency or to a court.

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