

ALASKA LEGISLATURE

2080

HOUSE and SENATE FINANCE COMMITTEE FILES, 1999 - 2000

231

SB

55

SFIN

FILE

SB 55

was referred to the
Senate Finance
Committee

Hearing(s) were held

The bill did not move
from Committee

SENATE FINANCE COMMITTEE
1999 COMMITTEE ACTION

Bill Number	SB 55
Amendment	#1 insert sunset date 1/1/2009
Motion	adopt "conceptual"
<u>Motion by</u>	Adams
<u>Objection</u>	Green
<u>Objection by</u>	
<u>Removed</u>	—
<u>Second Objection by</u>	
<u>Committee Member</u>	<u>Vote</u>
Senator Gary Wilken	Y
Senator Pete Kelly	Y
Senator Lyda Green	Y
Senator Randy Phillips	N
Senator Dave Donley	N
Senator Loren Leman	N
Senator Al Adams	N
Co-Chair Sean Parnell	Y
Co-Chair John Torgerson	Y
<u>Tally</u>	
Yea	0 5
Nay	0 4
Absent	0 1
<u>MOTION</u>	Adopt

SENATE FINANCE
COMMITTEE

Amendment Number: 1

Bill Number: SB 55

Sponsor: Adams Date: 2/23/99

Logged In By: Mindy

not offered

AMENDMENT

TO: SB 55

SENATOR AL ADAMS

Page 3, line 17, delete "and"

Page 3, line 21, delete "." and insert "; and"

Page 3, after line 21, insert the following:

"(8) a state resident who represents rural Alaska, other than a member of the state legislature, who is appointed jointly by the president of the senate and the speaker of the house of representatives."

RECEIVED

FISCAL NOTE

FEB 18 1999

STATE OF ALASKA Senate Finance Committee
1999 LEGISLATIVE SESSION

NO. _____
BILL VERSION: SB 55
PUBLISH DATE: _____

Revision Date: _____
Title: "An Act relating to the Joint Armed Services Committee, a permanent interim committee..."
Sponsor: Senate Rules Committee
Requestor: Senate Finance Committee

Department Affected: Legislative Affairs Agency
BRU: All
Component: All

COMPONENT SERIAL NO:

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
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						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary)

The expenses of the Joint Armed Services Committee will be absorbed within the Legislature's budget.

Prepared By: *Karla Schofield*
Karla Schofield, Deputy Director
Division: Administrative Services

Phone: 465-3852

Date: 2/19/99

Approved By: Pamela A. Varni, Executive Director
Agency: Legislative Affairs Agency

Pamela A. Varni

Date: 2/19/99

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

MEMBER

TENTH ALASKA LEGISLATURE
ELEVENTH ALASKA LEGISLATURE
TWELFTH ALASKA LEGISLATURE
THIRTEENTH ALASKA LEGISLATURE
FOURTEENTH ALASKA LEGISLATURE
FIFTEENTH ALASKA LEGISLATURE
SIXTEENTH ALASKA LEGISLATURE
EIGHTEENTH ALASKA LEGISLATURE
NINETEENTH ALASKA LEGISLATURE
TWENTIETH ALASKA LEGISLATURE
TWENTY-FIRST ALASKA LEGISLATURE

ALASKA STATE SENATE



SENATOR TIM KELLY

STATE CAPITOL
JUNEAU, ALASKA 99801-1182
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FAX (907) 269-0148\

SENATE BILL NO. 55
SPONSOR'S STATEMENT

Senate Bill 55 establishes, for the first time, a standing joint committee of the Legislature to deal with all the issues confronting the Armed Forces in Alaska. This new committee is structured to include public members from outside the Legislature and will serve as the Legislature's focal point for the coordination of all issues, discussion, decisions, and policies that impact on the military in our state. It creates the opportunity to speak with a single voice on military issues and provide unified liaison to Alaska's Congressional Delegation on matters of National Defense.

Until now, the Legislature has had a fragmented and short-range approach to military issues. In 1994, a Joint Task Force on Military Bases was formed under the Legislative Council to coordinate the state's efforts in the 1995 Base Realignment and Closure Commission cycle. The Task Force was disbanded at the end of that year. Last year, in anticipation of a new round of base closures in 2001, the Joint Committee on Military Bases was established with a single focus on BRAC issues and a three year duration. A permanent Joint Committee with a longer range vision to include missile defense and other related issues is overdue.

Alaska does not operate in a vacuum. Other states are aggressively pursuing opportunities to increase military operations, and military spending in their areas. Alaska is well positioned now to form an organization which can successfully compete with these states. If we don't we'll be left behind.

MEMBER

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The Associated Press State & Local Wire

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October 14, 1998, Wednesday, PM cycle

SECTION: State and Regional

LENGTH: 364 words

HEADLINE: Hull creating new commission on preserving military bases

BYLINE: By PAUL DAVENPORT, Associated Press Writer

DATELINE: PHOENIX

BODY:

Gov. Jane Hull is creating a new state task force to work at preserving Arizona's military installations from the threat of possible closure.

Mrs. Hull scheduled an afternoon news conference in Tucson to announce she was signing an executive order creating the task force aimed at preserving the bases, spokeswoman Francie Noyes said this morning.

Members of the task force will include the governor, legislative leaders as well as legislators, mayors, county supervisors and business leaders from areas with bases, Noyes said.

Some of the areas already have support groups but not all, and the new task force is intended to boost base-preservation efforts statewide, she said.

Arizona lost one major installation, Williams Air Force Base in the Phoenix area, as the Pentagon began closing bases in the wake of the end of the Cold War.

Major air bases in Arizona include Davis-Monthan Air Force Base in Tucson, Luke Air Force Base in Glendale and the Marine Corps Air Station at Yuma. Other major installations include the Barry M. Goldwater Air Force Range east of Yuma, Fort Huachuca in Sierra Vista and the Yuma Proving Ground.

The Clinton administration has urged additional base closures to save money that could be used instead for military operations and training and for equipment purchases, but Congress has balked so far.

Cirillo said he saw no problem in Mrs. Hull creating another commission. "I see them working together," said Sen. Edward Cirillo, R-Sun City West. "I don't see it as stepping on our toes in this very important area."

Cirillo said his panel may propose legislation to authorize counties to create agricultural preservation districts that would pay farmers in return for restricting development on farmland near air bases.

The Associated Press State & Local Wire, October 14, 1998

While converting farmland to light industrial uses would not be a problem, building new homes there could produce noise complaints that would be a black mark against the base if and when more closures are considered.

Cirillo said an alternative to paying for development restrictions might be to trade state land elsewhere for the farmland so a farmer retiring from the business can get his money out of the land.

LANGUAGE: ENGLISH

LOAD-DATE: October 14, 1998

CRB *California Research Bureau, California State Library*

908 H Street, Suite 300
Sacramento, California 95814
(916) 653-7843

CRB Note vol. 4 no. 1 May 7, 1997

State Military Base Retention Programs

Charlene Wear Simmons, Ph.D.
May 7, 1997

Assemblymember Joe Baca, Chair of the Assembly Select Committee on Defense Conversion, requested that the California Research Bureau gather information on other state programs to retain active military bases. This CRB note summarizes the results of that inquiry.

More Bases are Likely to Close

"...the U.S. military twenty years hence is already being formed by decisions being made today."

Andrew Krepenevich

Strategic analysts contend that the U.S. military is entering a period of intense military transformation, in which there will be dramatic shifts in how the armed forces fight and organize themselves for combat. The rapid worldwide dissemination of sophisticated technology, which enables regional powers to greatly improve their military capabilities, poses new defense challenges. Key U.S. military competencies will include information superiority and establishing control of space.

In this changing environment, a large armed force and numerous fixed land bases are arguably costly vestiges of World War II and Cold War strategies. Cuts in the federal defense budget and significant downsizing of the force structure (number of troops, aircraft carriers, active fighter wings) create strong pressures to close facilities and save on operations and maintenance: active duty personnel have been cut by a third but the support structure (bases) by only 18 percent. Further, large investments need to be made to procure new advanced information technology and weapon systems (to the potential benefit of California's high tech industries).

The Secretary of Defense is reportedly recommending two additional base closure rounds, in 1999 and 2001. California has the largest number of bases of any state and therefore is a potential target for more base closures. (Footnote!)

State Survey

The following discussion is drawn from a survey of many, but not all, defense-dependent states. Of these states, Colorado, Georgia, South Carolina, Texas and Pennsylvania have the most active military base retention programs. Common elements include a statewide military affairs council and an active statewide office which interfaces with local communities and base commanders. The goal is to ensure that military base missions are supported and enhanced by civilian services (schools, programs for retirees), public infrastructure (roads, sewers), local land use planning (flight zones, growing room to prevent encroachment) and political support (such as coordinated local-state-federal lobbying for new missions).

Arizona

During the last Base Realignment And Closure (BRAC) round, the State of Arizona appropriated \$1 million to assist local communities with military bases to hire consultants and lobbyists, with the goal of keeping their bases off the BRAC list. (Local support activities are generally located in Chambers of Commerce.) The effort was largely successful, as only one base was closed. Should there be another closure round, the state would consider a similar effort.

Colorado

In 1993, the Governor created the Defense Conversion and Retention Council. The Council is composed of 15 members appointed by the Governor and includes a mix of business, education and retired military leaders (active military personnel are not able to participate). The current chair is a commercial Realtor who is also a retired Brigadier General. The Council's charge, amended in 1995 to include retention activities, is to provide the Governor with information about the state's closed and active military facilities and the economic benefit and potential cost of losing military presence. It also is charged with developing a plan for a coordinated state response to defense conversion and retention. The Council meets every 6 weeks and has visited all military and Department of Energy facilities in the state. The Office of Statewide Defense Initiatives serves as staff to the Council and provides assistance to defense dependent communities and companies.

Colorado experienced three base closures in the BRAC rounds. Colorado Springs is the most defense dependent area in the state, with 5 bases accounting for 41 percent of the local economy. The state and community have worked together:

- to enhance military lifestyle, infrastructure and mission capabilities, including new and expanded base access roads and affordable military housing;
- to facilitate and coordinate city-county-state regulatory and other requirements; and
- to work with local Members of Congress to secure funds for warehouses and other needed support facilities and to bring new missions to the bases.

The Office serves as a liaison to the military community and interfaces with state agencies on their behalf. It also works with local communities and legislators to make sure that they understand the importance of defense dollars.

The Colorado General Assembly has appropriated \$500,000 to fund seed grants for defense retention efforts, requiring a 1 to 1 match, with a state share of up to \$50,000 per grant. The grants can be used by companies and communities to match federal grants (EDA, OEA, NIH, NJI) for technology transfer or lobbying. For example, grants might fund the transfer of military technology to

local civilian contractors to strengthen the local economy and the military's civilian support structure. Twenty grants have been awarded; performance measures include the number of jobs created and the amount of money leveraged.

Another interesting undertaking is the Colorado Airspace Initiative. Its goal is to ensure that the Air Force has sufficient airspace for high-altitude and air combat training while taking into account increases in population, civilian air use and recreational activities.

Connecticut

The Connecticut Department of Economic and Community Development has a coordinator for national defense downsizing who works with defense impacted regions to provide technical and financial programmatic assistance. It also has a naval liaison who keeps in touch with naval issues. During the last BRAC rounds, the state convened a coalition of local, state and federal officials to successfully keep the Groton/New London submarine base open. The coalition has since worked to improve the military value of the base by offering permit and financial assistance for port dredging activities.

Florida

Florida's defense conversion efforts, which focus on job retraining and the "Soldiers to Scholars" project, are being implemented by Enterprise Florida, a public-private partnership in its first year of operation. Officials contacted at Enterprise Florida do not think the state is undertaking active retention efforts at this time.

Georgia

Georgia has been extremely successful in retaining its military installations--none were closed during the BRAC rounds. The Governor has established a Military Affairs Coordinating Committee composed of 40 members, including the base commanders of the state's 13 military installations who serve as ex-officio members. The committee also has 45 Associates, composed of military retirees, Chambers of Commerce, business leaders and legislators. The Governor continues to take a personal interest in the committee and its activities, facilitating quick state responses to military needs.

The committee's goal is the continued viability of Georgia's military installations. It accomplishes this by removing operational impediments and adding value to military missions. This might require buying land to ensure that air force runways are not crowded. Committee staff are very knowledgeable about BRAC criteria, for example that the military evaluates "Accident Potential Zones" when it reviews bases for closure. Another example is ensuring that a bombing range is not threatened by a landfill which would draw birds, potentially lowering a base from green to yellow on the BRAC criteria.

The committee meets quarterly and over a 3 year cycle visits each installation, at which time it evaluates the base commander's needs and considers how to deliver remedies to solve problems. Remedies might include meeting base infrastructure needs such as roads and sewers, increasing efficiencies through lower gas and electricity pricing, or improving quality of life through improved housing and services to retirees.

The committee seeks to attract and acquire additional missions and force structure and has a close

working relationship with the state's Congressional delegation. It regularly invites Department of Defense officials to visit Georgia's bases, effectively marketing the state's bases to the military brass. In addition, committee activities target skilled military retirees to keep them in the state, including an active Troops to Teachers program.

The committee is staffed by a 3 person office that operates out of the state Chamber of Commerce. It is not a state operation, although it submits a yearly audit. This provides the office considerable flexibility in its operations.

Indiana

Four years ago, the Governor of Indiana created a commission to address defense downsizing in the state. The commission was recently eliminated. The state has one military base left and officials contacted for this survey were not concerned about its closure at this time, given its unique mission. In general, the state focuses on how to make the base more valuable to the military by improving infrastructure, worker training, and facilitating technology transfer to supporting industries.

Kentucky

The Kentucky Military Affairs Commission was created by legislation and is located in the Governor's office. It provides advice to the governor and the legislature and works with local redevelopment authorities. Kentucky experienced two base closures during the BRAC rounds. The Commission is responsible for improving and enhancing Kentucky's military activities and commands.

Maryland

The Department of Business and Economic Development, Office of Technology Development, administers the state's programs targeted at defense downsizing. Activities include providing advice to the governor and legislature, proposing legislation, administering grant and loan programs and serving as a liaison with local reuse authorities. The state experienced three major closures and realignments in the 1995 BRAC round. It provides grants to businesses for defense conversion and to local advocacy organizations.

Massachusetts

The Massachusetts Government Land Bank was established in 1975 to provide an organized response, including financial assistance, to military reductions and closures. Retention activities have consisted of organizing local task forces, chambers of commerce and state and federal legislators. In addition, the state has authorized a \$100 million bond for infrastructure improvements for bases. The state plans to re-evaluate its retention activities after the Quadrennial Report is issued by the Department of Defense in mid-May. (Massachusetts had two bases closed in the 1991 and 1995 BRAC rounds.)

Ohio

The state created a Defense Conversion fund for closure and conversion activities. It has one major military base, Wright-Patterson AFB, in Dayton. The Dayton Chamber of Commerce has a standing committee, incorporated as a non-profit organization, whose purpose is to support base activities. The

state sponsors lobbying efforts in Washington, D.C. relative to base retention and funds infrastructure that supports the base's mission.

Pennsylvania

The Governor created an ad hoc statewide committee, the BRAC PAC (Base Realignment and Closure, Pennsylvania Action Committee) to provide assistance to communities to avoid BRAC 1995 closures. The commission has been renamed the Base Retention and Conversion Committee (BRAC) PAC. Its mission is to interact with Pennsylvania's bases, undertake public outreach and education activities, act as a "best host" and provide a liaison point with military leaders. It holds regular meetings with military base commanders, with the goal of ensuring efficient and well supported operations. It monitors efforts at the national level.

The state has enacted legislation to grant military civilian employees and their dependents immediate residency for purposes of state tuition at institutions of higher education. It has also created a website to welcome new residents, such as military civilians, with information about schools, communities and state programs. (<http://www.state.pa.us/>)

South Carolina

The Department of Defense is the largest employer in South Carolina; each of the military services have installations in the state. The Military Assistance Council was established in 1994, by legislation and is composed of 16 members including top state officials and business leaders. The military commanders of the state's military installations participate as "partners." The Council meets quarterly and serves as a forum to exchange ideas, share funding opportunities and address veterans assistance and transition issues, including Troops to Teachers. A subcouncil on base development reports on current issues relative to realignment and generally shares information on what's going on at the bases.

The state's Military Affairs Office is located in the Office of Local Government of the Budget and Control Board (composed of the Governor, Chairs of the Senate Finance and House Ways and Means Committees, the Treasurer and Comptroller). The general goal is to enhance the viability of military installations and their roles and mission. The three person office works with the Military Assistance Council, the state's 10 Councils of Government (representing 42 counties) and interfaces with the Department of Defense. Staff are former military officers.

The Office interacts with installations and communities to ensure sufficient support on issues such as zoning and land use, utilities, right-of-way, housing, and adequacy of schools. Local communities have military affairs and defense issues groups, generally located in Chambers of Commerce and county councils. A key issue is preventing encroaching development near military facilities. A staff person specializes in Guard and Reserve issues (the state has the third largest standing Guard and Reserve in the country). The Office is supportive of key military initiatives directed at outsourcing, privatization and commercialization.

Texas

Governor Bush established the Office of Defense Transition in 1995, which will become the Office of Defense Affairs. It serves as a clearinghouse for military affairs and as a central point of contact for defense drawdown activities. The state has appropriated \$275,000 for base retention as well as reuse

activities. In addition, Texas Tech University has a study underway to provide a baseline of military installation needs such as improved infrastructure, transportation, education and workforce training.

The state's Defense Council prescribes measures that the state might undertake to support its military installations, such as customized worker training for outsourcing and privatization activities, streamlining environmental and permitting processes and improving state and local coordination. Two recent bills would create a matching grant program for defense-dependent communities (some of which are losing military activities at open bases) and a defense economic adjustment zone program. The state's Washington D.C. office is expert in defense-related matters.

Washington

Washington's program, which focused on downsizing in defense-dependent industries, is winding down. The state established Economic Development Councils by legislation, with mixed public/private funding, which were also active in responding to threatened base closures. Washington did not experience any base closures in the BRAC rounds. Program staff state that communities are confident that they will keep their bases, so there is no driving force to keep the state program going. The state has recently been successful in attracting a major new military mission, homeport status for a new Navy vessel.

APPENDIX

Pennsylvania Homepage for New Residents

Footnote 1

State-by-state comparisons may be inappropriate given California's land mass, which would extend from Boston, Massachusetts to Charleston, South Carolina, encompassing some 10 states and the District of Columbia. (See David Lyon and Tracy M. Gordon, *California Yesterday, Today and Tomorrow: Lessons from Eastcoastia*, unpublished paper, 1995.)

Footnote 2

Economic Development Administration, U.S. Department of Commerce; Office of Economic Adjustment, Department of Defense, National Institutes of Health, National Institute of Justice.

SB

57

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 3/29/99

FURTHER:

DATE TURNED
IN TO OFFICE: 4/07/99

Finance Committee considered SENATE BILL NO. 57

"An Act relating to vulnerable adults; and providing for an effective date."

and recommends:

- be replaced with _____ CS — SB 57
- adopt previous _____ CS —
- attached amendment(s) *forthcoming*
- adopt Letter of Intent by _____ CS
- further referral to the _____

- Senate Bill:
 - same title
 - new title
- House Bill:
 - same title
 - technical title
 - new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>	<input checked="" type="checkbox"/>		
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
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<i>[Signature]</i>	<input checked="" type="checkbox"/>				
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
Co-Chair: <i>[Signature]</i>	<input checked="" type="checkbox"/>	Co-Chair:			
Co-Chair: <i>[Signature]</i>	<input checked="" type="checkbox"/>	Co-Chair:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
Admin. Senior Svcs.	4/2/99	Ø	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

4/7/99

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

No. 2
Bill Version: CSSB 57 (JUD)
(S) Publish Date: 4-6-99

Revision Date: 4/1/99
Title: "An act relating to vulnerable adults"

Department Affected: Administration
BRU: Senior Services
Component: Protection, Community Services, Administration

Sponsor: Health, Education & Social Services
Requestor: (S) JUD

COMPONENT SERIAL NO. 2083

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 97) cost: \$ _____

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

This bill will have no fiscal impact on the Department of Administration.

SB 57 increases the department's legal authority to protect vulnerable adults from harm perpetrated by guardians, attorneys-in-fact, or surrogate decision makers by making changes and additions to AS 47.24.015 (c), .019 (a), .019 (c), and .050 (b). The amended language in these sections includes the additions of the terms "guardians, attorneys-in-fact, or surrogate decision makers" as possible perpetrators of harm. Additional amended language gives the department clear authority to petition for a "change of guardian." The amended language also gives the department authority to not disclose a report of harm to "guardians, attorneys-in-fact, or surrogate decision makers" who are alleged perpetrators who are being investigated as such.

Prepared by: Jane Demmert
Division: Senior Services

Phone: (907)269-3674
Date: _____

Approved by Commissioner: Robert Poe Jr.
Agency: Department of Administration

Date: 4/12/99

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FISCAL NOTE

1999 LEGISLATIVE SESSION

BILL: CSSB 57(JUD)

ANALYSIS: (continued)

2) It provides for the Alaska Commission on Aging to annually contract with the State Ombudsman to operate the Long Term Care Ombudsman function. The Alaska Commission on Aging will initiate an annual RSA to the State Ombudsman for up to \$213,016; this provides for continuation at FY 99 functional levels. Incorporated are costs for 1) salaries and benefits for three present employees; 2) travel; 3) contractual including IT support, utilities, space for fee of 4 (includes one office area for housing p-t Senior Employment workers) at current state space allocation rates calculated at current lease rates, membership dues, conference registrations, etc.

CS FOR SENATE BILL NO. 57(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to vulnerable adults; and providing for an effective date."
 (deleted lines 1-3)

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

3 * Section 1. AS 47.24.015(c) is amended to read:
 (deleted old sec. 1 through 14)

4 (c) The department, or its designee, shall immediately terminate an
 5 investigation under this section upon the request of the vulnerable adult who is the
 6 subject of the report made under AS 47.24.010 unless [. HOWEVER, IF] the
 7 investigation to that point has resulted in probable [REASONABLE] cause to believe
 8 that the vulnerable adult is in need of protective services, the request is made
 9 personally by the vulnerable adult and the vulnerable adult is not competent to
 10 make the request on the adult's own behalf, or the request is made by the
 11 vulnerable adult's guardian, attorney-in-fact, or surrogate decision maker and
 12 that person is the alleged perpetrator of the abandonment, exploitation, abuse, or
 13 neglect of the vulnerable adult and is being investigated under this chapter. If the
 14 department has probable cause to believe that the vulnerable adult is in need of
 15 protective services.

1 (1) the department may petition the court as set out in AS 47.24.019;
2 or

3 (2) the department or its designee may refer the report made to the
4 department under AS 47.24.010 to a police officer for criminal investigation.

5 * Sec. 2. AS 47.24.019(a) is amended to read:

6 (a) If, after investigation under AS 47.24.015, the department has reasonable
7 cause to believe that a vulnerable adult is in need of protective services and is an
8 incapacitated person, the department may petition the court under AS 13.26 for
9 appointment of a guardian or temporary guardian, or for a change of guardian, for
10 the vulnerable adult for the purpose of deciding whether to consent to the receipt of
11 protective services for the vulnerable adult.

12 * Sec. 3. AS 47.24.019(c) is amended to read:

13 (c) If a vulnerable adult who has consented to receive protective services, or
14 on whose behalf consent to receive protective services has been given, is prevented by
15 a caregiver, guardian, attorney-in-fact, or surrogate decision maker from receiving
16 those services, the department may [ASSIST THE VULNERABLE ADULT OR THE
17 PERSON WHO CONSENTED TO THE VULNERABLE ADULT'S RECEIPT OF
18 THE SERVICES TO] petition the superior court for an injunction restraining the
19 caregiver, guardian, attorney-in-fact, or surrogate decision maker from interfering
20 with the provision of protective services to the vulnerable adult.

21 * Sec. 4. AS 47.24.050(b) is amended to read:

22 (b) The department shall disclose a report of the abandonment, exploitation,
23 abuse, neglect, or self-neglect of a vulnerable adult if the vulnerable adult who is the
24 subject of the report or the vulnerable adult's guardian, attorney-in-fact, or
25 surrogate decision maker consents in writing. The department may not disclose
26 a report of the abandonment, exploitation, abuse, neglect, or self-neglect of a
27 vulnerable adult to the vulnerable adult's guardian, attorney-in-fact, or surrogate
28 decision maker if that person is an alleged perpetrator of the abandonment,
29 exploitation, abuse, or neglect of the vulnerable adult and is being investigated
30 under this chapter. The department shall, upon request, disclose the number of
31 verified reports of abandonment, exploitation, abuse, neglect, or self-neglect of a

- 1 vulnerable adult that occurred at an institution that provides care for vulnerable adults
 2 or that were the result of actions or inactions of a public home care provider.
 3 *(old sec. 19 deleted)* *(secs. 15-18 of deleted)*
 4 * **Sec. 5. TRANSITION.** A department affected by this Act may proceed to adopt
 5 regulations necessary to implement this Act. Regulations to implement a provision of this Act
 6 take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date
 7 of sec. 1 of this Act. *(sec. 15 deleted)*
- * **Sec. 6.** Section 5 of this Act takes effect immediately under AS 01.10.070(c).
(old sec. 23 deleted)

SENATE FINANCE
COMMITTEE
Amendment Number: 2
Bill Number: CS SB 57 (JUD)
Sponsor: Green Date: 4/6/99
Logged In By: Mindy
A M E N D M E N T

1-LS0135\G.2
Lauterbach
4/6/99

OFFERED IN THE SENATE
TO: CSSB 57(JUD)

*moved by Sen. Green
object Sen. Torgerson
withdrawn
w/o obj ADOPTED*

- 1 Page 1, lines 1 - 3:
- 2 Delete "and to the functions of the office of the state long term care ombudsman
- 3 on behalf of vulnerable adults and senior citizens"

- 4 Page 1, line 5, through page 5, line 21:
- 5 Delete all material.

- 6 Page 5, line 22:
- 7 Delete "Sec. 15"
- 8 Insert "Section 1"

- 9 Renumber the following bill sections accordingly.

- 10 Page 7, lines 4 - 13:
- 11 Delete all material.

- 12 Renumber the following bill sections accordingly.

- 13 Page 7, line 14:
- 14 Delete "secs. 15 - 18 of"

- 15 Page 7, line 15:
- 16 Delete "secs. 15 - 18 of"

- 17 Page 7, line 16:

1 Delete "secs. 15 - 18 of"

2 Page 7, line 17:

3 Delete "sec. 15"

4 Insert "sec. 1"

5 Page 7, line 18:

6 Delete "Section 21"

7 Insert "Section 5"

8 Page 7, line 19:

9 Delete all material.

SENATE FINANCE
COMMITTEE

1-LS0135\G.1
Lauterbach ✓
4/5/99

Adopted

Amendment Number: 1

Bill Number: CSSB 57 (JUD)

Sponsor: Wilken Date: 4/6/99

A M E N D M E N T In By: Mindy

OFFERED IN THE SENATE

BY SENATOR WILKEN

TO: CSSB 57(JUD)

1 Page 5, line 31:

2 Delete "abuse"

3 Insert "the abandonment, exploitation, abuse, or neglect of the vulnerable adult"

4 Page 6, line 30:

5 Delete "abuse"

6 Insert "the abandonment, exploitation, abuse, or neglect of the vulnerable adult"

SENATE FINANCE COMMITTEE
1999 COMMITTEE ACTION

Bill Number	1
Amendment	SB 57
Motion	f/dopt
<u>Motion by</u>	Wilken
<u>Objection</u>	
<u>Objection by</u>	Torgerson
<u>Removed</u>	J
<u>Second Objection by</u>	
<u>Committee Member</u>	<u>Vote</u>
Senator Al Adams	
Senator Gary Wilken	
Senator Pete Kelly	
Senator Lyda Green	
Senator Randy Phillips	
Senator Dave Donley	
Senator Loren Leman	
Co-Chair Sean Parnell	
Co-Chair John Torgerson	
<u>Tally</u>	
Yea	0
Nay	0
Absent	0
<u>MOTION</u>	w/out object

**Testimony regarding CS for SB 57
"An act relating to vulnerable adults"
for Senate Finance Hearing Tuesday 4/6/99 6PM**

**by
Dwight Becker, Program Coordinator
Adult Protective Services Division of Senior Services, Department of
Administration**

Adult protective services supports SB 57. In addition, we do not believe this bill will have any fiscal impact on the Department of Administration. This analysis speaks specifically to the changes indicated in Sections 15 through 18. These sections increase the department's legal authority to protect vulnerable adults from harm perpetrated by guardians, attorneys-in-fact, or surrogate decision makers by making changes and additions to AS 47.24.015 (c), .019 (a), .019 (c), and .050 (b). The amended language in these sections includes the additions of the terms "guardians, attorneys-in-fact, or surrogate decision makers" as possible perpetrators of harm. Additional amended language gives the department clear authority to petition for a "change of guardian." The amended language also gives the department authority to not disclose a report of harm to "guardians, attorneys-in-fact, or surrogate decision makers" who are alleged perpetrators who are being investigated as such.

As amended, AS 47.24.015 (c) in **Section 15** specifically gives the department authority to continue a needed protective services investigation over the objections of the vulnerable adult's guardian, attorney-in-fact, or surrogate decision maker who is, also, the alleged perpetrator of the harm being investigated when probable cause exist that protective services are needed. This section also clarifies that a protective services investigation may be continued over the objections of a vulnerable adult who is not competent, if probable cause exists that protective services are needed. In both of these instances, the remedy is to either file a petition for the appointment of a guardian, or refer the matter to law enforcement for investigation. In either event, the department may conduct further investigation in coordination with the attorney general's office or the law enforcement agency over the objection of any perpetrator. This section raises the standard of proof from reasonable cause to probable cause for the department when establishing the need for protective services over the objections of the vulnerable adult or the decision maker who is the alleged abuser for the purpose of continuing the investigation and filing for guardianship or referring the matter to law enforcement.

Testimony regarding CS for SB 57
Analysis of CS for SB 57
"An act relating to vulnerable adults"
continued

As amended, AS 47.24.019 (a) in **Section 16** gives the department authority to petition for a "change of guardian." In the past, the statute has not addressed how the department would proceed in asking the court to appoint a different guardian when protection requires it.

As amended, AS 47.24.019 (c) in **Section 17** now includes "guardians, attorneys-in-fact, or surrogate decision makers" with caregivers, as persons who may be interfering with the provision of protective services, and against whom a petition may be filed by the department with the superior court for injunctive relief restraining the person from interfering. This change takes into account that caregivers are not the only persons who may interfere with the provision of protective services

As amended, AS 47.24.050 (b) in **Section 18** protects vulnerable adults from having their confidential reports of harm disclosed or made available to a perpetrator who may be harming them and who is under investigation for doing so even though the perpetrator is the "guardian, attorney-in-fact, or surrogate decision maker" for the vulnerable adult. Releasing the confidential report to the perpetrator can compromise the investigation and expose the vulnerable adult to further harm. Currently, the "guardian, attorney-in-fact, or surrogate decision maker" can legally request a copy of the report of harm and investigation on behalf of the vulnerable adult under any circumstance.

The changes and additions in SB 57 are needed to improve upon the existing legal authority of the department to provide protection for vulnerable adults from abuse, neglect, exploitation, and abandonment by "guardians, attorneys-in-fact, or surrogate decision makers", and others. This bill does not prevent the department from providing the reporter and the perpetrator the status of the investigation, and limited information necessary to complete an investigation, reach a resolution, and provide necessary protective services. The bill protects the vulnerable adult from have their full investigative report and records disclosed.

We do recommend that line 31 on page 5, and line 30 on page 6 include the terms, "exploitation, neglect, and abandonment" along with the term abuse as possible allegations to be included. Adult protective services, specifically in the past, had a situation in which a guardian was being investigated for allegedly financially exploiting a client. During the investigation the guardian made a formal written request to obtain a copy of our investigative records pertaining to the

Testimony regarding CS for SB 57
Analysis of CS for SB 57
"An act relating to vulnerable adults"
continued

client. Our records specifically included the investigation of exploitation of the client by the guardian. Although we made a decision to not release the records to the guardian for the purpose of not releasing sensitive information and compromising the client's safety and our investigation, the law did not provide for this type of protection. The current amendments to the statute do provide for this type of protection when the allegation is abuse. We recommend that the other allegations of exploitation, neglect, and abandonment be included in the amendment.

Adult protective services supports strongly SB 57. We do not believe this bill will have any fiscal impact on the Department of Administration.

Respectfully Submitted by
Adult Protective Services
Division of Senior Services
Department of Administration
State of Alaska

April 2, 1999

Alaska State Legislature



State Capitol
Juneau AK
99801-1182

Official Business

Long-Term Care Task Force

Senate Bill No. 57

An Act relating to vulnerable adults; and providing for an effective date.

This bill will enhance the protective services afforded to vulnerable adults by reducing the possibility of exploitation or abuse by guardians, attorneys-in-fact, and surrogate decision-makers.

Under current law, the Department of Administration must immediately terminate an investigation of abuse upon the request of the vulnerable adult who is the subject of the report. Unfortunately, in some instances, the adult's guardian, attorney-in-fact, or surrogate decision-maker, who is the alleged perpetrator of the abuse and the subject under investigation, may make the request. As written, AS 47.24.015 (c) does not allow the department any option but to terminate the investigation. This proposed legislation allows the department to continue the investigation and protect the vulnerable adult.

In addition, this bill gives the Department of Administration the option to withhold investigative findings and reports of abandonment, exploitation, abuse, neglect or self-neglect filed with the department if the vulnerable adult's guardian is suspected of the abuse and currently under investigation. This flexibility will give the department the necessary information to effectively continue its inquiry.

The proposed statutory changes are necessary to adequately protect a vulnerable adult in the rare instance in which a guardian, attorney-in-fact, or surrogate decision-maker is the alleged perpetrator. These changes give the Department of Administration the needed leeway to conduct a thorough investigation.

LTC **TASK FORCE**
Long-Term Care Task Force



FINAL REPORT
January 1999

Representative Con Bunde, Co-chairman
Senator Gary Wilken, Co-chairman

State Capitol Building
Juneau, Alaska 99801-1182

LEGISLATION TO PROTECT VULNERABLE ADULTS

RECOMMENDATION

7

The Task Force recommends that legislation be drafted and introduced to protect a vulnerable adult from a guardian, attorney-in-fact or surrogate decision-maker who may harm the vulnerable adult.

AS 47.24.900 (16) defines a vulnerable adult as a person 18 years of age or older who, because of physical or mental impairment, is unable to meet his or her own needs or to seek help without assistance.

“After the department conducts an investigation, a written report is prepared.”

Under current law, if a person has reason to believe that a vulnerable adult suffers from abandonment, exploitation, abuse, neglect or self-neglect, the concerned individual must contact the Department of Administration which, in most instances, initiates an investigation. After the department conducts an investigation, a written report is prepared of the department’s findings, recommendations, and determination of whether supportive or protective services are necessary.

The department must immediately terminate an investigation upon the request of the vulnerable adult who is the subject of the report. Unfortunately, in some instances, the adult’s guardian, attorney-in-fact, or surrogate decision-maker, who is the alleged perpetrator of the abuse and the subject under investigation, may make the request. Currently AS 47.24.015 (c) does not allow the Department of Administration any option in such a case but to terminate the investigation. A change to this statute is necessary to adequately protect the vulnerable adult.

“A problem arises when the vulnerable adult’s guardian is under investigation.”

The investigation findings and the reports of the abandonment, exploitation, abuse, neglect or self-neglect of a vulnerable adult filed with the department are considered confidential. However, the reports are disclosed if the vulnerable adult who is the subject of the report consents in writing. A problem arises when the vulnerable adult’s guardian, attorney-in-fact or surrogate decision-maker is suspected of abuse and is under investigation. The disclosure of the complaint, in this case, would severely restrict the department’s ability to effectively continue with its inquiry.

The Task Force recognizes that a situation may arise where a guardian, attorney-in-fact or surrogate decision-maker will abuse or harm a vulnerable adult and the statutes should reflect this possibility. The proposed legislation addresses this like-

likelihood and gives the Department of Administration the needed leeway to conduct a thorough investigation in order to protect the vulnerable adult. (Appendix B)

Federal and state law provides for long-term care ombudsman services for vulnerable adults who are 60 years and older and reside in a nursing home or an assisted living facility. The Task Force recognizes that vulnerable persons under the age of 60 who reside in nursing homes or assisted living facilities also have a need for protective services. The Disability Law Center, the State Independent Living Council and its regional centers, the Division of Senior Services, and the Division of Mental Health and Developmental Disabilities offer protective and advocacy services to these individuals. Greater access and collaboration between these organizations will help strengthen their ability to meet the needs of these vulnerable persons under the age of 60 who are living in an institutional setting.

"The Task Force recognizes that vulnerable persons under the age of 60 who reside in nursing homes or assisted living facilities also have a need for protective services."

The Task Force recommends that these entities coordinate efforts: 1) to increase residents' awareness of the protection and advocacy services available within the state; 2) to facilitate the system's response to complaints and requests for assistance. ❖

WORK FORCE DEVELOPMENT SUMMIT

RECOMMENDATION

8

The Task Force endorses the efforts of the Alaska State Hospital and Nursing Home Association, in conjunction with the other training councils, to hold a statewide Work Force Development Summit.

On September 17, 1998 the Alaska Human Resource Investment Council (AHRIC) and the University of Alaska Statewide Vocational/Technical Education Advisory Council (UASVTEAC) held a joint meeting in Seward to discuss issues surrounding the demand and capacity of Alaska's health care industry.

The concerns expressed at this joint meeting parallel the testimony received by the Long-Term Care Task Force. Many long-term health caregivers testified in great detail about how fragile the job situation is for people who provide day-to-day health care for seniors and adults with disabilities. Low pay, lack of adequate training and frequent job turnover were some of the reoccurring problems mentioned.

"Low pay, lack of adequate training and frequent job turnover (are) problems."

INTERNET ADDRESS:
acoa@admin.state.ak.us



P.O. BOX 110209
JUNEAU, AK 99811-0209
(907) 465-3250
FAX: 465-4716

Alaska Commission on Aging

Resolution 99-3

In support of SB 57: Relating to vulnerable adults

Whereas SB 57 increases the protections to assure that vulnerable adults are not abused or harmed by their guardian, attorney-in-fact or surrogate decision-maker, and

Whereas SB 57 closes gaps in AS 47.24.015 (c) which currently do not provide for the State of Alaska to conduct thorough investigations in situations where such abuse or harm is believed to be occurring; and

Whereas the Legislative Long Term Task Force Report of January, 1999, recommended the introduction of this legislation in its Recommendation #7;

Now therefore the Alaska Commission on Aging strongly encourages the Twenty-First Alaska Legislature to pass SB 57.

Adopted this 9th day of March, 1999.

A handwritten signature in cursive script that reads "Alaire E. Stanton".

Alaire Stanton
Chair

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. CSSB 57(JUD)

Revision Date: 4/1/99
 Title: "An act relating to vulnerable adults"

Department Affected: Administration
 BRU: Senior Services
 Component: Protection, Community Services, Administration

Sponsor: Health, Education & Social Services
 Requestor: (S) JUD

COMPONENT SERIAL NO. 2083

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 97) cost: \$ _____

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

This bill will have no fiscal impact on the Department of Administration.

SB 57 increases the department's legal authority to protect vulnerable adults from harm perpetrated by guardians, attorneys-in-fact, or surrogate decision makers by making changes and additions to AS 47.24.015 (c), .019 (a), .019 (c), and .050 (b). The amended language in these sections includes the additions of the terms "guardians, attorneys-in-fact, or surrogate decision makers" as possible perpetrators of harm. Additional amended language gives the department clear authority to petition for a "change of guardian." The amended language also gives the department authority to not disclose a report of harm to "guardians, attorneys-in-fact, or surrogate decision makers" who are alleged perpetrators who are being investigated as such.

Prepared by: Jane Demmert
 Division: Senior Services

Phone: (907)269-3674
 Date: _____

Approved by Commissioner: Robert Poe Jr.
 Agency: Department of Administration

Date: 4/15/99

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FISCAL NOTE

1999 LEGISLATIVE SESSION

BILL: CSSB 57(JUD)

ANALYSIS: (continued)

2) It provides for the Alaska Commission on Aging to annually contract with the State Ombudsman to operate the Long Term Care Ombudsman function. The Alaska Commission on Aging will initiate an annual RSA to the State Ombudsman for up to \$213,016: this provides for continuation at FY 99 functional levels. Incorporated are costs for 1) salaries and benefits for three present employees; 2) travel; 3) contractual including IT support, utilities, space for fee of 4 (includes one office area for housing p-t Senior Employment workers) at current state space allocation rates calculated at current lease rates, membership dues, conference registrations, etc.

SENATE FINANCE COMMITTEE

SIGN-IN

SB 57-CARE FOR VULNERABLE ADULTS

NAME: Alison Sleg Subject/Bill No: SRS4
Co./Dept./Title: Dep Comm Phone: 465-2200
Address: DOA Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

SB

58

SFIN

FILE

SB 58

was referred to the
Senate Finance
Committee

Hearing(s) were held

The bill did not move
from Committee

SENATE FINANCE
COMMITTEE

Adopted
1-LS0138\G.1
Lauterbach
4/5/99

Amendment Number: 1

Bill Number: SB 58

Sponsor: Wilken Date: 4/6/99

A M E N D M E N T
by: Mindy

OFFERED IN THE SENATE
TO: SB 58

BY SENATOR WILKEN

1 Page 4, line 8:

2 Delete "or"

3 Page 4, following line 8:

4 Insert a new paragraph to read:

5 "(2) subacute care, regardless of the site where the care is given; in this
6 paragraph, "subacute care" means care that is rendered for a limited time period
7 immediately after, or instead of, acute hospitalization to treat one or more specific,
8 active, complex medical conditions or to administer one or more technically complex
9 treatments in the context of a patient's underlying long-term conditions and overall
10 situation; or"

11 Page 4, line 9:

12 Delete "(2)"

13 Insert "(3)"

14 Page 5, line 26, following "organizations":

15 Insert ", including public and private agencies or organizations"

SENATE FINANCE COMMITTEE
1999 COMMITTEE ACTION

Bill Number	SB 58
Amendment	1
Motion	Adopt
<u>Motion by</u>	Wilken
<u>Objection</u>	
<u>Objection by</u>	
<u>Removed</u>	
<u>Second Objection by</u>	
<u>Committee Member</u>	<u>Vote</u>
Senator Pete Kelly	
Senator Lyda Green	
Senator Randy Phillips	
Senator Dave Donley	
Senator Loren Leman	
Senator Al Adams	
Senator Gary Wilken	
Co-Chair Sean Parnell	
Co-Chair John Torgerson	
<u>Tally</u>	
Yea	0
Nay	0
Absent	0
<u>MOTION</u>	W/ast object.

GARY WILKEN

SENATOR
Districts 29 & 30
West Fairbanks

Senate Standing Committees

Member: Finance
Member: Health, Education, &
Social Services (HESS)
Member: Legislative Budget & Audit
Member: State Affairs

Alaska State Legislature

Senate

During Session:
State Capitol Building
Juneau, Alaska 99801-1182
Tel: (907) 451-5501 (in Fbks area)
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Website: www.garywilken.com
E-Mail: Senator_Gary_Wilken@legis.state.ak.us

Interim:
1851 Fox Ave.
Fairbanks, Alaska 99701
Tel: (907) 451-5501
Fax: (907) 451-0438

MEMORANDUM

RECEIVED
MAR 31 1999

Senate Finance
Committee

TO: Senator John Torgerson, Co-chairman
Senator Sean Parnell, Co-chairman
Senate Finance Committee

FROM: Senator Gary Wilken

DATE: March 29, 1999

RE: Request for Hearing

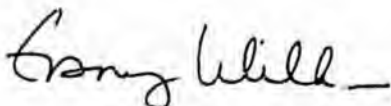
I respectfully request that SB 58, *Services for Adults with Long-Term Needs*, be scheduled for a hearing before the Senate Finance Committee.

Senate Bill 58 will allow all Alaskans, with demonstrated long-term care needs, the opportunity to receive services through the Department of Administration's home and community-based care program. Currently only Medicaid-eligible adults receive long-term health care services under this program.

Under SB 58 moderate-income adults who cannot pay the full cost of home care will be able to receive health care at home or in their communities. The participants will help pay the cost of the program on a sliding scale.

Senate Bill 58 does not create an entitlement program. The program is extended only to as many adults as the annual appropriation allows.

Thank you for your assistance in this request.



Alaska State Legislature



Official Business

State Capitol
Juneau AK
99801-1182

Long-Term Care Task Force

Senate Bill No. 58

An Act establishing an in-home and community-based services program for certain adults with long-term care needs; and providing for an effective date.

Currently only Medicaid-eligible adults can receive long-term health care services under the Department of Administration's home and community-based programs. Under this Medicaid option, individuals can receive the long-term health care they need in their homes and communities rather than institutions. Medicaid recipients have found this option very popular and almost twice as many Alaskans elected this waiver in FY97 than in FY96.

The proposed legislation will allow all Alaskans, with demonstrated long-term care needs, the opportunity to request services through the home and community-based care program. As noted, currently only Alaskans who are Medicaid-eligible receive this health care service. Under this bill, moderate-income adults who cannot pay the full cost of home care will be able to receive services under the home and community-based program. This program will not replace family care giving, but will support and augment the care given by families.

The adults receiving services will contribute through co-payment for services on a sliding scale. This bill does not create an entitlement program as the program is extended only to as many adults as the annual appropriation allows.

Under this legislation moderate-income seniors and adults with disabilities will have an opportunity to receive long-term health care at home or in their communities and therefore may avoid, or at least postpone, the need for more costly long-term care in an institution.

LTC **TASK FORCE**
Long-Term Care Task Force



FINAL REPORT
January 1999

Representative Con Bunde, Co-chairman
Senator Gary Wilken, Co-chairman

State Capitol Building
Juneau, Alaska 99801-1182

HOME AND COMMUNITY-BASED LEGISLATION

RECOMMENDATION

13

The Task Force recommends that legislation be drafted and introduced to establish a home and community-based services program for certain adults with long-term care needs.

In 1995 Governor Knowles appointed a Long-Term Care Steering Committee, chaired by Department of Administration Commissioner Mark Boyer and Department of Health and Social Services Commissioner Karen Perdue, to develop and implement an interdepartmental Long-Term Care Strategic Plan. The Steering Committee developed legislation to create a comprehensive home and community-based services program that would not be limited to just Medicaid-eligible persons.

Many seniors and adults with disabilities cannot fully pay for all the long-term care services they need, but still cannot qualify to receive Medicaid benefits. When these moderate income seniors or adults with disabilities do not receive the necessary health care services, they can ultimately require more intensive services than would have been needed had they received earlier support to stabilize their situation.

The legislation proposed by the Steering Committee authorizes the Department of Administration to establish and administer a program of home and community-based support services for adults with long-term care needs. Under this proposed legislation, adults receiving services are expected to contribute through co-payments for services on a sliding scale and are required to apply for payment from other sources if available.

The long-term care home and community-based program offered under Medicaid is meeting great acceptance. When given an option, people often elect to receive the long-term health care they need in their home and community rather than an institution. Almost twice as many Alaskans elected this Medicaid waiver in FY97 as in FY96.

Passage of the proposed legislation will allow all Alaskans with demonstrated needs the opportunity to request services through the Department of Administration's home and community-based care program, not just those eli-

“Many seniors and adults with disabilities cannot fully pay for all the long-term care services they need.”

“The Task Force acknowledges the value of home and community-based long-term care services.”

gible for Medicaid. The Task Force acknowledges the value of home and community-based long-term care services and recommends this legislation be introduced for further consideration. (Please see Appendix B, page 69, for further detail.) ❖

MEDICAID COVERAGE FOR ALZHEIMER'S PATIENTS

RECOMMENDATION

14

The Task Force requests the Departments of Administration and Health and Social Services review all options available to the state, including Medicaid, to support the long-term care needs of patients whose sole diagnosis is Alzheimer's Disease and Related Disorders.

"To be eligible for Alaska's Medicaid long-term care waiver programs, applicants must require skilled nursing services."

Alzheimer's Disease and Related Disorders (ADRD) refers to cognitive impairments that are progressive and degenerative in nature. As a result of these impairments, affected adults require supervision and cueing from other individuals in order to adequately and routinely perform activities of daily living and instrumental activities of daily living.³⁰ People whose sole diagnosis is Alzheimer's Disease and Related Disorders do not typically require daily supervision by medical professionals.

To be eligible for nursing home care and home and community-based services from Alaska's Medicaid program, applicants must be low-income and require skilled nursing or intermediate care. Persons whose sole diagnosis is ADRD typically do not meet the criteria for skilled nursing or intermediate care and consequently, the Alaska Medicaid program will not pay for nursing home placement or home and community-based services.

Alaska is only one of two states whose Medicaid eligibility standards for nursing home and home and community-based services require that the patient needs "professional-level medical supervision."³¹ This requirement, as determined by the Department of Health and Social Services, effectively eliminates eligible Medicaid ADRD-only patients from the state's major long-term care services.

Persons with ADRD may have great difficulty living without assistance.³² Currently for many people who suffer from ADRD, respite service for their families is the only long-term care service available.³³ The Task Force recognizes the desire for additional assistance for this particular group of Alaskans and understands that



Alaska Commission on Aging

Resolution 99-4

In support of SB 58: Establishing an in-home and community-based services program for certain adults with long-term care needs

Whereas many Alaskan seniors and younger adults with disabilities or chronic illness do not have the resources necessary to fully pay for the essential long-term care services upon which they are dependent, and

Whereas many of these Alaskans have incomes slightly exceeding the maximum allowable for receiving financial assistance from the Medicaid long-term care program, or have long-term needs that do not meet the nursing home level of care standard required within the Medicaid long-term care program, and

Whereas assisting these individuals to receive appropriate care before their needs become more intensive has the potential to prevent or delay the need for more costly services, and

Whereas SB 58 will assist some Alaskans to receive appropriate and cost-effective in-home and community-based long-term care by assisting in meeting the full cost of necessary services after the individual has paid what he can; and

Whereas the Legislative Long Term Task Force Report of January, 1999, recommended the passage of this legislation in its Recommendation #13,

Now therefore the Alaska Commission on Aging strongly encourages the Twenty-First Alaska Legislature to pass SB 58.

Adopted this 9th day of March, 1999.

A handwritten signature in cursive script that reads "Alaire E. Stanton".

Alaire Stanton
Chair

Testimony on SB 58
Senate Finance Committee
April 6, 1999

Submitted by: Kay L. Burrows
Director, Division of Senior Services

Alaska has the second highest growing senior population proportionately in the Nation. Coupled with the highest cost of nursing home care in the nation, this potentially means a staggeringly high cost for publicly funded long term care in Alaska in the near future. It has been estimated that the cost of public funds for long term care, \$73.0M in 1996, will be \$372.0M by 2015, if the types of service delivery are not expanded and costs are not reduced. Utilizing Home and community-based services have shown that costs can be reduced from nursing home costs. Alaskans like having this option of service delivery. The use of these home and community-based services have expanded from 220 people in FY 96 to over 580 in March FY 99. In FY 98, the average Medicaid annual cost for home and community-based care was around \$12,500, while an average Medicaid nursing home annual cost was \$89,000. We served approximately 692 adults in the home and community-based program for \$13M in FY 98. During that same fiscal year, there was an average census of 500 Medicaid clients in nursing homes, at a cost of \$45M.

SB 58 allows all Alaskans, with demonstrated long-term care needs, the opportunity to request services through the home and community-based care program of the Department of Administration. Currently, only Alaskans who are Medicaid-eligible receive this health care service. Under this bill, moderate-income adults who cannot pay the full cost of home care will be able to receive services under the home and community-based program. The adults receiving services will contribute through a co-payment for services and are required to apply for payment from other sources if available. This bill does not create an entitlement program as the program is extended only to as many adults as the annual appropriation allows. The Department of Administration plans to apply for grants, federal funding and private foundation moneys to extend the program.

Alaskans have stated in several recent surveys that they would prefer to receive home and community-based services. However, the current structure requires them to impoverish themselves in order to become Medicaid eligible to use the current Medicaid waiver service. It also requires them to meet the Medicaid nursing home level of care, before they are eligible for home and community-based services. Other states, such as Indiana, have shown that supportive, cost-effective home and community-based services available before a person needs the nursing home level of care often keeps that person from ever requiring Medicaid services. These services, such as home health care nursing, can be expensive also. The current rate for a home health nursing home visit in Anchorage is \$120 per visit. Thus someone needing two visits per week may have to pay \$1080. per month out-of-pocket. This can be a significant expense, but is far less costly then the average monthly nursing home cost of \$7400.

There are a variety of home and community-based services available in the state, funded through Medicaid, state or federal funds. Many currently have age restrictions which do not allow adults under the age of 60, or non Medicaid eligible, to use them. This bill would allow those services to be used by all Alaskan adults, based on the authorization amount and additional private funding sources. Some of these services include; adult day care, adult respite care, chore/homemaker services, nutrition and transportation services, at-home skilled nursing and therapy care, personal care and care coordination.

In many instances, it is more cost-effective for the State to provide access to and partial financing of the services consumers most desire—home and community-based services that to continue to rely heavily on and pay for 90% of the nursing home care in the state. If Alaska is going to manage the growth in public and private long term care expenditures, this legislation is necessary to give the State the ability to design systems responsive to consumers, their families, their communities and regions.



Emily F. Ennis, Executive Director

FAIRBANKS RESOURCE AGENCY

805 AIRPORT ROAD, SUITE 1 • FAIRBANKS, ALASKA 99701 • (907) 456-8901 • FAX 452-5171

April 6, 1999
Senate Finance Committee Co-Chair
Senators Parnell & Torgerson

Dear Senator,

My name is Charlie Burnitt and at 62, I suffer from lymphoma and Von Recklinghausen's disease. I currently live alone in my own house and continue to function somewhat independently with support from my sister and Community Services. Through the brokered program I am able to attend the Adult Day Center at Fairbanks Resource Agency on a daily basis and receive noon meals from North Star Council on Aging that are delivered to the Adult Center. I enjoy living alone, however the Adult Center provides the chance for me to visit with other people and participate in activities like beading and playing bingo. If I did not have the adult center to attend, I would be very lonely and would miss flirting with the women.

Sincerely,

A handwritten signature in cursive script that reads 'Charlie Burnitt'.

Charlie Burnitt

c.c. Senator Gary Wilken



Emily F. Ennis, Executive Director

FAIRBANKS RESOURCE AGENCY

805 AIRPORT ROAD, SUITE 1 • FAIRBANKS, ALASKA 99701 • (907) 456-8901 • FAX 452-5171

April 6, 1999

Senate Finance Committee Co-Chair
Senators Parnell & Torgerson

Dear Senator,

My name is Grace Heaton. I recently turned 88 years old. With age I have become very forgetful, as I often say, "My forgetter has gotten better." Approximately a year ago I moved in with my daughter. She and her husband work full time and were concerned about me staying home alone during the day. They were worried that I may fall and have no one around to help me. Also because I am forgetful I cannot prepare meals for myself. Needless to say my family had many concerns. I began attending Fairbanks Resource Agency's Adult Day Care program so I could spend the day in a safe place and would not have to be home alone. I enjoy Adult Day Care and like helping out there. (I use to be a nurse and still have a need to help others.) Yesterday I moved into an assisted living home. I have been told that a program called brokered services will help pay for my special care and allow me to continue attending Adult Day Care two times per week. Since most of my money will be paid to the assisted living home, I would not be able to afford Adult Day Care. Now I can continue seeing the friends I have made and be active outside my home setting.

Sincerely,

A handwritten signature in cursive script that reads "Grace E. Heaton".

Grace Heaton

c.c. Senator Gary Wilken

SENATE FINANCE COMMITTEE

SIGN-IN

SB 58-SERVICES FOR ADULTS WITH LONG-TERM NEEDS

NAME: Alison Elger Subject/Bill No: SB 58
 Co./Dept./Title: Dep Comm Phone: 465-2200
 Address: DOA Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: Kathy Kloster Subject/Bill No: _____
 Co./Dept./Title: adminstrator St. Ann's Phone: 586-3883
 Address: mother of Alzheimers victim Zip: 99801
Sumner

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
 Co./Dept./Title: _____ Phone: _____
 Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
 Co./Dept./Title: _____ Phone: _____
 Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

SB

59

SFIN

FILE

SB 59

was referred to the
Senate Finance
Committee

No hearing was held
on this bill

Scheduled 5/10/99 but not heard

GARY WILKEN

SENATOR
Districts 29 & 30
West Fairbanks

Senate Standing Committees

Member: Finance
Member: Health, Education, &
Social Services (HESS)
Member: Legislative Budget & Audit
Member: State Affairs

Alaska State Legislature

Senate

During Session:
State Capitol Building
Juneau, Alaska 99801-1182
Tel: (907) 451-5501 (in Fbks area)
Tel: (907) 465-3709 (outside Fbks)
Fax: (907) 465-4714
Website: www.garywilken.com
E-Mail: Senator_Gary_Wilken@legis.state.ak.us

Interim:
1851 Fox Ave.
Fairbanks, Alaska 99701
Tel: (907) 451-5501
Fax: (907) 451-0438

MEMORANDUM

TO: Senator John Torgerson, Co-chair
Senator Sean Parnell, Co-chair
Senate Finance Committee

FROM: Senator Gary Wilken



DATE: April 21, 1999

RE: Request for Hearing

I respectfully request that SB 59, *Certificates of Need for Health Facilities*, be scheduled for a hearing before the Senate Finance Committee.

Senate Bill 59 adopts a new standard of need for nursing home Certificate of Need (CON) requests. Under the Certificate of Need program, the Department of Health and Social Services reviews all nursing home expansions that cost over \$1 million.

The proposed standard will broaden the criteria used to measure the appropriateness of the expansion. The revision allows decisions to be made on need, financial feasibility and availability of alternatives. A new nursing home project will need to demonstrate the cost-effectiveness of each request and the appropriateness of the service.

Senate Bill 59 gives the Department Health and Social Services the needed tools in which to make a more informed decision.

Thank you for your assistance in this request.



**Denali Center
Fairbanks Memorial Hospital**

Denali Center
1510 19th Avenue
Fairbanks, AK 99701
(907) 458-5100

Fairbanks Memorial Hospital
1650 Cowles Street
Fairbanks, AK 99701-5998
(907) 452-8181
Fax (907) 458-5324

MEMORANDUM

To: House and Senate Finance Committee Members

From: Rick Solie
Director of Community Relations & Planning
Fairbanks Memorial Hospital/Denali Center

Date: April 27, 1999

Subject: HB 187/ SB 59 - Certificate of Need for Long-Term Care Facilities
Opposition to an amendment related to imaging services and day surgery facilities

SB 59 and HB 187 are the result of the Long Term Care Task Force efforts to modify the Certificate of Need (CON) program governing the expansion of nursing homes. We support this legislation and appreciate the Legislature's attention to this important area of health care.

Recently, an amendment was offered to HB 187 in the House HESS Committee (which failed) that would exempt imaging services and day (ambulatory) surgery facilities from the current CON requirements of the Department of Health and Social Services. This exclusion is both unrelated to the Task Force recommendation and would create a piece-meal approach to modifying the CON laws. **We oppose this amendment.**

The Alaska State Hospital and Nursing Home Association (ASHNHA) has recognized the need for clarification of the CON laws to create a level playing field between health care providers. We are willing to work with the Legislature to develop some appropriate changes and have identified the need to do so in our 1999 work plan. However, this legislation is not the appropriate vehicle.

In Fairbanks, there are currently three applicants, including Fairbanks Memorial Hospital, who have requested a CON to provide ambulatory surgery facilities. The current process will require a Departmental review of the application(s), public hearings and a decision by the Commissioner. Approval of this exemption would circumvent the CON process currently underway in Fairbanks.

Quality and access are important elements of our health delivery system and we ask that you not consider this exclusion without a thorough examination of the issues related to ambulatory services and the state's role in oversight.

Thank you for your consideration.

cc: Interior Legislative Delegation
Commissioner Karen Perdue

Attachments: Amendment to HB 187

Post-It [®] Fax Note	7671	Date	4/22/99	# of pages	2
To	Rick Solie, C.	From			
Co./Dep.	Mike Powers F.W.A.	Co.			
Phone #		Phone #			
Fax #	488-5829	Fax #			

I-LS0706(A.2
Leuterbach
4/21/99

OFFERED IN THE HOUSE

TO: HB 187

- 1 Page 3, line 3:
- 2 Delete "A"
- 3 Insert "Except as provided in (c) of this section, (A.)

- 4 Page 3, following line 14:
- 5 Insert a new bill section to read:
- 6 "Sec. 4. AS 18.07.031 is amended by adding a new subsection to read:
- 7 (c) A certificate of need is not required for the
- 8 (1) construction of a day surgery center or imaging center;
- 9 (2) alteration of the bed capacity of a health care facility if the
- 10 alteration is necessary solely to accommodate the addition of day surgery or imaging
- 11 services to the facility; or
- 12 (3) addition of day surgery or imaging services to a health care
- 13 facility."

- 14 Renumber the following bill sections accordingly.

- 15 Page 7, line 3:
- 16 Delete "a new paragraph"
- 17 Insert "new paragraphs"

- 18 Page 7, following line 3:
- 19 Insert new paragraphs to read:
- 20 "(13) "day surgery" means surgery performed on a patient who arrives
- 21 at the surgery facility on the day of surgery and is not expected to remain overnight

L-LSU:00V.2

1 at the facility after the surgery is performed;

2 (14) "imaging" means diagnostic testing, such as fluoroscopy or an x-

3 ray, computerized axial tomography (CAT scan), bone scan, ultrasonography,

4 scintigraphy, or magnetic resonance imaging (MRI), that produces a picture or

5 conception with a likeness to an objective reality by providing clarity, contrast, and

6 detail through the use of colored fluids, radionuclides, or other materials introduced

7 to the human body; ionizing or nonionizing radiation; or an external magnetic field;"

8 Page 7, line 6: . .

9 Delete "(13)"

10 Insert "(15)"

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

DIVISION OF ADMINISTRATIVE SERVICES

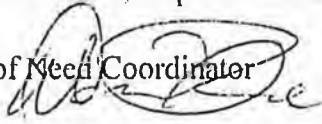
TONY KNOWLES, GOVERNOR

P.O. BOX 110650
JUNEAU, ALASKA 99811-0650
PHONE: (907) 465-3082
FAX: (907) 465-2499

MEMORANDUM

DATE: May 5, 1999

TO: Elmer Lindstrom, Special Assistant, Department of Health & Social Services

FROM: David Pierce, Certificate of Need Coordinator 

SUBJECT: Certificate of Need Law - Effect of Delay

Although there are currently no active letters of intent for nursing home beds, over the past 3 years information from a variety of sources indicates that there is a potential of between 154-184 new nursing home beds that are under ongoing consideration in seven Alaskan communities. If certificate of need applications were submitted and approved, there is a the potential to raise the state Medicaid budget by about \$1 million in operating and depreciation costs for every 10 beds, or a total of \$15.4 to \$18.4 if all the beds were built. Within the last 3 years, a total of 27 beds have been added without a certificate of need and this trend is likely to continue unless the new certificate of need law is passed.

If the certificate of need law is not passed this session, a window of opportunity is created for facilities to submit letters of intent or certificate of need applications before the new law goes into effect in order to be considered under the old rules. The old rules require approval if it an applicant shows that the quality and accessibility is "less than the current or projected requirement" to maintain the good health of Alaskans. Although the new law states that it applies to any pending applications, this only saves about 90 days because the certificate of need program has a deadline to meet once an application is submitted. In addition, there is a possibility that any applicant who submits a letter of intent may fall under the old law and would at the very least be subject to litigation. Any letter of intent that comes in under the old law and has a determination that a certificate of need is not required will not be able to be reviewed or re-evaluated once the new law passes. This primarily relates to conversions of acute beds to long-term, which cost less than \$1 million.

RECEIVED

MAY 03 1999

Senate Finance
Committee

SENATE FINANCE COMMITTEE

SIGN-IN

SB 59-CERTIFICATES OF NEED FOR HEALTH FACILITY

NAME: David Pierce Sub./Bill No: SB 59
Co./Dept./Title: Health & Social Services Phone: 465-3001
Address: 350 Main Street Zip: 99811

Do you wish to testify? Yes No Respond to Questions

NAME: JAY Livey Sub./Bill No: 59
Co./Dept./Title: HEALTH & SOCIAL SERVICES Phone: 3030
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond to Questions

NAME: _____ Sub./Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond to Questions

NAME: _____ Sub./Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond to Questions

SB

67

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 2/10/99

FURTHER: 5/3/99

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 3 May 1999

Finance Committee considered

SENATE BILL NO. 67

"An Act relating to taxation, including taxation of income of individuals, estates, and trusts; and providing for an effective date."

and recommends:

be **replaced** with _____ CS _____ (_____)

adopt **previous** _____ CS _____ (_____)

attached amendment(s)

adopt Letter of Intent by _____ Committee

further referral to the _____ Committee

Senate Bill:
 same title
 new title
House Bill:
 same title
 technical title
 new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>John Kelly</i> to allow gov jobs vote	<input checked="" type="checkbox"/>	<i>John Kelly</i>		<input checked="" type="checkbox"/>	
		<i>John P. Brien</i>		<input checked="" type="checkbox"/>	
		<i>John Adams</i>		<input checked="" type="checkbox"/>	
		<i>John Crowley</i>		<input checked="" type="checkbox"/>	
		<i>Gov. Wilbur</i>		<input checked="" type="checkbox"/>	
		<i>John D. Lewis</i>		<input checked="" type="checkbox"/>	
Co-Chair:		Co-Chair: <i>John Adams</i>		<input checked="" type="checkbox"/>	
Co-Chair:		Co-Chair: <i>John P. Brien</i>		<input checked="" type="checkbox"/>	

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
<i>Rubio</i>	<i>4/8/99</i>		<i>1156.7</i>

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

5/3/99

Revision Date/Time (Note if correction) _____ Dept. Affected No. 1
 Title Alaska Credit Individual Income Tax BRU Bill Version: SB 67
 Component (S) Publish Date: 2/10/99
 Sponso. Rules
 Requester Governor Component Serial No. 113

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	681.7	1,722.4	2,500.8	2,506.5	2,506.5	2,506.5
Travel	34.4	42.5	75.2	75.5	75.5	75.5
Contractual	247.8	616.1	819.9	820.9	820.9	820.9
Supplies	12.8	36.5	52.5	52.6	52.6	52.6
Equipment	180.0	187.5	120.0			
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	1,159.7	2,605.0	3,568.4	3,455.5	3,455.5	3,455.5

CAPITAL EXPENDITURES**	1,942.0	2,217.0	1,226.0			
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CHANGE IN REVENUES ()	175,000.0	350,000.0	350,000.0	350,000.0	350,000.0	350,000.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	3,098.7	4,822.0	4,794.4	3,455.5	3,455.5	3,455.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	3,098.7	4,822.0	4,794.4	3,455.5	3,455.5	3,455.5

Estimate of current year (FY99) cost: 0.0

POSITIONS

Full-time	24	1	16			
Part-time						
Temporary		46	46	46	46	46

ANALYSIS: (See attached for further analysis)

** These estimates do not include a contingency allowance (see narrative).

Prepared by Brett Fried Phone 465-3682
 Division Income and Excise Audit Date/Time February 8, 1999
 Approved by Wilson L. Condon Date February 8, 1999
 Commissioner Wilson L. Condon
 Agency Department of Revenue

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Alaska Credit Individual Income Tax
Draft 1-GB1057.A
February 8, 1999
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BILL ANALYSIS

The bill is designed to implement a state income tax on individuals, trusts, and estates, using a simplified format keyed to the income tax liability reported on the federal income tax return. A family unit, such as parents and children, will file one return combining all tax that may be shown on any federal returns filed by the children. The tax is imposed at the rate of 31% of the federal tax. The federal tax is the tax after federal credits but before other taxes (currently line 49 on the 1998 1040 form) such as the alternative minimum tax.

A tax credit of 33% of the permanent fund dividend is allowed for each family member claimed as a dependent who receives a dividend in the tax year. The design is to make the benefit of the tax credit go as far as possible within the family unit. In addition, a 10.2% tax credit is allowed on the amount of longevity bonus payments received in the tax year. This effectively removes the bonus payments from the federal tax and, correspondingly, the Alaska tax. The 10.2% is determined by multiplying a 31% state tax rate by an assumed 33% effective federal tax rate. Unlike the PFD credit, the longevity bonus credit is not designed to hold the recipient harmless from the effect of the federal income tax.

A 10.2% credit is also allowed for the amount of interest received on obligations of the United States. This credit only applies if the state is precluded by federal law from applying a state tax based upon a percentage of the federal tax, a portion of which is attributable to this type of interest.

Residents will compute the Alaska tax based upon 100% of the federal tax. However, residents are allowed a credit for taxes paid to other states. Nonresidents are taxed on the percentage of the total tax attributable to Alaska income. The methodology used to compute the Alaska tax for nonresidents is the percentage of the total tax that Alaska income bears to total income.

Withholding is required on wage income. Withholding is also required in the typical crew share arrangement in the fishing industry.

A tax on individuals requires that trusts and estates also be subject to the income tax. This is necessary for fairness and to avoid creating a potentially large tax loophole. The scheme for taxation of these entities essentially follows that for resident and nonresident individuals. An Alaska trust and estate is taxed by reference to the federal tax, with a credit allowed for taxes paid to other states, and all other trusts and estates are taxed only on a percentage of the total tax attributable to Alaska income. On balance, the tax scheme is inherently simple. A taxpayer can easily determine the tax without having to pay a

Alaska Credit Individual Income Tax
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CPA or attorney to prepare the return. This simplicity also means that it will be easier and less costly for the state to administer than other tax schemes.

A section by section analysis of the bill follows:

SECTION 1 – FINDINGS AND PURPOSE

This section states the income tax is intended to be a revenue raising measure.

SECTION 2 – TAXPAYER REQUIREMENTS IN CONSTITUTIONAL DISPUTES

This section adds a new subsection to the taxpayer appeals provision. The bill provides that a taxpayer that intends to contest a tax on constitutional or preemption grounds must file a notice of protest with the return and pay the amount of the contested tax. A failure to file the notice with the return precludes a refund if the tax is subsequently determined to be unconstitutional. The notice begins the informal conference administrative appeal process but this procedure is terminated if the taxpayer subsequently files an action in superior court as provided by law. The provision is intended to provide early notice of, and expedited action on, constitutional claims, and to reduce the state exposure to refund claims.

SECTIONS 3 and 4 – REFUND CLAIMS IN CONSTITUTIONAL DISPUTES

In conformity with Section 1 that requires a notice of protest with the return as a refund condition, these sections amend the statutory refund provision to remove constitutional and preemption claims from the standard two and three year filing period. The notice of protest filed with the return is considered to be a timely refund claim. The sections further provide that a taxpayer may file an action with the superior court within 60 days of the notice of protest and avoid the administrative appeal process in an appropriate case.

SECTION 5 – IMPOSITION OF TAX

This section imposes the income tax on resident individuals, nonresident and part-year resident individuals, and estates and trusts with income from sources in the state. The tax rate is 31% of the federal income tax after federal credits and before other federal taxes.

Nonresident and part-year resident individuals first compute the tax as a resident would do by applying the 31% tax rate to the entire federal tax liability. The Alaska tax liability is then determined by multiplying that result by the percentage that Alaska source income bears to all income.

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SECTION 6 – RETURNS REQUIRED

This section amends the current law that applies only to corporations to provide that individuals, trusts, estates, and partnerships are also required to file income tax returns within 30 days after the federal return is required to be filed. Partnership returns will be in the nature of information returns.

SECTION 7 – AMENDED RETURNS REQUIRED FOR IRS ADJUSTMENTS

This section provides that the department may require a copy of the federal return be filed with the state return. The department currently does not intend to require the filing of a copy of the federal return with resident individual returns.

This section also amends current law to provide an objective bright line rule for how to comply at the state level with adjustments to the federal income tax returns. An amended state return is required to be filed within 60 days after a federal amended return is filed, the date upon which a federal assessment is made, or the date upon which the taxpayer waives the restrictions on assessment. This is a generally a codification of a long-standing department interpretation of present law.

SECTION 8 – CONSOLIDATED RETURNS BY FAMILY UNITS

This section provides that a family unit shall file one consolidated income tax return. The family unit is defined as all resident individuals for whom a personal exemption is claimed. For example, parents may file a joint federal return and their children may file separate federal returns. For Alaska tax purposes the federal tax shown on those filings would be combined on one state return for purposes of determining the Alaska tax.

The consolidated return requirement is achieved by aggregating all the federal tax shown on all federal returns filed by individuals in the family unit. All available state credits are then aggregated as well and applied against the state tax.

SECTION 9 – DEDUCTION FOR TAXES BASED ON NET INCOME

This section is a housekeeping amendment to make clear that only corporations are not allowed to deduct any taxes based on or measured by net income. Under the simplified individual, trust and estate income tax scheme provided in the bill, taxes of this nature are characteristically deducted in arriving at the federal tax liability. This is not envisioned to be a specific modification requiring a recomputation of the federal tax pursuant to the bill.

SECTION 10 – INCOME FROM SOURCES IN THE STATE DEFINED

For purposes of better clarity, this section repeals and reenacts the provision that allocates by source the income of individuals, estates, and trusts. In addition, the section provides that all the income of a trust established under Alaska law and of an estate of an Alaska

Alaska Credit Individual Income Tax
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decendent is from an Alaska source. Income from other trusts and estates is considered to be from an Alaska source only to the extent it arises from a taxable or business situs in Alaska. The income distributed from an Alaska trust to a beneficiary for which the trust receives an income distribution deduction is considered to be Alaska source income to the beneficiary.

SECTION 11 – STATE CREDITS ALLOWED AGAINST THE TAX

This section contains the entire universe of state specific credits that are available to individuals, estates, and trusts under the income tax scheme. Except for the federal credits incorporated into state law by basing the Alaska tax on the federal tax liability after credits, no other state specific credits outside AS 43.20.046 are allowed and the credits are limited to the amount of tax liability for the taxable year in which the credits are generated with no carryback or carryforward to any other tax year.

A resident, and a trust established under state law and an estate of an Alaska decedent, is allowed a credit on taxes paid to another state or territory on income derived in that other jurisdiction. Since the tax on these persons is based on all their income, the credit prevents income from being taxed twice. The credit amount is the percentage of the computed Alaska tax that the income derived in the other jurisdiction bears to all income, and it may not exceed the actual tax paid to the other state or territory.

A credit of 33% of the amount of a permanent fund dividend is allowed for each exemption claimed on the federal return. The 33% credit amount is a rough approximation of the federal tax payable to the IRS on the dividend and the additional state tax resulting from piggybacking the state tax upon the federal tax. Each person for whom the exemption is claimed must receive the dividend in that tax year in order for the credit to apply to that exemption. This provision matches the credit with the family unit. For example, a dependent may file a separate federal return. However, the exemption for this individual is taken on the federal return of the person who supports the dependent rather than on the dependent's return. The credit provided in this section is taken on the consolidated return of the family unit. This allows for ease of administration and also provides a greater benefit to the family unit since the dependent likely is not in a 33% federal tax bracket.

10.2% of the amount of longevity bonus payments are allowed as a credit against the Alaska tax. The purpose of this credit is to remove from the federal tax the portion attributable to the inclusion of longevity bonus payments. A 33% federal marginal tax rate is used for this purpose. Multiplying the amount of the longevity bonus payments received by 33% equals the federal tax and then multiplying that amount by the Alaska tax rate of 31% is the amount of the Alaska tax that would otherwise be imposed on the

Alaska Credit Individual Income Tax
Draft 1-GB1057.A
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longevity bonus payments. The 10.2% credit is thus the result of multiplying 33% by 31%.

A similar credit is provided for the amount of interest received on obligations of the United States, but only to the extent required by federal law. Federal law precludes a state from taxing this income but it is unclear whether that prohibition applies to a situation where the Alaska tax is based upon a percentage of the federal tax. This credit will be unavailable if Alaska is not required by federal law to provide a credit of this nature.

SECTION 12 - ADMINISTRATION

This section is a housekeeping amendment to delete archaic and outdated provisions.

SECTION 13 - WITHHOLDING OF TAX ON WAGES

This section requires that employers withhold the state income tax from wages paid to employees at a rate of withholding set by the department, and then to report and remit the tax. For purposes of withholding, a person who pays compensation to another in the form of a share of the income from a commercial fishing activity must withhold the state income tax from the payment. These "crew share" arrangements are generally not subject to federal withholding but are necessary at the state level because many of the recipients are nonresidents. Withholding avoids some of the problems that otherwise would arise in trying to collect the tax from persons outside the state.

SECTION 14 - HOUSEKEEPING

This section merely makes a housekeeping amendment consistent with the amended return requirement provided in *SECTION 7* of the bill.

SECTION 15 - DEFINITIONS

This section defines the terms "domicile", "individual", "nonresident", and "resident". For tax purposes, a resident is not defined as a resident under the Alaska permanent fund dividend program. An individual may be a resident for income tax purposes and not qualify for a permanent fund dividend.

SECTION 16 - SECTIONS REPEALED

This section repeals AS 43.20.012, which excludes individuals, trusts, and estates from income tax, AS 43.20.013, which is a suspended refundable credit provision, AS 43.20.200(a), which deals with the review of returns that is covered in AS 43.05, and AS 43.20.300, which has been outdated since 1975 when provisions of the Internal Revenue Code were incorporated through AS 43.20.021.

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SECTION 17 - REGULATION TRANSITION

This section allows the department to adopt regulations in 1999 to take effect on or after the bill effective date.

SECTION 18 - PROVISIONS ARE SEVERABLE

This section provides that a provision held invalid is severable from the remaining unaffected provisions.

SECTION 19 - IMMEDIATE EFFECTIVE DATE FOR REGULATIONS

Provides that *SECTION 17*, which allows the department to adopt regulations in 1999, has an immediate effective date.

SECTION 20 - BILL EFFECTIVE DATE

Establishes a January 1, 2000 effective date for the income tax on individuals, estates,

OPERATING EXPENDITURES

A separate unit of the Income and Excise Audit Division will be created to administer the taxation of income of individuals, estates, and trusts.

In general, the unit would be responsible for educating taxpayers about the tax, and receiving and processing tax returns and payments. The current Income and Excise Audit Division processes approximately 30,000 returns and reports for 16 programs. These programs are small in comparison to the processing of the 370,000 tax returns and 64,000 employer quarterly reports expected each year under the new tax bill. The new unit would be more specialized with respect to high volume processing and enforcement. There are two systems necessary to implement the taxation of individuals, estates, and trusts:

- ✓ individual, estate, and trust system
- ✓ employer withholding system

Staffing

The Individual Income Tax unit would include the following sections:

- Taxpayer Service
- Data Entry
- Accounting & Cash Management
- Compliance
- Appeals
- Programming

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We would staff the unit with 41 permanent positions and 46 temporary positions. We would utilize the temporary positions for data entry, mail handling, and taxpayer service. Temporary personnel would work five months a year in data entry, or three months in mail handling and taxpayer service. We have planned two shifts a day to maximize client (taxpayer) service and to minimize equipment costs.

We calculated the staffing costs included in this fiscal note by patterning the new unit after the existing structure of the Income and Excise Audit Division with the addition of a Taxpayer Service Section and the augmentation of the Collection Section. We adjusted staffing for differences in the number of documents processed. We planned staffing utilizing the lowest staff grades possible.

We have checked the proposed staffing level for reasonableness by comparison to the states of Montana and North Dakota. We selected these states for comparability in population base and complexity of the income tax. We compared staffing requirements to the Permanent Fund Dividend Division for reasonableness and for the contingency that we would combine mail room and data entry operations to gain economies of scale.

We have planned staffing based on the first dates that particular staff is needed. For example, collection staffing would not be funded until FY 02, audit staffing funded in FY 01. One appeals position would be funded in FY 00 to draft regulations, policies, and procedures. The second appeals position would be funded in FY 02, as appealed cases increase.

CAPITAL EXPENDITURES

Start-up costs are difficult to quantify because the last state to build a new system was Connecticut in 1991. At the time, the best available technology was main-frame technology; their start-up costs were \$7.6 million in the first year of implementation of the tax. We would not choose a main-frame system because of its lack of flexibility. Most states are moving toward client-server technology. Wyoming has more recently studied (but not ultimately imposed) a personal income tax. Their start-up costs were estimated at \$3.8 million, based on a client-server environment. This included imaging equipment (to store the document), but did not include Optical Character Recognition software, which would take the place of data-entry. These estimates were rough and were not detailed.

We estimate that the costs will be approximately \$5.4 million spread out over the first three years of implementation. The Administrative Services Division based this estimate on the list of tasks to be performed by the system (see attached task list). Because we had such a short time frame to analyze costs and a true needs analysis was not performed,

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most experts would recommend a contingency allowance of 100-300 percent. These estimates do not include such a contingency allowance recognizing that budgets are reviewed and can be corrected on an annual basis. The estimated cost is significantly affected by the short time-frame for implementation. Projects of this magnitude, of such a critical nature, normally are designed, implemented, tested, and brought on-line in 18 months.

REVENUE

The attached analysis details the revenue increase due to the imposition of the Alaska Credit Individual Income tax. We used 1996 Internal Revenue Service data, plus the federal tax based upon a 10% increase in Alaska Gross Income to account for non-residents. In FY 00, we are estimating that the Alaska Credit Income Tax will result in 175 million dollars of revenue. This is half of the total annual revenue estimate of 350 million dollars. Actual revenue might be larger or smaller depending on the timing of withholding, refunds and estimated payments. For FY 01-05, we are estimating an annual revenue of 350 million dollars. Clearly, this does not account for inflation, growth of real income, population increases or labor market effects. We did not include any of these factors to try and minimize the amount of uncertainty in our revenue model. Additionally, any labor-supply effects will probably be counter balanced by income and population growth. Economists differ on the size of labor-supply effects but in a survey of the literature done by Heckman (1993), he found that elasticities are closer to zero than one. That is, the labor supply is not very responsive to changes in wages and income.

System Tasks

The computer hardware and software (the system) are necessary to process income tax returns, employer reports, and payments. We will use the system for the following tasks:

- credit withholding payments to employer payors and individual taxpayer accounts
- record employer quarterly reports including individual taxpayers to which the reports relate (names social security numbers, and amounts for each taxpayer.)
- credit estimated tax payments and payments received with individual income tax returns
- record individual income tax return information
- cross-match employer withholding to withholding claimed by individual taxpayers
- cross-match income tax filings with Internal Revenue Service data tapes to check validity of tax returns filed and to identify non-filers
- link to Permanent Fund Division data to establish taxpayer name, address, and social security data-base and to identify income tax non-filers who did not file a federal income tax return
- cross-match employer quarterly report filings with Department of Labor to identify non-filers
- record and cross-match Form 1099-equivalent to identify non-filers
- generate routine billings for tax, interest, and penalties due
- generate subsequent demand letters in the event of non-payment
- generate liens and levies upon determination by enforcement personnel
- link to Permanent Fund Division data for validity check on deductions or credits with respect to the Permanent Fund Dividend.
- provide access to taxpayers for electronic filing

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- link to Child Support Enforcement Division for seizure of income tax refunds for application to delinquent child support obligations
- link to Permanent Fund Dividend Division and possibly Child Support Division data to provide an opportunity for taxpayers to choose to apply available money toward their income tax

Alaska Administration Costs Using Estimated Stalling Requirements (in thousands)

By Fiscal Year

Stalling	# Positions	Range	start date	annual costs excluding payroll**	Personal Services	Total annual costs	PERSONNEL DEPENDENT COSTS								
							FY 00		FY 01	FY 02	FY 03	FY 04	FY 05		
							equipment	operating							
Permanent Full Time															
Deputy Director adm	1		24 Jul-99	20.0	86.9	115.7	7.5	115.7	115.7	115.7	115.7	115.7	115.7	115.7	115.7
Appeals-RA IV appeals	1		20 Aug-99	17.6	67.7	85.3	7.5	78.2	85.3	85.3	85.3	85.3	85.3	85.3	85.3
Appeals-RA IV appeals	1		20 Aug-01	17.5	67.7	85.2	7.5		78.1	85.2	85.2	85.2	85.2	85.2	85.2
RAS I operations	1		22 Aug-99	17.6	76.6	94.2	7.5	86.4	94.2	94.2	94.2	94.2	94.2	94.2	94.2
RAS I exam	1		22 Jul-01	17.5	76.6	94.1	7.5		94.1	94.1	94.1	94.1	94.1	94.1	94.1
RA III exam	2		18 Jul-01	43.6	118.6	162.2	15.0		162.2	162.2	162.2	162.2	162.2	162.2	162.2
TE II exam	2		12 Apr-00	27.6	82.4	110.0	15.0	27.5	110.0	110.0	110.0	110.0	110.0	110.0	110.0
TE II exam	2		12 Jul-01	27.6	82.4	110.0	15.0		110.0	110.0	110.0	110.0	110.0	110.0	110.0
Ad Clk II exam	1		8 Apr-00	13.8	33.7	47.5	7.5	11.9	47.5	47.5	47.5	47.5	47.5	47.5	47.5
REO III collection/rets	1		18 Jul-00	10.8	59.3	78.1	7.5		78.1	78.1	78.1	78.1	78.1	78.1	78.1
REO II collection/rets	1		16 Jul-01	18.3	52.0	71.1	7.5		71.1	71.1	71.1	71.1	71.1	71.1	71.1
TCS II collection/rets	1		12 Jul-01	13.8	41.2	55.0	7.5		55.0	55.0	55.0	55.0	55.0	55.0	55.0
Ad Clk II collection/rets	1		8 Jul-01	13.8	33.7	47.5	7.5		47.5	47.5	47.5	47.5	47.5	47.5	47.5
TCS II collection/\$	2		12 Jul-01	27.6	82.4	110.0	15.0		110.0	110.0	110.0	110.0	110.0	110.0	110.0
REO III collection/\$	1		18 Jul-01	18.8	59.3	78.1	7.5		78.1	78.1	78.1	78.1	78.1	78.1	78.1
REO I collection/\$	1		14 Jul-01	13.8	45.3	59.1	7.5		59.1	59.1	59.1	59.1	59.1	59.1	59.1
Accl. Tech II collection/\$	2		14 Jul-01	27.6	90.6	118.2	15.0		118.2	118.2	118.2	118.2	118.2	118.2	118.2
Ad Clk II collection/\$	1		8 Jul-01	13.8	33.7	47.5	7.5		47.5	47.5	47.5	47.5	47.5	47.5	47.5
AP V programming	1		22 Sep-99	18.8	76.6	95.4	7.5	79.5	95.4	95.4	95.4	95.4	95.4	95.4	95.4
AP IV programming	1		20 Sep-99	18.8	67.7	86.5	7.5	72.1	86.5	86.5	86.5	86.5	86.5	86.5	86.5
AP II programming	1		16 Sep-99	18.8	52.8	71.6	7.5	59.7	71.6	71.6	71.6	71.6	71.6	71.6	71.6
TE II lps	1		12 Sep-99	13.8	41.2	55.0	7.5	45.8	55.0	55.0	55.0	55.0	55.0	55.0	55.0
TE II lps	2		12 Jan-00	27.6	82.4	110.0	15.0	55.0	110.0	110.0	110.0	110.0	110.0	110.0	110.0
Accl. Sup. II acc/\$ mgt	1		16 Mar-00	13.8	52.8	66.6	7.5	22.2	66.6	66.6	66.6	66.6	66.6	66.6	66.6
Accl. Tech II acc/\$ mgt	1		14 Mar-00	13.8	45.3	59.1	7.5	19.7	59.1	59.1	59.1	59.1	59.1	59.1	59.1
Accl. Tech I acc/\$ mgt	1		12 Mar-00	13.8	41.2	55.0	7.5	18.3	55.0	55.0	55.0	55.0	55.0	55.0	55.0
Ad Clk II acc/\$ mgt	1		8 Mar-00	13.8	33.7	47.5	7.5	15.8	47.5	47.5	47.5	47.5	47.5	47.5	47.5
Ad Clk I acc/\$ mgt	1		7 Mar-00	13.8	32.4	46.2	7.5	15.4	46.2	46.2	46.2	46.2	46.2	46.2	46.2
Accl. Tech II data entry	1		14 Apr-00	13.8	45.3	59.1	7.5	14.8	59.1	59.1	59.1	59.1	59.1	59.1	59.1
Ad Clk II data entry	4		8 Apr-00	55.2	134.8	190.0	30.0	47.5	190.0	190.0	190.0	190.0	190.0	190.0	190.0
Ad Mgr. adm	1		15 Jul-99	13.8	49.3	63.1	7.5	63.1	63.1	63.1	63.1	63.1	63.1	63.1	63.1
Ad Clk II adm	1		8 Aug-99	13.8	33.7	47.5	7.5	43.5	47.5	47.5	47.5	47.5	47.5	47.5	47.5
Subtotal permanent positions	41			611.3	1980.1	2621.4	307.5	892.1	1,583.4	2,614.3	2,621.4	2,621.4	2,621.4	2,621.4	2,621.4
Temporary															
Ad Clk II (mail/files (acctng))	4	8	2/20-5/19	15.1	33.6	48.7	15.0		48.7	48.7	48.7	48.7	48.7	48.7	48.7
TE II lps	17	8	2/20-5/19	64.9	142.8	207.7	67.5		207.7	207.7	207.7	207.7	207.7	207.7	207.7
Ad Clk II data entry	25	8	2/01-6/30	143.1	350.0	493.1	97.5		493.1	493.1	493.1	493.1	493.1	493.1	493.1
	46			223.1	526.4	749.5	180.0		749.5	749.5	749.5	749.5	749.5	749.5	749.5
Equipment															
								180.0	187.5	120.0					
SUBTOTAL--PERSONNEL-DEPENDENT COSTS															
	87			864.4	2,506.5	3,370.9	487.5	1,072.1	2,520.4	3,483.8	3,370.9	3,370.9	3,370.9	3,370.9	3,370.9
Add: Common area occupancy*															
				84.6		84.6		84.6	84.6	84.6	84.6	84.6	84.6	84.6	84.6
TOTAL COSTS															
				949.0	2,506.5	3,455.5	407.5	1,156.7	2,605.0	3,568.4	3,455.5	3,455.5	3,455.5	3,455.5	3,455.5

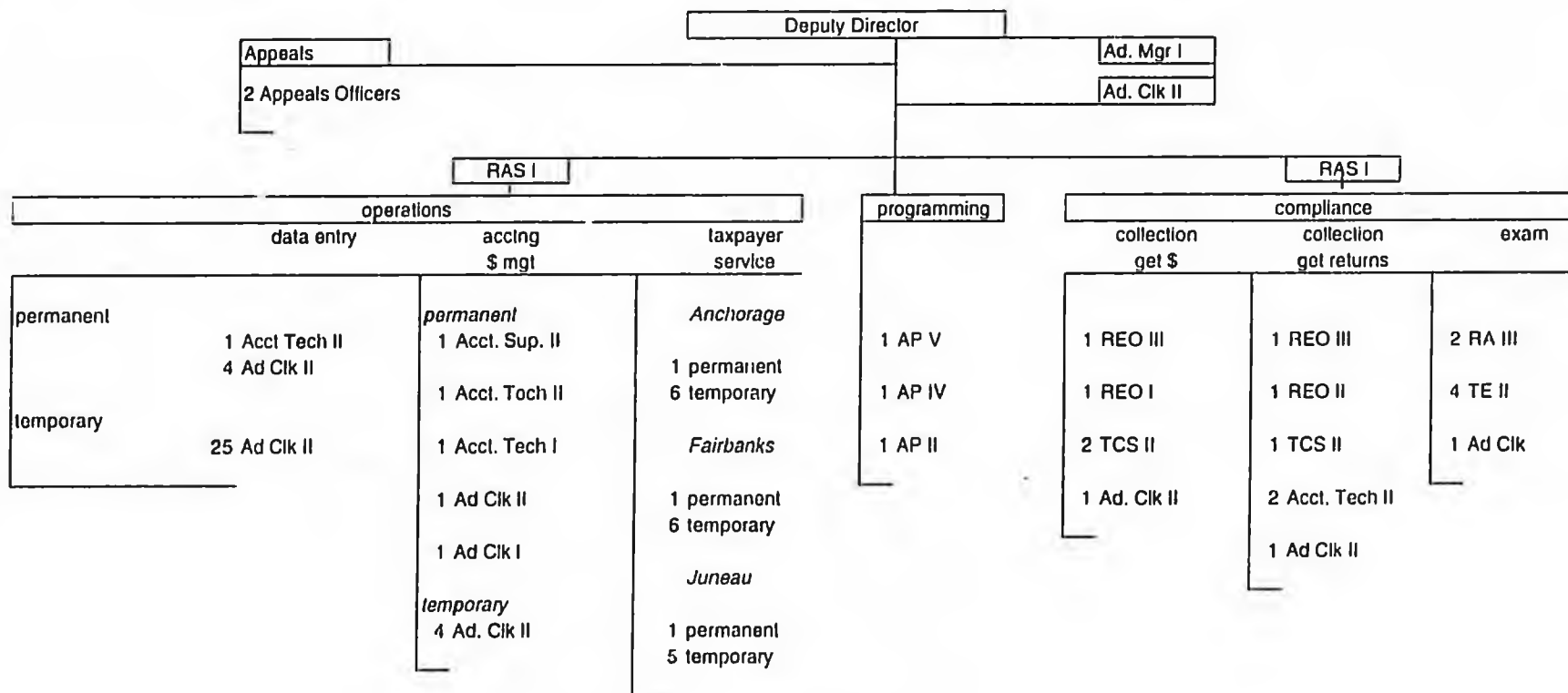
0% Personnel annual step increase assumed
 Implementation Team

* Common area includes: taxpayer lobby, mailroom, conference rooms, life space

** Includes travel, contractals, supplies, and space costs. Contractals include maintenance, copier lease, data-base access charges, outside services, etc.

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total FTE's		
permanent		41.0
temporary	21 * 3 mo. =	5.3
temporary	25 * 5 mo. =	10.4
total FTE's		<u>56.7</u> *

REO = Revenue Enforcement Officer (old class)
 ranges equal to Revenue Auditor class

TCS = Tax Collection Specialist (old class)
 ranges equal to Tax Examiner class

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