

**ALASKA LEGISLATURE**

**2094**

**HOUSE and SENATE FINANCE COMMITTEE FILES, 1999 - 2000**

to be reasonable and constitutional in *Carpenter v. Hammond*.<sup>6</sup> That decision includes the following historical perspective on treatment of military personnel:

In preparing its report, the Board initially had to determine an accurate population base for the reapportionment. It was thought that the United States Census count of 1980 would include a significant number of people who were not in fact residents of Alaska. The Board hired an expert in Alaskan demography and survey research to advise the Board in its assessment and treatment of groups thought to contain large numbers of non-residents. The Board's expert studied various groups, including military personnel and dependents, oil camp workers, lumber camp and fish processing employees, college students, felons, and aliens, to determine the numbers of non-residents likely to be included in the federal census count and their potential impact on state reapportionment. The expert's report concluded that the only group of potential non-residents present in significant numbers, for reapportionment purposes, consisted of military personnel and their dependents.<sup>7</sup>

The reapportionment board then conducted a mailed sample survey of military personnel. According to the facts noted in the decision, the board determined the military and dependent population as follows:

All dependents who were listed as either considering Alaska their home and intending to make Alaska their home in the future *or* as having registered to vote in Alaska were counted as residents for apportionment. . . . Based on the responses to the questionnaires, "non-resident population coefficients" were determined for each installation and surrounding off-base area. These coefficients were used to calculate the estimated "resident" and "non-resident" military/dependent populations at each location. The "non-resident" population figures for each area were totaled . . . and deducted from the federal census count for Alaska . . . producing an adjusted state population base . . .<sup>8</sup>

While the court found Governor Hammond's reapportionment plan unconstitutional in other regards, it nevertheless upheld the decision in *Groh* regarding treatment of nonresident military personnel and their dependents.<sup>9</sup> The state Supreme Court held as follows in *Carpenter*:

Based on our decision in *Groh v. Egan*, we hold that the exclusion of non-resident military members and dependents from the apportionment population base did not violate equal protection, and that the Board's alleged failure to identify and exclude other groups of non-residents including fish processors and lumber workers did not result in an inaccurate population base and substantial variations from the actual populations among the election districts. . . . the state, in attempting to exclude non-resident military from the apportionment base, demonstrated a compelling state interest, namely, the prevention of the dilution of its residents' voting strength. We therefore hold that the state (Board) had a

---

<sup>6</sup> *Carpenter v. Hammond*, 667 P.2d 1204 (Alaska 1983).

<sup>7</sup> *Carpenter*, at 1206.

<sup>8</sup> *Carpenter*, at 1207.

<sup>9</sup> According to the *Carpenter* decision, the inclusion of Cordova in House District 2—with communities in Southeast Alaska—violated the mandate of Article VI, Section 6 of the Alaska Constitution which requires that legislative districts contain "as nearly as practicable a relatively integrated socio-economic area."

legitimate interest in limiting its apportionment base to bona fide residents, and further, that the means employed by the Board to cull out the non-residents was constitutionally permissible.<sup>10</sup>

The case was remanded to the Superior Court, which ordered the governor and his advisory board to develop an amended plan to address the unconstitutional portion. As Bill Sheffield had by then succeeded Jay Hammond as governor, that job fell to him and an advisory board that he subsequently appointed.<sup>11</sup>

## REAPPORTIONMENT FOLLOWING THE 1990 CENSUS

Following the 1990 U.S. Census, Governor Walter Hickel's reapportionment advisory board determined that they could not devise a suitable method for identifying the nonresident military and dependent population. Furthermore, they cited an Alaska Department of Labor report estimating that nonresident military personnel and their dependents might constitute as little as 1.1 percent of the state's reported population.<sup>12</sup> The board concluded as follows:

Absent (1) a valid alternative to determine the population of Alaska; or (2) a feasible method to exclude nonresident members of the military and their dependents from the population base; and (3) given the apparent nominal effect inclusion of nonresident military and dependents has on the population base, the Board adhered to its guideline and used the total population reported by the Bureau of the Census as the population base for redistricting.<sup>13</sup>

Thus, following the 1990 census, the board made no attempt to exclude nonresident military personnel and their dependents.<sup>14</sup>

---

I hope you find this information useful. Please do not hesitate to contact us if you have questions or need additional information.

---

<sup>10</sup> *Carpenter*, at 1212-13.

<sup>11</sup> The next plan, adopted in 1984, was held to be unconstitutional; however, the problem (under-representation) was so slight that the court declined to require a redrawing of district boundaries. *Kenai Peninsula Borough v. State*, 743 P.2d 1352 (Alaska 1987).

<sup>12</sup> Kathryn Lizik, "Enumeration and Residence Rules of the 1990 Census: A Report to the Reapportionment Board," (Juneau: Department of Labor, February 28, 1991); cited in *Report and Proposed Plan of the Governor's Advisory Reapportionment Board*, July 15, 1991, p. 29.

<sup>13</sup> "Population Base for Redistricting," *Report and Proposed Plan of the Governor's Advisory Reapportionment Board*, July 15, 1991, p. 34. The entire chapter is attached.

<sup>14</sup> Reapportionment following the 1990 census was replete with court action, although not in regard to treatment of the military/dependent population. The final plan was proclaimed in March of 1994.

SENATE FINANCE COMMITTEE

SIGN-IN

SB 99-REDISTRICTING BOARD/CENSUS FIGURES

NAME: Jim Baldwin Subject/Bill No: \_\_\_\_\_

Co./Dept./Title: LAW 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

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_

Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond To Questions

**SB**

**1000**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

DATE: 3/18/99

FURTHER:

DATE TURNED  
IN TO OFFICE: 4/01/99

Finance Committee considered

SENATE BILL NO. 100

"An Act relating to the payment by indigent persons for legal services and related costs."

and recommends:

- be replaced with \_\_\_\_\_ CS SB 100 (FIN)
- 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>Lynne Green</i>	✓				
<i>Tom Wilks</i>	✓	<i>Pete Kelly</i>	✓		
<i>John D. Fenner</i>	✓				
<i>John Conroy</i>	✓				
Co-Chair: <i>John Ingram</i>	✓	Co-Chair: <i>Sean Parnell</i>	✓		
Co-Chair: <i>John Ingram</i>	✓	Co-Chair: <i>Sean Parnell</i>	✓		

**NEW FISCAL NOTE(S):**

Department                      Date      Zero      Fiscal

forthcoming Finance CS			
---------------------------	--	--	--

**PREVIOUS FISCAL NOTE(S):\***

Department                      Date      Zero      Fiscal

AK Court System	3/18/99	0	
Law, Civil Division	3/17/99		68.9

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# FISCAL NOTE

No. 2 4/01/99  
 Bill Version: CSSB100(JUD)  
 (S) Publish Date: 3-19-99

**STATE OF ALASKA**  
**1999 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction)	Dept. Affected <u>Law</u>
Title <u>"An Act relating to the payment by indigent persons for legal services and related costs."</u>	BRU <u>Civil Division</u>
Sponsor <u>Senate Judiciary Committee by Request</u>	Component <u>Collections &amp; Support</u>
Requester <u>Senate Judiciary Committee</u>	Component Serial No. <u>2210</u>

**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	49.1	49.1	49.1	49.1	49.1	49.1
Travel	0.3	0.3	0.3	0.3	0.3	0.3
Contractual	5.1	5.1	5.1	5.1	5.1	5.1
Supplies	1.4	1.4	1.4	1.4	1.4	1.4
Equipment	13.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>68.9</b>	<b>55.9</b>	<b>55.9</b>	<b>55.9</b>	<b>55.9</b>	<b>55.9</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES (1004 GF)</b>	<b>1,100.0</b>	<b>1,100.0</b>	<b>1,100.0</b>	<b>1,100.0</b>	<b>1,100.0</b>	<b>1,100.0</b>
-------------------------------------	----------------	----------------	----------------	----------------	----------------	----------------

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	68.9	55.9	55.9	55.9	55.9	55.9
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>68.9</b>	<b>55.9</b>	<b>55.9</b>	<b>55.9</b>	<b>55.9</b>	<b>55.9</b>

Estimate of any current year (FY99) cost: \_\_\_\_\_

**POSITIONS**

Full-time	1	1	1	1	1	1
Part-time	1	1	1	1	1	1
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*

CSSB 100 (JUD) intends to limit the level of representation an indigent person may receive from state-paid court appointed counsel. The bill further makes changes to statutory provisions concerning repayment to the state for those services. This fiscal note is directed to the repayment amendments, which are contained in Section 2.

Currently, under AS 18.85.120(c) and Criminal Rule 39, Alaska Rules of Court (CR39), criminal defendants who are represented by state-funded legal counsel and are convicted may be required to repay the state for their legal representation and trial costs. CSSB 100 (JUD) requires all criminal defendants, regardless of the outcome of their case, to reimburse the state. The committee substitute also limits the circumstances under which the court can reduce or defer the amount owed.

Prepared by Joan M. Kasson *Joan M. Kasson*  
 Division Attorney General's Office  
 Approved by Commissioner Eric M. Bouso *Eric M. Bouso* Attorney General  
 Agency Department of Law

Phone 465-5370  
 Date/Time 3/17/99, 4:20 PM  
 Date 3/17/99

**PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE**

For further distribution information, call the Governor's Legislative Office

**ANALYSIS CONTINUATION**

During FY97, approximately 7,200 new cost of appointed counsel judgments against convicted defendants were transferred to the Department of Law for collection. This bill is anticipated to increase the number of new cases each year by more than two and a half times (from 7,200 to an estimated 19,000).

In the past few years, the Collections Unit caseload has grown from 3,300 criminal and civil collection cases to over 100,000 active criminal, civil, and other cases. The unit could not handle the increase proposed by this bill without additional staff. One and a half Administrative Clerk II positions would be necessary for the organization, data entry, tracking, and filing of these additional cases, at an annual cost of \$55,900. One-time new equipment costs of \$6,500 for each position are included in FY00 only. The position costs would be paid for with general fund program receipts from revenues generated by the changes in this bill.

Under current law, CR39 collections are approximately \$680,000 per year. Using a straight line projection, revenues from an additional 11,800 cases would be approximately \$1,100,000 annually (7,200 cases resulting in an average  $\$94.45 = \$680,000$ ; 11,800 cases averaging  $\$94.45 = \$1,114,510$ ). This revenue estimate should be viewed with caution, however, as it assumes that all the new cases will have the same collection rate as the current caseload, or if not, that the proposed limitation on waivers to financial hardship only will offset any decreased collection due to refusal to pay. This bill would affect individuals whose cases were dismissed or who were found not guilty. We would expect that more of these individuals would challenge their judgments and refuse to pay, thus reducing the collection rate for these cases.

# FISCAL NOTE

4/01/99

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

BNo. 2  
Bill Version: CSSB 100 (JUD)  
(S) Publish Date: 3-18-99

Revision Date	Dept. Affected <u>Alaska Court System</u>
Title <u>Repayment of Public Defender Expenses</u>	BRU <u>Alaska Court System</u>
Sponsor <u>Senate Judiciary by Request</u>	Component <u>Trial Courts</u>
Requester <u>Senate Finance</u>	Component Serial No. <u>769</u>

**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						
<b>TOTAL OPERATING</b>	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	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: None

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*  
No fiscal impact anticipated.

Prepared by: <u>Doug Wooliver, Administrative Attorney</u>	Phone: <u>264-8265</u>
Agency: <u>Alaska Court System</u>	Date/Time: <u>3/18/99 7:58 AM</u>
Approved by: <u>Stephanie J. Cole, Administrative Director</u>	Date: <u>3/18/99</u>
Agency: <u>Alaska Court System</u>	



ALASKA COURT SYSTEM  
State of Alaska  
Office of the Administrative Director

Doug Wooliver  
Administrative Attorney

820 West 4th Avenue  
Anchorage, Alaska 99501-2005  
(907) 264-8265  
FAX (907) 264-8291

March 23, 1999

The Honorable John Torgerson  
Co-Chairman, Senate Finance Committee  
State Capitol  
Juneau, Alaska 99811

Dear Senator Torgerson:

The Alaska Court System respectfully requests that CSSB 100(JUD) be scheduled for a hearing before the Senate Finance Committee at your earliest convenience.

As initially introduced SB 100 amended AS 18.85.120(c) by requiring that all criminal defendants who receive state-funded representation repay the state for the cost of that representation. Under current law, only those who are convicted are subject to the repayment provisions.

Under both the United States and Alaska Constitutions, a criminal defendant has the right to an attorney. If he or she cannot afford an attorney, the state must appoint one. In Alaska, defense services for indigents are generally provided by the Public Defenders Agency or the Office of Public Advocacy

Until 1990, AS 18.85.120(c) authorized a court to order a defendant to pay for defense services, to the extent that the defendant could pay. For a variety of reasons, this statute was ineffective in obtaining repayment of defense costs. These reasons included the difficulty and expense of enforcing this type of repayment order, and the fact that the statute related to a defendant's current ability to pay, ignoring his or her future ability. This was very restrictive when compared to the system used in some states, which allow a court to order repayment from a defendant's future earnings.

In 1990, at the request of the supreme court, the legislature amended AS 18.85.120(c) to allow civil judgments to be entered against defendants who are represented by the public defender or OPA without considering the defendant's current ability to pay. If a defendant became solvent at a future date, the judgment could be enforced; if not, the judgment could not be enforced. This change ensured that indigent defendants would receive counsel but they would repay some of the costs of that representation if they were no longer indigent at some later date.

The Honorable John Torgerson  
March 23, 1999  
Page 2 of 3

In 1993, again at the request of the supreme court, the legislature amended AS 18.85.120(c) to eliminate the three-year moratorium on repayment that followed release from incarceration. That moratorium imposed a significant burden on the Department of Law and needlessly delayed repayment from those with adequate financial resources. The 1993 changes also codified language contained in Criminal Rule 39 of the Alaska Rules of Court. That language was intended to ensure that the repayment requirement was imposed in a fair manner. Because of that change, the statute now includes a provision that allows the court to stay enforcement of a repayment judgment during the pendency of a defendant's appeal; a provision that allows a person subject to a repayment judgment to petition the court at any time to remit, reduce, or defer the unpaid portion of the judgment upon a showing of financial hardship; and a provision that allows the court to remit or reduce the balance owing on the judgment or change the method of repayment if the payment would impose manifest hardship on the person or the person's immediate family.

After this repayment provision was adopted by the legislature in 1993, it was upheld by the Alaska Supreme Court in State v. Albert 899 P.2d 103 (Alaska 1995).

What the supreme court is requesting with the current proposal is to expand the existing repayment provisions so that a person appointed counsel at state expense would be required to contribute to the cost of that representation whether or not he or she was convicted. This is, of course, similar to what non-indigent persons must do (even those who are just barely above the indigency cut-off); that is pay for the cost of defense counsel whether convicted or not. The difference between indigent and non-indigent defendants is that indigent defendants only repay a portion of the cost of defense (pursuant to the cost schedule found in Criminal Rule 39) and the court can remit, reduce, defer, or schedule the repayment if it would impose a hardship.

Like all judgment debtors, a person subject to a repayment order has a certain amount of property and income automatically protected from seizure by the Alaska Exemptions Act (AS 09.38). This act ensures that low-income debtors are protected from the unreasonable demands of creditors. A defendant's income, including the permanent fund dividend, can also be protected under the "manifest hardship" procedure discussed above.

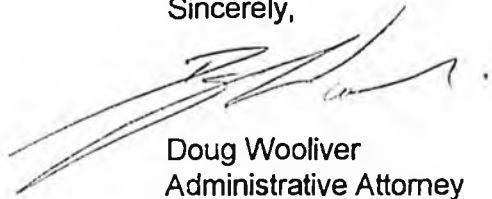
The Senate Judiciary Committee amended SB 100 by adding section 1. That section limits the right of an indigent person to be represented by appointed council to the level and extent required under the United States Constitution and the Constitution of the State of Alaska. Additionally, the committee (1) made mandatory the entry of the judgment for repayment; (2) deleted the provision allowing for the stay of a judgment during the pendency of an appeal; (3) gave the court more discretion in deciding whether to allow for payments to be reduced, remitted, deferred, or collected under a payment schedule; (4) added language making it clear that only the unpaid portion of a judgment could be reduced, remitted, or deferred; and finally, (5) deleted section 3 of AS 18.85.120(c), which allowed the court to remit or reduce the balance owing on the judgment or change the

The Honorable John Torgerson  
March 23, 1999  
Page 3 of 3

method of payment if the payment would impose a manifest hardship on the person or his or her family.

Thank you for your courtesy. Please let me know if I can provide you with any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Doug Wooliver", is written over a light blue horizontal line. The signature is fluid and cursive, with a long horizontal stroke extending to the left.

Doug Wooliver  
Administrative Attorney

The Alaska Court System  
March 23, 1999

Sponsor Statement CSSB 100(JUD)

Senate Bill 100 was introduced by request of the Alaska Court System. As introduced, the bill amended AS 18.85.120(c) by requiring all criminal defendants who receive state-funded representation to repay the state for the cost of that representation. Under current law, only those who are convicted are subject to the repayment provisions.

Under both the United States and Alaska Constitutions, a criminal defendant has the right to an attorney. If he or she cannot afford an attorney, the state must appoint one. In Alaska, defense services for indigents are generally provided by the Public Defender Agency or the Office of Public Advocacy

Until 1990, AS 18.85.120(c) authorized a court to order a defendant to pay for defense services, to the extent that the defendant could pay. For a variety of reasons, this statute was ineffective in obtaining repayment of defense costs. These reasons included the difficulty and expense of enforcing this type of repayment order, and the fact that the statute related to a defendant's current ability to pay, ignoring his or her future ability. This was very restrictive when compared to the system used in some states, which allows a court to order repayment from a defendant's future earnings.

In 1990, at the request of the supreme court, the legislature amended AS 18.85.120(c) to allow civil judgments to be entered against defendants who are represented by the Public Defender Agency or Office of Public Advocacy without considering the defendant's current ability to pay. If a defendant became solvent at a future date, the judgment could be enforced; if not, the judgment could not be enforced. This change ensured that indigent defendants would continue to receive counsel but they would repay some of the costs of that representation if they were no longer indigent at some later date.

In 1993, again at the request of the supreme court, the legislature amended AS 18.85.120(c) to eliminate the three-year moratorium on repayment that followed release from incarceration. That moratorium imposed a significant burden on the Department of Law and needlessly delayed repayment from those with adequate financial resources. The 1993 changes also codified language contained in Criminal Rule 39 of the Alaska Rules of Court. That language was intended to ensure that the repayment requirement was imposed in a fair manner. Because of that change, the statute now includes a provision that allows the court to stay enforcement of a repayment judgment during the pendency of a defendant's appeal; a provision that allows a person subject to a repayment judgment to petition the court at any time to remit, reduce, or defer the unpaid portion of the judgment

upon a showing of financial hardship; and a provision that allows the court to remit or reduce the balance owing on the judgment or change the method of repayment if the payment would impose manifest hardship on the person or the person's immediate family.

After this repayment provision was adopted by the legislature in 1993, it was upheld by the Alaska Supreme Court in State v. Albert 899 P.2d 103 (Alaska 1995).

What the supreme court is requesting with the current proposal is to expand the existing repayment provisions so that a person appointed counsel at state expense would be required to contribute to the cost of that representation whether or not he or she was convicted. This is, of course, similar to what non-indigent persons must do (even those who are just barely above the indigency cut-off); that is, pay for the cost of defense counsel whether convicted or not. The difference between indigent and non-indigent defendants is that indigent defendants only repay a portion of the cost of defense (pursuant to the cost schedule found in Criminal Rule 39) and, if it would impose a hardship, the court can remit, reduce, defer, or schedule the repayment.

Like all judgment debtors, a person subject to a repayment order has a certain amount of property and income automatically protected from seizure by the Alaska Exemptions Act (AS 09.38). This act ensures that low-income debtors are protected from the unreasonable demands of creditors. A defendant's income, including the permanent fund dividend, can also be protected under the "manifest hardship" procedure discussed above.

The Senate Judiciary Committee amended SB 100 by adding section 1. That section limits the right of an indigent person to be represented by appointed council to the level and extent required under the United States Constitution and the Constitution of the State of Alaska. Additionally, the committee (1) made mandatory the entry of the judgment for repayment; (2) deleted the provision allowing for the stay of a judgment during the pendency of an appeal; (3) gave the court more discretion in deciding whether to allow for payments to be reduced, remitted, deferred, or collected under a payment schedule; (4) added language making it clear that only the unpaid portion of a judgment could be reduced, remitted, or deferred; and finally, (5) deleted section 3 of AS 18.85.120(c), which allowed the court to remit or reduce the balance owing on the judgment or change the method of payment if the payment would impose a manifest hardship on the person or his or her family.

Thank you for your consideration of this bill.

**Criminal Rule 39.1. Determining Eligibility for Court-Appointed Counsel.**

(a) **Scope of Application.** This rule specifies the procedure courts shall follow to assess whether a defendant is eligible for court-appointed counsel in a criminal case.

(b) **Eligibility for Appointment.<sup>1</sup>**

(1) **Standard.** A defendant is eligible for court-appointed counsel if the court finds that the total financial resources available to the defendant are not sufficient to pay allowable household expenses and the likely cost of private representation through trial.

(2) **Exception.** The court may determine that a defendant is ineligible for court-appointed counsel under AS 18.85.170(4) if the defendant has disposed of assets in order to qualify for appointed counsel.

(c) **Financial Resources Defined.**

(1) **Resources to be Considered.** In assessing the defendant's ability to pay the likely cost of private representation through trial, the court shall consider all resources available to the defendant, including all sources of expected income, cash, the value of assets readily convertible to cash, and credit or borrowing ability.

(2) **Parents' Resources.** If the defendant is a minor or an adult who cannot live independently, the court shall consider the resources of both the defendant and the defendant's parents, unless the parents were victims of the alleged offense or the court finds other good cause to treat their resources as being unavailable to the defendant.

(3) **Income.** Income includes all categories of income listed in Section II, Parts A and B of the Commentary to Civil Rule 90.3, including permanent fund dividends.

(4) **Cash.** Cash includes cash on hand and accounts in financial institutions. All savings should be considered, except where the use of the savings would deprive the defendant or the defendant's family of food, clothing, shelter, or necessary medical care.

(5) **Assets.** The court shall consider the value of all assets that are readily convertible to cash, other than health aids, clothing, and ordinary household furnishings. With the following exceptions, in valuing an asset, the court shall consider either the amount the defendant would realize if the

(B) If the court finds that no local attorneys are available to handle the case, the court may adjust the scheduled amount to include the additional fees and travel costs that an out-of-town attorney would charge.

(C) If the court finds that the case has special characteristics that are likely to increase the cost of private representation, such as the need for expert witnesses, special investigations, or expensive tests, the court may adjust the scheduled amount to include this additional expense

(3) In assessing a defendant's ability to pay the likely cost of private representation, the court should assume that at least 50 percent of the likely fee must be paid immediately and that the total fee must be paid within four months.

(e) **Determining Eligibility.** The court or its designee shall determine whether a defendant is eligible for court-appointed counsel by placing the defendant under oath and asking about the defendant's financial status, or by requiring the defendant to complete a signed sworn financial statement. defendant who requests appointed counsel must execute a general waiver authorizing the release of financial information to the court as required by AS 18.85.120.

(f) **Presumptive Eligibility.** The court may appoint counsel without further inquiry if:

(1) the defendant currently receives public assistance benefits through a state or federal program for indigent persons, such as Aid to Families with Dependent Children, the Alaska Temporary Assistance Program, Adult Public Assistance, General Relief, Food Stamps, Medicaid, or Supplemental Security Income (SSI);

(2) counsel was appointed for the defendant within the past twelve months based on an examination of the defendant's financial circumstances, and the defendant's financial condition has not significantly improved; or

(3) the gross annual income available to the defendant is less than the adjusted federal poverty guidelines amount for the defendant's household size, and other financial resources (cash, assets, and credit) available to the defendant are worth less than 50 percent of the amount shown in (d)(1) (the likely cost of private representation through trial).

(g) **Other Eligibility.** If the court does not find that the defendant is presumptively eligible under paragraph (f), the court shall conduct an inquiry sufficient to determine whether the defendant is eligible for court-appointed counsel under the standard stated in paragraph (b). The court may make this

THE FOLLOWING DOCUMENT(S)  
HAVE BEEN REFILMED TO  
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services  
Department of Education & Early Development  
State of Alaska

**Criminal Rule 39.1. Determining Eligibility for Court-Appointed Counsel.**

(a) **Scope of Application.** This rule specifies the procedure courts shall follow to assess whether a defendant is eligible for court-appointed counsel in a criminal case.

(b) **Eligibility for Appointment.<sup>1</sup>**

(1) **Standard.** A defendant is eligible for court-appointed counsel if the court finds that the total financial resources available to the defendant are not sufficient to pay allowable household expenses and the likely cost of private representation through trial.

(2) **Exception.** The court may determine that a defendant is ineligible for court-appointed counsel under AS 18.85.170(4) if the defendant has disposed of assets in order to qualify for appointed counsel.

(c) **Financial Resources Defined.**

(1) **Resources to be Considered.** In assessing the defendant's ability to pay the likely cost of private representation through trial, the court shall consider all resources available to the defendant, including all sources of expected income, cash, the value of assets readily convertible to cash, and credit or borrowing ability.

(2) **Parents' Resources.** If the defendant is a minor or an adult who cannot live independently, the court shall consider the resources of both the defendant and the defendant's parents, unless the parents were victims of the alleged offense or the court finds other good cause to treat their resources as being unavailable to the defendant.

(3) **Income.** Income includes all categories of income listed in Section II, Parts A and B of the Commentary to Civil Rule 90.3, including permanent fund dividends.

(4) **Cash.** Cash includes cash on hand and accounts in financial institutions. All savings should be considered, except where the use of the savings would deprive the defendant or the defendant's family of food, clothing, shelter, or necessary medical care.

(5) **Assets.** The court shall consider the value of all assets that are readily convertible to cash, other than health aids, clothing, and ordinary household furnishings. With the following exceptions, in valuing an asset, the court shall consider either the amount the defendant would realize if the

asset were sold or the amount the defendant could borrow using the asset as collateral, whichever is greater.

(A) The court shall consider the loan value of tools and equipment essential to employment or to subsistence activity. Tools and equipment are essential only if the defendant could not earn a living or provide basic necessities without them. If the defendant cannot borrow against these assets while continuing to have use of them, the court shall disregard their value in calculating the defendant's available resources.

(B) In valuing the defendant's principal residence, the court shall consider the entire loan value or the amount of the sale value that exceeds the homestead exemption allowed under the Alaska Exemptions Act.<sup>2</sup> If the defendant cannot borrow against the residence and would realize less than the homestead exemption amount if the residence were sold, the court shall disregard the value of the residence in calculating the defendant's available resources.

(C) In assessing the loan value of essential tools and equipment and the principal residence, the court shall consider only the amount the defendant can realistically afford to repay.

(6) *Credit.* Available credit includes amounts available on credit cards and amounts that can be borrowed against life insurance policies or from pension or savings plans. In assessing available credit, the court shall consider only the amount the defendant can realistically afford to repay.

(d) *Likely Cost of Private Representation.* (1) For purposes of this rule, the following amounts represent the likely cost of private representation through trial:

	<i>Estimated Total Cost of Representation</i>
Misdemeanor	\$ 2,000
C Felony	5,000
B Felony	7,500
A or Unclassified Felony	20,000

(2) The court may adjust these amounts under the following circumstances:

(A) If the court finds that the scheduled amount differs from the amount charged by local attorneys, the court may use the amount charged locally.

(B) If the court finds that no local attorneys are available to handle the case, the court may adjust the scheduled amount to include the additional fees and travel costs that an out-of-town attorney would charge.

(C) If the court finds that the case has special characteristics that are likely to increase the cost of private representation, such as the need for expert witnesses, special investigations, or expensive tests, the court may adjust the scheduled amount to include this additional expense.

(3) In assessing a defendant's ability to pay the likely cost of private representation, the court should assume that at least 50 percent of the likely fee must be paid immediately and that the total fee must be paid within four months.

(e) **Determining Eligibility.** The court or its designee shall determine whether a defendant is eligible for court-appointed counsel by placing the defendant under oath and asking about the defendant's financial status, or by requiring the defendant to complete a signed sworn financial statement. A defendant who requests appointed counsel must execute a general waiver authorizing the release of financial information to the court as required by AS 18.85.120.

(f) **Presumptive Eligibility.** The court may appoint counsel without further inquiry if:

(1) the defendant currently receives public assistance benefits through a state or federal program for indigent persons, such as Aid to Families with Dependent Children, the Alaska Temporary Assistance Program, Adult Public Assistance, General Relief, Food Stamps, Medicaid, or Supplemental Security Income (SSI);

(2) counsel was appointed for the defendant within the past twelve months based on an examination of the defendant's financial circumstances, and the defendant's financial condition has not significantly improved; or

(3) the gross annual income available to the defendant is less than the adjusted federal poverty guidelines amount for the defendant's household size, and other financial resources (cash, assets, and credit) available to the defendant are worth less than 50 percent of the amount shown in (d)(1) (the likely cost of private representation through trial).

(g) **Other Eligibility.** If the court does not find that the defendant is presumptively eligible under paragraph (f), the court shall conduct an inquiry sufficient to determine whether the defendant is eligible for court-appointed counsel under the standard stated in paragraph (b). The court may make this

determination based on the information then available to the court or, when appropriate, may

(1) require the defendant to submit a completed financial resources affidavit with supporting documentation of income;

(2) require the defendant to submit information or documentation concerning particular assets or expenses;

(3) require the defendant to appear at a representation hearing or a pretrial services interview; or

(4) require the defendant to make reasonable efforts to retain private counsel and to report these efforts to the court orally or in writing.

(h) **Allowable Household Expenses.** (1) *Allowable Expenses.* The following household expenses are allowable to the extent they are reasonable:

(A) housing;

(B) utilities;

(C) food;

(D) health care;

(E) child care;

(F) insurance;

(G) transportation (for one vehicle for each person whose income is considered);

(H) minimum loan and credit card payments; and

(I) mandatory child support and other court-imposed obligations; and

(J) other expenses that the court deems essential.

(2) *Alternative to Calculating Actual Expenses.* As an alternative to calculating actual household expenses, the court may assume that these expenses are approximately equal to the adjusted federal poverty guidelines amount for the defendant's household size.

(3) *Expenses Paid by Other Persons.* The expenses described in (h)(1) and (h)(2) are allowable only to the extent they are paid (or were supposed to be paid) by the defendant. If another person, such as a spouse, relative, or roommate, pays some or all of the household expenses, the court shall disregard the portion

of the expenses paid by that person. If the defendant is married, the court should assume, absent a showing of good cause, that each spouse pays an amount proportionate to that spouse's relative income.

(i) **Adjusted Federal Poverty Guidelines.** The "adjusted federal poverty guidelines amount" is the federal poverty guidelines amount for Alaska increased by the geographic cost-of-living adjustment established in AS 39.27.020 for the court location nearest the defendant's residence.

(j) **Responsibilities of Administrative Director.** The administrative director shall

(1) publish annually an administrative bulletin specifying the adjusted federal poverty guidelines amount for each court location; and

(2) periodically review the efficacy of the appointment procedure established by this rule.

#### Notes

<sup>1</sup> AS 18.85.170(4) defines "indigent person" for purposes of public defender appointments as "a person who, at the time need is determined, does not have sufficient assets, credit, or other means to provide for payment of an attorney and all other necessary expenses of representation without depriving the party or the party's dependents of food, clothing, or shelter and who has not disposed of any assets since the commission of the offense with the intent or for the purpose of establishing eligibility for assistance under this chapter."

<sup>2</sup> For the current homestead exemption amount, see 8 AAC 95.030. This Department of Labor regulation, rather than AS 09.38.010, establishes the amount of the homestead exemption. See AS 09.38.115.

c:\IGCRULE10.TXT(03/11/99)

# CORRECTION

THE FOLLOWING DOCUMENT(S)  
HAVE BEEN REFILMED TO  
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services  
Department of Education & Early Development  
State of Alaska

(B) If the court finds that no local attorneys are available to handle the case, the court may adjust the scheduled amount to include the additional fees and travel costs that an out-of-town attorney would charge.

(C) If the court finds that the case has special characteristics that are likely to increase the cost of private representation, such as the need for expert witnesses, special investigations, or expensive tests, the court may adjust the scheduled amount to include this additional expense.

(3) In assessing a defendant's ability to pay the likely cost of private representation, the court should assume that at least 50 percent of the likely fee must be paid immediately and that the total fee must be paid within four months.

(e) **Determining Eligibility.** The court or its designee shall determine whether a defendant is eligible for court-appointed counsel by placing the defendant under oath and asking about the defendant's financial status, or by requiring the defendant to complete a signed sworn financial statement. A defendant who requests appointed counsel must execute a general waiver authorizing the release of financial information to the court as required by AS 18.85.120.

(f) **Presumptive Eligibility.** The court may appoint counsel without further inquiry if:

(1) the defendant currently receives public assistance benefits through a state or federal program for indigent persons, such as Aid to Families with Dependent Children, the Alaska Temporary Assistance Program, Adult Public Assistance, General Relief, Food Stamps, Medicaid, or Supplemental Security Income (SSI);

(2) counsel was appointed for the defendant within the past twelve months based on an examination of the defendant's financial circumstances, and the defendant's financial condition has not significantly improved; or

(3) the gross annual income available to the defendant is less than the adjusted federal poverty guidelines amount for the defendant's household size, and other financial resources (cash, assets, and credit) available to the defendant are worth less than 50 percent of the amount shown in (d)(1) (the likely cost of private representation through trial).

(g) **Other Eligibility.** If the court does not find that the defendant is presumptively eligible under paragraph (f), the court shall conduct an inquiry sufficient to determine whether the defendant is eligible for court-appointed counsel under the standard stated in paragraph (b). The court may make this

determination based on the information then available to the court or, when appropriate, may

(1) require the defendant to submit a completed financial resources affidavit with supporting documentation of income;

(2) require the defendant to submit information or documentation concerning particular assets or expenses;

(3) require the defendant to appear at a representation hearing or a pretrial services interview; or

(4) require the defendant to make reasonable efforts to retain private counsel and to report these efforts to the court orally or in writing.

(h) **Allowable Household Expenses.** (1) *Allowable Expenses.* The following household expenses are allowable to the extent they are reasonable:

(A) housing;

(B) utilities;

(C) food;

(D) health care;

(E) child care;

(F) insurance;

(G) transportation (for one vehicle for each person whose income is considered);

(H) minimum loan and credit card payments; and

(I) mandatory child support and other court-imposed obligations; and

(J) other expenses that the court deems essential.

(2) *Alternative to Calculating Actual Expenses.* As an alternative to calculating actual household expenses, the court may assume that these expenses are approximately equal to the adjusted federal poverty guidelines amount for the defendant's household size.

(3) *Expenses Paid by Other Persons.* The expenses described in (h)(1) and (h)(2) are allowable only to the extent they are paid (or were supposed to be paid) by the defendant. If another person, such as a spouse, relative, or roommate, pays some or all of the household expenses, the court shall disregard the portion

of the expenses paid by that person. If the defendant is married, the court should assume, absent a showing of good cause, that each spouse pays an amount proportionate to that spouse's relative income.

(i) **Adjusted Federal Poverty Guidelines.** The "adjusted federal poverty guidelines amount" is the federal poverty guidelines amount for Alaska increased by the geographic cost-of-living adjustment established in AS 39.27.020 for the court location nearest the defendant's residence.

(j) **Responsibilities of Administrative Director.** The administrative director shall

(1) publish annually an administrative bulletin specifying the adjusted federal poverty guidelines amount for each court location; and

(2) periodically review the efficacy of the appointment procedure established by this rule.

#### Notes

<sup>1</sup> AS 18.85.170(4) defines "indigent person" for purposes of public defender appointments as "a person who, at the time need is determined, does not have sufficient assets, credit, or other means to provide for payment of an attorney and all other necessary expenses of representation without depriving the party or the party's dependents of food, clothing, or shelter and who has not disposed of any assets since the commission of the offense with the intent or for the purpose of establishing eligibility for assistance under this chapter."

<sup>2</sup> For the current homestead exemption amount, see 8 AAC 95.030. This Department of Labor regulation, rather than AS 09.38.010, establishes the amount of the homestead exemption. See AS 09.38.115.

c:\IGCRULE10.TXT(03/11/99)

**Criminal Rule 39. Appointment of Counsel.**

(a) **Informing Defendant of Right to Counsel.** The court shall advise a defendant who appears without counsel for arraignment, change of plea, or trial of the right to be represented by counsel, and ask if the defendant desires the aid of counsel. The court shall not allow a defendant to proceed without an attorney unless the defendant understands the benefits of counsel and knowingly waives the right to counsel.

(b) **Appointment of Counsel for Persons Financially Unable to Employ Counsel.**

(1) If a defendant desires the aid of counsel but claims a financial inability to employ counsel, the court or its designee shall determine whether the defendant is eligible for court-appointed counsel under Criminal Rule 39.1 ~~an "indigent person," as defined by statute, by placing defendant under oath and asking about defendant's financial status, or by requiring defendant to complete a signed sworn financial statement. The court shall order defendant to execute a general waiver authorizing release of income information to the court. The court may require defendant to attempt to arrange private representation before the court makes a final determination on indigency.~~

(2) Before the court appoints counsel for an indigent defendant at public expense, the court shall advise the defendant that the defendant will be ordered to repay the prosecuting authority for the cost of appointed counsel, in accordance with paragraph (d) of this rule, if the defendant is convicted of an offense. The court may enter such orders as appear reasonably necessary to prevent the defendant from dissipating assets to avoid payment of this cost.

(3) If the court or its designee determines that ~~the~~ a defendant is eligible for court-appointed counsel under Criminal Rule 39.1, ~~an "indigent person,"~~ the court shall appoint counsel pursuant to Administrative Rule 12 and notify counsel of the appointment.

(4) In the absence of a request by a defendant otherwise entitled to appointment of counsel, the court shall appoint counsel unless the court finds that the defendant understands the benefits of counsel and knowingly waives the right to counsel.

(5) If the trial court denies a defendant's request for appointed counsel, the defendant may request review of this decision by the presiding judge of the judicial district by filing a motion with the trial court within three days after the date of notice, as defined in Criminal Rule 32.3(c), of the denial. The trial court shall forward the motion, relevant materials from the court file, and a cassette tape of any relevant proceedings to the presiding judge. The presiding judge or his or her designee shall issue a decision within three days of receipt of these materials.

(c) **Costs of Appointed Counsel.**

(1) *Entry of Judgment.*

(A) Upon conviction of an offense, revocation of probation, denial of a motion to withdraw plea, and denial of a motion brought under Criminal Rule 35.1, the court shall prepare a notice of intent to enter judgment for the cost of appointed counsel in accordance with paragraph (d) of this rule, provide a copy of the notice to the defendant, and order the defendant to apply for permanent fund dividends every year in which the defendant qualifies for a dividend until the judgment is paid in full.

(B) A defendant ~~Defendant~~ may oppose entry of judgment by filing a written opposition within 10 days after the date of notice, as defined in Criminal Rule 32.3(c), of the court's intent to enter judgment. The opposition ~~shall~~ must specifically set out the grounds for opposing entry of the judgment. The prosecuting authority may oppose the amount of the judgment by filing a written opposition ~~within~~ by the same deadline.

(C) If no opposition is filed within the time specified in section 39(c)(1)(B), the clerk shall enter judgment against the defendant for the amount shown in the notice. If a timely opposition is filed, the matter must be decided by the court. ~~The court may in its discretion set the matter for a hearing the court may set the matter for a hearing and shall have authority to enter the judgment.~~

(D) The judgment must be in writing. A copy of the judgment ~~shall~~ must be mailed to the defendant's address of record. The judgment ~~shall~~ bears interest at the rate specified in AS 09.30.070(a) from the date judgment is entered.

(2) *Collection.*

\* \* \* \*

(e) **Review of Defendant's Financial Condition.**

(1) The court may review a defendant's financial status at any time after appointment of counsel to determine (A) whether the defendant continues to be eligible for court-appointed counsel under Criminal Rule 39.1 ~~an "indigent person," as defined by statute;~~ or (B) whether the defendant was eligible for court-appointed counsel when the appointment was made ~~an indigent person at the time counsel was appointed.~~

(2) If the court determines that a defendant is no longer eligible for court-appointed counsel under Criminal Rule 39.1 ~~an indigent person,~~ the court may

(A) terminate the appointment; or

(B) continue the appointment and, at the conclusion of the criminal proceedings against the defendant in the trial court, enter judgment against the defendant for the actual cost of appointed counsel, including actual expenses, from the date of the change in the defendant's financial status through the conclusion of the trial court proceedings.

(3) If the court determines that a defendant was not eligible for court-appointed counsel when the appointment was made ~~an indigent person at the time counsel was appointed,~~ the court may

(A) terminate the appointment and enter judgment against the defendant for the actual costs of appointed counsel, including actual expenses, from the date of appointment through the date of termination; or

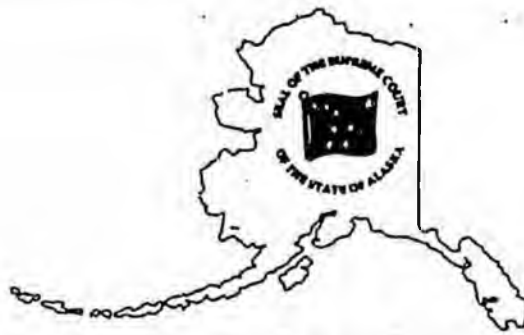
(B) continue the appointment and, at the conclusion of the criminal proceedings against the defendant in the trial court, enter judgment against the defendant for the actual cost of appointed counsel from the date of the appointment through the conclusion of the trial court proceedings.

(4) A defendant may request review of the court's decision to terminate the appointment according to the procedure set out in subparagraph 39(b)(5).

(5) Judgment may be entered against a defendant under this paragraph regardless of whether the defendant is convicted of an offense.

~~NOTE: 23-23.35.170(1) defines "indigent person" for purposes of public defender appointments as "a person who, at the time need is determined, does not have sufficient assets, credit, or other means to provide for payment of an attorney and all other necessary expenses of representation without depriving the party or the party's dependents of food, clothing, or shelter and who has not disposed of any assets since the commission of the offense with the intent or for the purpose of establishing eligibility for assistance under this chapter."~~

G:\IGC\CrR39-LEG.doc



ALASKA COURT SYSTEM  
State of Alaska  
Office of the Administrative Director

820 West 4th Avenue  
Anchorage, Alaska 99501-2005  
(907) 264-8265  
FAX (907) 264-8291

Doug Wooliver  
Administrative Attorney

March 16, 1999

The Honorable Robin Taylor  
Chairman, Senate Judiciary Committee  
State Capitol  
Juneau, Alaska 99811

Dear Senator Taylor:

This letter is in response to questions that arose during the March 15, 1999 Senate Judiciary Committee hearing on SB 100.

- 1) Question: Are the Criminal Rule 39 fees for the repayment of public defender representation in addition to other costs such as travel?

Answer: No. If a court enters a civil judgment against a person to pay for defense costs, that judgment is the full extent of his or her liability for that representation. No additional fees are added for travel or other expenses.

- 2) Question: When were the Criminal Rule 39 fees last amended?

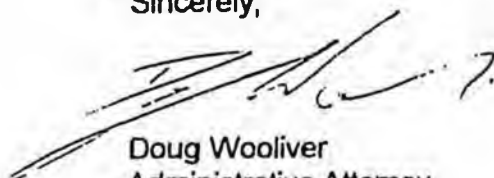
Answer: The fees were adopted in 1992 and have not been amended.

- 3) Question: What is the difference between the Criminal Rule 39 fees and the cost of private counsel?

Answer: I have attached a copy of Criminal Rule 39 and Appellate Rule 209, which contain the scheduled fees. I have also sent you a copy of the recently adopted Criminal Rule 39.1, which includes estimates of the cost of private representation for a variety of offenses.

Please let me know if you have any other questions.

Sincerely,



Doug Wooliver  
Administrative Attorney

## Citation/Title

RCRP Rule 39, RULE 39. APPOINTMENT OF COUNSEL

## Rules of Criminal Procedure, Rule 39

**WEST'S ALASKA COURT RULES  
RULES OF CRIMINAL PROCEDURE  
PART IX. GENERAL PROVISIONS**

*Current with amendments received through 7-1-98.*

**RULE 39. APPOINTMENT OF COUNSEL**

(a) **Informing Defendant of Right to Counsel.** The court shall advise a defendant who appears without counsel for arraignment, change of plea, or trial of the right to be represented by counsel, and ask if defendant desires the aid of counsel. The court shall not allow a defendant to proceed without an attorney unless defendant understands the benefits of counsel and knowingly waives the right to counsel.

(b) **Appointment of Counsel for Persons Financially Unable to Employ Counsel.**

(1) If defendant desires the aid of counsel but claims a financial inability to employ counsel, the court or its designee shall determine whether defendant is an "indigent person," as defined by statute, by placing defendant under oath and asking about defendant's financial status, or by requiring defendant to complete a signed sworn financial statement. The court shall order defendant to execute a general waiver authorizing release of income information to the court. The court may require defendant to attempt to arrange private representation before the court makes a final determination on indigency.

(2) Before the court appoints counsel for an indigent defendant at public expense, the court shall advise defendant that defendant will be ordered to repay the prosecuting authority for the cost of appointed counsel, in accordance with paragraph (d) of this rule, if the defendant is convicted of an offense. The court may enter such orders as appear reasonably necessary to prevent defendant from dissipating assets to avoid payment of this cost.

(3) If the court or its designee determines that defendant is an "indigent person," the court shall appoint counsel pursuant to Administrative Rule 12 and notify counsel of the appointment.

(4) In the absence of a request by a defendant otherwise entitled to appointment of counsel, the court shall appoint counsel unless the court finds that defendant understands the benefits of counsel and knowingly waives the right to counsel.

(5) If the trial court denies defendant's request for appointed counsel, defendant may request review of this decision by the presiding judge of the judicial district by filing a motion with the trial court within three days after the date of notice, as defined in Criminal Rule 32.3(c), of the denial. The trial court shall forward the motion, relevant materials from the court file, and a cassette tape of any relevant proceedings to the presiding judge. The presiding judge or his or her designee shall issue a decision within three days of receipt of these materials.

\*417 (c) **Costs of Appointed Counsel.**

(1) **Entry of Judgment.**

(A) Upon conviction of an offense, revocation of probation, denial of a motion to withdraw plea, and denial of a motion brought under Criminal Rule 35.1, the court shall prepare a notice of intent to enter judgment for the cost of appointed counsel in

## RCRP Rule 39, RULE 39. APPOINTMENT OF COUNSEL

accordance with paragraph (d) of this rule, provide a copy of the notice to defendant, and order defendant to apply for permanent fund dividends every year in which the defendant qualifies for a dividend until the judgment is paid in full.

(B) Defendant may oppose entry of judgment by filing a written opposition within 10 days after the date of notice, as defined in Criminal Rule 32.3(c), of the court's intent to enter judgment. The opposition shall specifically set out the grounds for opposing entry of judgment. The prosecuting authority may oppose the amount of the judgment by filing a written opposition within the same deadline.

(C) If no opposition is filed within the time specified in section 39(c)(1)(B), the clerk shall enter judgment against defendant for the amount shown in the notice. If a timely opposition is filed, the court may set the matter for a hearing and shall have authority to enter the judgment.

(D) The judgment must be in writing. A copy of the judgment shall be mailed to defendant's address of record. The judgment shall bear interest at the rate specified in AS 09.30.070(a) from the date judgment is entered.

(2) Collection.

(A) The judgment has the same force and effect as a judgment in a civil action in favor of the prosecuting authority and is subject to execution.

(B) All proceedings to enforce the judgment shall be in accordance with the statutes and court rules applicable to civil judgments. The judgment is not enforceable by contempt. Payment of the judgment may not be made a condition of a defendant's probation. Default or failure to pay the judgment may not affect or reduce the rendering of services on appeal or any other phase of defendant's case in any way. A defendant does not have a right to be represented by appointed counsel in connection with proceedings under subparagraph 39(c) or any proceedings to collect the judgment.

(C) Upon a showing of financial hardship, the court shall allow a defendant subject to a judgment under this rule to make payments under a repayment schedule. A defendant may petition the court at any time for remission, reduction or deferral of the unpaid portion of the judgment. The court may remit or reduce the balance owing on the judgment or change the method of payment if payment would impose manifest hardship on defendant or defendant's immediate family.

\*418 (D) Notwithstanding section 39(c)(2)(B), a defendant may be held in contempt for failing to comply with an order under this rule to apply for a permanent fund dividend.

(3) Appeal.

(A) If defendant appeals the conviction, enforcement of the judgment may be stayed by the trial court or the appellate court upon such terms as the court deems proper.

(B) If defendant's conviction is reversed, the clerk shall vacate the judgment and order the prosecuting authority to repay all sums paid in satisfaction of the judgment, plus interest at the rate specified in AS 09.30.070(a).

(d) Schedule of Costs. The following schedules govern the assessment of costs of appointed counsel under paragraph 39(c). If a defendant is convicted of more than one offense in a single dispositive court proceeding, costs shall be based on the most serious offense of which the defendant is convicted. If a defendant is otherwise convicted of more than one offense, costs shall be separately assessed for each conviction. For good cause shown, the court may waive the schedule of costs and assess fees up to the actual cost of appointed counsel, including actual expenses.

Misdemeanors

## RCRP Rule 39, RULE 39. APPOINTMENT OF COUNSEL

Trial	\$ 500.00
Change of plea	200.00
Post-conviction relief or contested probation revocation proceedings in the trial court	250.00

## Felonies

	Class B & C	Class A and Unclassified (Except Murder)	Murder in the 1st and 2nd Degrees
Trial	\$1,500.00	\$2,500.00	\$5,000.00
Change of plea after substantive motion work and hearing and before trial commences	1,000.00	1,500.00	2,500.00
Change of plea post-indictment but *419 prior to substantive motion work and hearing	500.00	1,000.00	2,000.00
Change of plea prior to indictment	250.00	500.00	750.00
Post-conviction relief or probation revocation proceeding in trial court	250.00	500.00	750.00

## (c) Review of Defendant's Financial Condition.

(1) The court may review defendant's financial status at any time after appointment of counsel to determine (A) whether defendant continues to be an "indigent person," as defined by statute; or (B) whether defendant was an indigent person at the time counsel was appointed.

(2) If the court determines that defendant is no longer an indigent person, the court may

(A) terminate the appointment; or

(B) continue the appointment and, at the conclusion of the criminal proceedings against defendant in the trial court, enter judgment against defendant for the actual cost of appointed counsel, including actual expenses, from the date of the change in defendant's financial status through the conclusion of the trial court proceedings.

(3) If the court determines that defendant was not an indigent person at the time counsel was appointed, the court may

(A) terminate the appointment and enter judgment against defendant for the actual costs of appointed counsel, including actual expenses, from the date of appointment through the date of termination; or

(B) continue the appointment and, at the conclusion of the criminal proceedings against defendant in the trial court, enter judgment against defendant for the actual cost of appointed counsel from the date of the appointment through the conclusion of the trial court proceedings.

## RCRP Rule 39, RULE 39. APPOINTMENT OF COUNSEL

(4) A defendant may request review of the court's decision to terminate the appointment according to the procedure set out in subparagraph 39(b)(5).

(5) Judgment may be entered against a defendant under this paragraph regardless of whether the defendant is convicted of an offense.

[Rescinded and repromulgated effective July 1, 1992; amended effective July 1, 1993; October 1, 1993.]

## Citation/Title

RAP Rule 209, RULE 209. APPEALS AT PUBLIC EXPENSE

## Rules of Appellate Procedure, Rule 209

**WEST'S ALASKA COURT RULES  
RULES OF APPELLATE PROCEDURE  
PART II. PROCEDURE ON APPEALS AS OF RIGHT**

*Current with amendments received through 7-1-98.*

**RULE 209. APPEALS AT PUBLIC EXPENSE**

(a) Civil Matters. [Pub. Note: See provisions following this version for text of Rule 209(a) adopted by Laws 1995, c. 79, § 19, effective July 1, 1995.]

(1) A party to a civil action may file in the supreme court a motion to appeal or to petition for review at public expense. The motion shall be accompanied by a sworn financial statement on a form provided by the clerk of the appellate courts.

(2) In considering the motion to appeal or petition for review at public expense, the court shall determine the indigence or nonindigence of the party.

(3) If the motion is granted:

[a] The court shall specify in the order granting the motion which of the following costs or partial costs are to be covered at public expense:

[1] Filing fees,

[2] Transcript fees,

[3] Costs of printing briefs,

[4] Other costs;

[b] Any costs and attorney fees awarded to the appellant or petitioner as a prevailing party in the supreme court shall accrue to the state to reimburse it for costs relating to the appeal or petition for review.

(4) Leave to file at public expense may be conditioned on repayment of costs to the state. The conditions may include the imposition of liens in favor of the state on costs, attorney fees and other recoveries awarded to the indigent appellant or petitioner.

(5) An appeal or petition for review at public expense will be allowed without additional motion in cases where the appellant is represented by court-appointed counsel.

(6) The provisions of this paragraph do not apply to the filing fees in a prisoner's appeal against the state or an officer, agent, employee, or former officer, agent, or employee of the state that is governed by the provisions of AS 09.19. A prisoner may request a filing fee reduction in an appeal governed by AS 09.19 by submitting an application which satisfies the requirements of AS 09.19.010 with the prisoner's notice of appeal and the items specified in Appellate Rule 204(b).

## RAP Rule 209, RULE 209. APPEALS AT PUBLIC EXPENSE

\*560 (a) Civil Matters. [Pub. Note: Laws 1995, c. 79, § 19, effective July 1, 1995, amended Rule 209(a) to read as follows. See preceding version for text as amended by the Alaska Supreme Court, effective July 15, 1996.]

(1) A party to a civil action in the superior court may file in the superior court a motion to appeal or to petition for review at public expense. The motion shall be accompanied by:

- [a] An affidavit of the party detailing the party's inability to pay fees and costs or to give security for fees and costs;
- [b] An affidavit of the party stating that the party believes the party is entitled to redress on appeal or on petition for review;
- [c] A concise statement of the points on which the party intends to rely in the party's appeal or petition for review.

(2) The motion shall be considered ex parte. In considering the motion to appeal or petition for review at public expense, the superior court shall determine:

- [a] The indigence or nonindigence of the party;
- [b] Whether any of the proposed points on appeal are frivolous and, if so, the reasons.

(3) If the motion is granted:

- [a] The party may proceed without further application to the supreme court;
- [b] The superior court shall specify in the order granting the motion which of the following costs or partial costs are to be covered at public expense:

- [1] Filing fees,
- [2] Transcript fees,
- [3] Costs of printing briefs,
- [4] Other costs;

[c] Any costs and attorney fees awarded to the appellant or petitioner as a prevailing party in the supreme court shall accrue to the state to reimburse it for costs relating to the appeal or petition for review.

(4) If the motion is denied in whole or in part:

- [a] The superior court shall state in writing the reasons for denial;
- [b] The party who made the original motion has ten days from the date shown in the clerk's certificate of distribution on the order denying the motion to file with the supreme court a motion to appeal or to petition for review at public expense. The motion shall be accompanied by copies of the affidavits and statements of points filed in superior court, and by a copy of the reasons given by the superior court for its action.

(5) Leave to file at public expense granted by the superior court or the supreme court may be conditioned on repayment of costs to the state. The conditions may include the imposition of liens in favor of the state on costs, attorney fees and other recoveries awarded

**RAP Rule 209, RULE 209. APPEALS AT PUBLIC EXPENSE**

to the indigent appellant or petitioner.

\*561 (6) An appeal or petition for review at public expense will be allowed without additional motion in cases where the appellant is represented by court-appointed counsel.

(7) The provisions of this subsection do not apply to the filing fees in a prisoner's appeal against the state or an officer, agent, employee, or former officer, agent, or employee of the state that is governed by the provisions of AS 09.19.

**(b) Criminal Matters.**

(1) In criminal matters the appellate court shall authorize appeals and petitions for review at public expense on behalf of defendants who are "indigent," as defined by statute, in accordance with the rules and decisions of the appellate courts of Alaska, and where such proceedings are required to be provided by state courts by decisions of the Supreme Court of the United States. Where an appeal or petition for review at public expense is authorized by the court, the costs which shall be borne at public expense include those of providing counsel and of preparing a transcript and briefs.

(2) If a defendant is allowed to proceed at public expense, the clerk of the appellate courts shall send the defendant a written notice and order, to the address provided under Appellate Rule 204(b), that

(A) advises the defendant that, if the defendant's conviction is not reversed, the defendant will be ordered to repay the prosecuting authority for the cost of appointed appellate counsel, in accordance with the schedule of costs set out in subparagraph 209(b)(6); and

(B) orders the defendant to apply for permanent fund dividends every year in which the defendant qualifies for a dividend until the cost is paid in full.

(3) A defendant authorized to proceed at public expense in the trial court is presumed to be entitled to appeal or petition for review at public expense.

(4) Counsel appointed to represent a defendant in the trial court pursuant to Criminal Rule 39 shall remain as appointed counsel throughout an appeal or petition for review at public expense authorized under this paragraph and shall not be permitted to withdraw except upon the grounds authorized in Administrative Rule 12. An attorney appointed by the court under Administrative Rule 12(b)(1)(B) will be permitted to withdraw upon a showing that either the public defender agency or the office of public advocacy is able to represent the defendant in the appellate proceeding. If an appeal is to be taken, trial counsel will not be permitted to withdraw until the notice of appeal and the documents required to be filed with the appeal by Rule 204 have been accepted for filing by the clerk of the appellate courts.

\*562 (5) At the conclusion of the appellate proceeding, the clerk of the appellate courts shall enter judgment against the defendant for the cost of appointed appellate counsel unless the defendant's conviction was reversed by the appellate court. The amount of the judgment shall be determined by reference to the schedule in subparagraph 209(b)(6). Before entering judgment, the clerk shall mail, to the defendant's address of record, a notice that sets out the amount of the proposed judgment. The defendant may oppose entry of the judgment by filing a written opposition within 45 days after the date shown in the clerk's certificate of distribution on the notice. The opposition shall specifically set out the grounds for opposing entry of judgment. The prosecuting authority may oppose the amount of the judgment by filing a written opposition within the same deadline. Criminal Rule 39(c)(1)(D) and (c)(2) shall apply to judgments entered under this subparagraph.

(6) The following schedule governs the cost of appointed appellate counsel:

Type of Appellate Proceeding

Misdemeanor    Felony

## RAP Rule 209, RULE 209. APPEALS AT PUBLIC EXPENSE

Sentence Appeal or Petition for Sentence Review	\$ 250	\$ 500
Merit Appeal or Appeal from Post-Conviction Relief Proceedings	750	1,500
Combined Merit Appeal and Sentence Appeal or Petition for Sentence Review	1,000	2,000
Other Appellate Actions (Petition for Review, Petition for Hearing, etc.)	500	1,000

(c) Costs. Costs, attorney's fees, damages, and interest may be allowed as in other cases, but the state shall not be liable for any of them.

[Amended effective January 15, 1988; July 1, 1992; October 1, 1993; July 15, 1994; July 1, 1995, by Laws 1995, c. 79, § 19; July 15, 1995; January 22, 1996; July 15, 1996.]

## Note

Ch. 79 § 1 SLA 1995 amends AS 09 by adding a new chapter related to prisoner litigation against the state. AS 09.19.010 prohibits the court from accepting any filing in an action governed by AS 09.19 until the filing fee required by AS 09.19.010 has been paid.

Section 19 of chapter 79 amends Appellate Rule 209(a) to add subparagraph (a)(6) which states that the provisions of paragraph (a) do not apply in a prisoner's appeal that is governed by AS 09.19. Section 5 of [SCO 1238] is adopted for the sole reason that the legislature has mandated the amendment.

SENATE FINANCE COMMITTEE

SIGN-IN

SB 100-REIMBURSEMENT FOR PUBLIC DEFENDER

NAME: Doug Wooliver Sub./Bill No: SR 100  
Co./Dept./Title: Alaska Court System Phone: 963-4750  
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

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

Do you wish to testify? \_\_\_ Yes \_\_\_ No \_\_\_ Respond to Questions

SENATE FINANCE COMMITTEE

SIGN-IN

SB 100-REIMBURSEMENT FOR PUBLIC DEFENDER

NAME: Doug Wooliver Subject/Bill No: SB 100  
Co./Dept./Title: Alaska Court System Phone: 463-4750  
Address: 820 W. 4<sup>th</sup> Av. Anch. Ak. Zip: 99501

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

04/01/99  
08:04:30

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM  
PARTICIPANT LIST (ALL PARTICIPANTS)  
TCN:90490 SCHEDULED FOR:04/01/99 08:00 TO 11:00  
PUBLIC HEARING SENATE FINANCE

LTN1150  
BY:ANC  
FOR:ANC

LOCATION: ANCHORAGE

SB 100  
SB 100

DIANE  
BARBARA

*Wendlandt*

WENDLANDT \_\_\_ANS ?S  
BRINK

A.G. OFFICE TESTIFY  
AK PUBLIC DEFENDTESTIFY

**SB**

**101**

**HFIN**

**FILE**

# HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: April 26, 1999

FURTHER REFERRALS:

Date of Committee Action: 4/28/99

The FINANCE Committee considered:

CSSB 101(FIN) am

CS FOR SENATE BILL NO. 101(FIN) am

DEFINITION OF DISASTER

"An Act relating to disasters and to the disaster relief fund."

recommends it be replaced with the following committee substitute HCSB101 (FIN)  the same title  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_ APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_  
 fiscal note(s) \_\_\_\_\_  fiscal note(s) \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_  <sup>Senate</sup> zero fiscal note(s) DEC, DMVA  
4/7/99

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<del>Therriault</del> Therriault	X			
<del>Bunde</del> Bunde	✓			
<del>Mulder</del> Mulder	✓			
<del>Kohring</del> Kohring	X			
<del>Austerman</del> Austerman	X			
<del>Davies</del> Davies			X	
<del>Grossendorf</del> Grossendorf			X	
<del>Moses</del> Moses			X	
<del>Davis</del> Davis	X			
<del>Williams</del> Williams			X	
<del>Foster</del> Foster			X	

CHAIR'S SIGNATURE [Signature]

# FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

No. 11  
Bill Version: CSSB 101 (FIN)  
(S) Publish Date: 4-7-99

Revision Date/Time (Note if correction) 4/1/99 4:00 PM Dept. Affected Environmental Conservation  
Title Definition of Disaster BRU Administration  
Component Commissioner's Office  
Sponsor Senate Finance  
Requester Senate Finance Component Serial No. 633

### 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						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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 (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY99) cost: 0.0

#### POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

Prepared by Mike Conway, Director Phone 465-5298  
Division Statewide Public Services Date/Time 4/2/99 9:02 AM  
Approved by Michele Brown, Commissioner Date 4-2-99  
Agency Department of Environmental Conservation

**PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE**

For further distribution information, call the Governor's Legislative Office

# FISCAL NOTE No. 2

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

BILL Version: CSSB 101 (FIN)  
(S) Publish Date: 4-7-99

Revision Date: 6-Apr-99 Dept Affected: Military & Veterans Affairs  
 Title: An Act amending the definition of "disaster". BRU: Disaster Planning & Control  
 Component: Disaster Planning & Control  
 Sponsor: Senate Finance  
 Requestor: Senate Finance Component Serial No. #2329

Expenditures/Revenues (Inflation not included unless otherwise noted below) (Thousands of Dollars)

OPERATING EXPENDITURES	FY2000	FY2001	FY2002	FY2003	FY2004	FY2005
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL EXPENDITURES</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CHANGE IN REVENUES (fund code)</b>	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY2000	FY2001	FY2002	FY2003	FY2004	FY2005
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: \$ none

**POSITIONS**

POSITIONS	FY2000	FY2001	FY2002	FY2003	FY2004	FY2005
FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

There is no fiscal impact for DMVA anticipated with implementation of this legislation.

Prepared by: Dave Liebersbach, Director *[Signature]* Phone: 458-7028  
 Division: Emergency Services Date: 6-Apr-99  
 Approved by Commissioner: *[Signature]* Date: 4-6-99  
 Agency: Military & Veterans Affairs

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE  
For further distribution information call the Governor's Legislative Office

4/28/99

adopted Nalobj

AMENDMENT I

OFFERED IN THE HOUSE

TO: HCSCSSB101(FIN)  
Version "Y" 4/27/99

Page 4, line 10

After "(A)"

Insert "an incident such as"

## SUMMARY OF DISASTERS IN ALASKA SINCE 1978

Senator John Torgerson

- |  |                     |
|--|---------------------|
| 1) How many disasters have there been in Alaska?                             | 190 since 1978      |
| 2) How many disasters received Federal Assistance?                           | 32 or 17% of total  |
| <u>Disasters funded from state GF</u>  |                     |
| 3) How many have been <b>under</b> \$500,000                                 | 143 or 75% of total |
| 4) How many have been <b>over</b> \$500,000                                  | 47 or 25% of total  |
| 5) How many have been <b>between</b> \$500,000 and \$1,000,000               | 28 or 15%           |
| 5) How many have been over \$1,000,000                                       | 20 or 11% of total  |
| 5a) Of the 20 disasters over \$1,000,000<br>how many received Federal money? | 12                  |

7) How many have been over \$5,000,000 2 or 1% of total

7a) Of the 2 disasters over \$5,000,000  
how many received Federal money? 2

7b) What were the two disasters over \$5,000,000

**1994 Falls Flood**

State GF \$	\$8,155,397
Fed \$	\$52,558,473
<hr/>	
Total	\$60,713,870

**Western Alaska Fishing Disaster**

State GF \$	\$8,100,000
Fed \$	\$18,000,000
<hr/>	
Total	\$26,100,000

Total State GF spent on Disasters since 1978	\$91,653,273.22
Total Fed Revenue spent on Disasters since 1978	<u>\$124,193,894</u>
	\$215,847,167.22



Official Business

# Alaska State Senate

## Senate Finance Committee

Mail Stop 3100  
State Capitol  
Juneau, Alaska 99801-1182

### Sponsor Statement

#### HCS for CSSB 101(MLV)

"An Act relating to disasters and to the disaster relief fund."

The House Military and Veterans Affairs Committee Substitute for Committee Substitute for Senate Bill 101 clarifies the definition of a disaster by replacing vague terminology in statute with more specific language. This will direct the executive branch of government in identifying what constitutes a disaster prior to making a gubernatorial disaster declaration.

In addition to amending the definition of disaster, HCS CS SB 101(MLV) makes a diversion from current law to the funding limits within the executive branch in reference to disaster emergencies. The governor is given broad authorization to expend up to \$1,000,000 to prevent or minimize the effects of an event or a disaster within the state. If the governor feels that further expenditures from state funds are necessary in excess of \$1,000,000 for a specific event, legislative authorization or a presidential declaration of disaster is required. Wildland fire disasters are exempt from this policy.



★ Sec. 26.23.300. Disaster relief fund.

(a) There is in the Office of the Governor a disaster relief fund. The Department of Revenue is custodian of the fund.

(b) Subject to the restrictions of (d) of this section, the governor may, without additional legislative authorization, expend not more than \$1,000,000 of the assets of the disaster relief fund for the following purposes:

(1) to implement provisions of law relating to disaster relief in the case of a disaster;

(2) to alleviate the effects of a disaster by making grants or loans to persons or political subdivisions on terms the governor considers appropriate or by other means the governor considers appropriate.

(c) Subject to the restrictions of (d) of this section, the governor may, without additional legislative authorization, expend during a fiscal year not more than \$500,000 of the assets of the disaster relief fund to prevent or minimize the effects of an event that occurs in the state and that, in the determination of the governor, poses a direct and imminent threat of a disaster of sufficient magnitude and severity to justify state action.

(d) The governor shall present to the legislature an annual accounting of money expended from the disaster relief fund.

(e) The governor shall adopt regulations to carry out the provisions of this section.

Sec. 26.23.400. Fuel emergency fund.

There is established in the Office of the Governor the fuel emergency fund. When the governor determines that a shortage of fuel is sufficiently severe to justify state assistance, the governor may make a grant from the fuel emergency fund to a political subdivision to purchase emergency supplies of fuel.

Sec. 26.23.900. Definitions.

In this chapter

(1) "commission" means the Alaska State Emergency Response Commission;

(2) "disaster" means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from a natural or man-made cause, including

(A) fire, flood, earthquake, landslide, mudslide, avalanche, wind-driven water, weather condition, tsunami, volcanic activity, epidemic, air contamination, blight, infestation, explosion, riot, or shortage of food, water, fuel, or clothing;

(B) the release of oil or a hazardous substance, if the release requires prompt action to avert environmental danger or damage; and

Amended pg 1, line 13  
pg 2, line 13

HOUSE CS FOR CS FOR SENATE BILL NO. 101(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:  
Referred:

Sponsor(s): SENATE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to disasters and to the disaster relief fund."

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

3 \* Section 1. INTENT. It is the intent of the legislature that this Act does not alter the  
4 present authority of the governor to request and receive federal disaster relief and emergency  
5 assistance.

6 \* Sec. 2. AS 26.23.020(c) is amended to read:

7 (c) If the governor finds that a disaster has occurred or that a disaster is  
8 imminent or threatened, the governor shall, by proclamation, declare a condition of  
9 disaster emergency. The disaster emergency remains in effect until the governor finds  
10 that the danger has passed or the disaster has been dealt with so that the emergency  
11 no longer exists. The governor may terminate the disaster emergency by proclamation.  
12 A proclamation of disaster emergency may not remain in effect longer than 30 days  
13 unless extended by the legislature by ~~law~~ [A CONCURRENT RESOLUTION]. The  
14 proclamation must indicate the nature of the disaster, the area threatened or affected,  
15 and the conditions that have brought it about or that make possible the termination of

1 the disaster emergency. A proclamation to declare a condition of disaster  
2 emergency must also state whether the governor proposes to expend state funds  
3 to respond to the disaster under (i) or (j) of this section.

4 \* Sec. 3. AS 26.23.020 is amended by adding new subsections to read:

5 (h) The governor may expend during a fiscal year not more than \$500,000 of  
6 state funds per incident to prevent, minimize, or respond to the effects of an incident  
7 that may occur or occurs in the state and that, in the determination of the governor,  
8 poses a direct and imminent threat of sufficient magnitude and severity to justify state  
9 action. Before expending funds under this subsection to respond to an incident, the  
10 governor shall provide a financing plan to cope with the incident to the legislature in  
11 the same manner prescribed for disaster emergencies under AS 26.23.025(a).

12 (i) If the governor declares a condition of disaster emergency, the governor  
13 may expend during a fiscal year not more than \$1,000,000 <sup>per disaster</sup> of state funds, including the  
14 assets of the disaster relief fund, to <sup>declaration</sup>

15 (1) save lives, protect property and public health and safety, or lessen  
16 or avert the threat of the disaster that poses a direct and imminent threat of sufficient  
17 severity and magnitude to justify state action;

18 (2) implement provisions of law relating to disaster relief to cope with  
19 the disaster;

20 (3) alleviate the effects of the disaster by making grants or loans to  
21 persons or political subdivisions on terms the governor considers appropriate or by  
22 other means the governor considers appropriate.

23 (j) If the disaster described in the governor's proclamation to declare a  
24 condition of disaster emergency is a fire, the governor may expend state funds as  
25 necessary to save lives or protect property and public health and safety.

26 (k) The governor may expend more than \$500,000 of state funds to cope with  
27 an incident under (h) of this section or more than \$1,000,000 of state funds to cope  
28 with a disaster under (i) of this section under the following circumstances:

29 (1) if the legislature is in session, the legislature approves a financing  
30 plan to cope with the incident or disaster that identifies the amount in excess of the  
31 expenditure limits that is to be expended from state funds; or

1 (2) if the legislature is not in session, either

2 (A) the governor convenes a special session of the legislature  
3 within five days after declaring the condition of disaster emergency or within  
4 five days after providing a financing plan to cope with an incident to the  
5 legislature and the legislature convenes in special session and approves a  
6 financing plan to cope with the incident or disaster that identifies the amount  
7 in excess of the expenditure limits that is to be expended from state funds; or

8 (B) the presiding officers of both the house of representatives  
9 and the senate do not object to the financing plan prepared by the governor and  
10 agree that a special session should not be convened and so advise the governor  
11 in writing.

12 \* Sec. 4. AS 26.23.025 is repealed and reenacted to read:

13 **Sec. 26.23.025. The legislature and disaster emergencies.** (a) When the  
14 governor declares a condition of disaster emergency under AS 26.23.020(c),  
15 concurrently with the issuance of the proclamation, the governor shall prepare and  
16 deliver to the presiding officers of the legislature and to the persons who chair the  
17 finance committees in each house of the legislature a financing plan describing the  
18 amount by fund source of money, including the amount of state match for federal  
19 funds, that the governor proposes to use to cope with the disaster, the estimated total  
20 expenditures necessary to cope with the disaster, and the estimated time frame  
21 necessary to cope with the disaster.

22 (b) Notwithstanding any other provision of this chapter, if the declaration of  
23 a disaster emergency occurs while the legislature is in session or if a special session  
24 is held, actions taken by the governor under this chapter after the close of the session  
25 that are not ratified by law adopted during that session are void.

26 (c) The legislature may terminate a disaster emergency at any time by law.

27 \* Sec. 5. AS 26.23.300(b) is amended to read:

28 (b) Subject to the restrictions of AS 26.23.020(h) - (k) [(d) OF THIS  
29 SECTION], the governor may [, WITHOUT ADDITIONAL LEGISLATIVE  
30 AUTHORIZATION,] expend [NOT MORE THAN \$1,000,000 OF] the assets of the  
31 disaster relief fund for the following purposes:

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

(1) to implement provisions of law relating to disaster relief in the case of a disaster or an incident;

(2) to alleviate the effects of a disaster or an incident by making grants or loans to persons or political subdivisions on terms the governor considers appropriate or by other means the governor considers appropriate.

\* Sec. 6. AS 26.23.900(2) is amended to read:

(2) "disaster" means the occurrence or imminent threat of widespread or severe damage, injury, [OR] loss of life or property, or shortage of food, water, or fuel resulting from [A NATURAL OR MAN-MADE CAUSE, INCLUDING]

(A) storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, avalanche, snowstorm, prolonged extreme cold, drought, fire, flood, [EARTHQUAKE, LANDSLIDE, MUDSLIDE, AVALANCHE, WIND-DRIVEN WATER, WEATHER CONDITION, TSUNAMI, VOLCANIC ACTIVITY,] epidemic, [AIR CONTAMINATION, BLIGHT, INFESTATION,] explosion, or riot [, OR SHORTAGE OF FOOD, WATER, FUEL, OR CLOTHING];

(B) the release of oil or a hazardous substance [,] if the release requires prompt action to avert environmental danger or mitigate environmental damage; or [AND]

(C) equipment failure [,] if the failure is not a predictably frequent or recurring event or preventable by adequate equipment maintenance or operation;

\* Sec. 7. AS 26.23.300(c) is repealed.

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

BILL NO. CSSB 01(FIN)

Revision Date: 6-Apr-99  
 Title: An Act amending the definition of "disaster".  
 Sponsor: Senate Finance  
 Requestor: Senate Finance

Dept Affected: Military & Veterans Affairs  
 BRU: Disaster Planning & Control  
 Component: Disaster Planning & Control  
 Component Serial No. #2329

Expenditures/Revenues (Inflation not included unless otherwise noted below)

(Thousands of Dollars)

OPERATING EXPENDITURES	FY2000	FY2001	FY2002	FY2003	FY2004	FY2005
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL EXPENDITURES</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CHANGE IN REVENUES (runj code)</b>	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: \$ none

POSITIONS

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

ANALYSIS:

(Attach a separate page if necessary)

There is no fiscal impact for DMVA anticipated with implementation of this legislation.

Prepared by: Dave Liebersbach, Director *[Signature]* Phone: 458-7028  
 Division: Emergency Services Date: 6-Apr-99  
 Approved by Commissioner: *[Signature]* Date: 4-6-99  
 Agency: Military & Veterans Affairs

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE  
 For further distribution information call the Governor's Legislative Office

# FISCAL NOTE

SFC 3/31/99

**STATE OF ALASKA  
1999 LEGISLATIVE SESSION**

**BILL NO. CSSB 101 (FIN)**

Revision Date/Time (Note if correction) 4/1/99 4:00 PM Dept. Affected Environmental Conservation  
 Title Definition of Disaster BRU Administration  
 Component Commissioner's Office  
 Sponsor Senate Finance  
 Requester Senate Finance Component Serial No. 633

**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						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY99) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

Prepared by Mike Conway, Director Phone 465-5298  
 Division Statewide Public Services Date/Time 4/2/99 9:02 AM  
 Approved by Michele Brown, Commissioner *Kent Fedor* Date 4-2-99  
 Agency Department of Environmental Conservation

**PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE**

For further distribution information, call the Governor's Legislative Office

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

## MEMORANDUM

March 27, 1999

**SUBJECT:** Application of CSSB 101(FIN)(draft version K) to a fishery disaster  
(Work Order No. 21-LS0625K)

**TO:** Senator John Torgerson  
Attn: Darwin Peterson

**FROM:** George Utermohle *GU*  
Legislative Counsel

RECEIVED

MAR 27 1999

Senate Finance  
Committee

You have asked whether a fishery disaster, such as that declared by Governor Knowles during 1998, would fall within the definition of "disaster" as amended by sec. 5, CSSB 101(FIN)(draft version K).

**SHORT ANSWER** – The 1998 fishery disaster declaration for Western Alaska was apparently based on the present or imminent shortage of food and fuel due to a catastrophic decline in salmon returns associated with warm sea surface temperatures (weather condition). Under the definition of "disaster" as proposed by sec. 5, CSSB 101(FIN)(draft version K), the events on which the declaration of the 1998 fishery disaster were based would no longer qualify as a disaster. If those events were to reoccur, those events by themselves could not serve as a basis for declaring a disaster under AS 26.23.

**DISCUSSION** – On July 20, 1998, Governor Knowles declared a condition of disaster emergency for regions and communities in Western Alaska. The Declaration of Disaster Emergency failed to explicitly state the specific events on which the declaration was based. The declaration referred to a catastrophic decline in the 1998 salmon returns for Western Alaska and to a catastrophic rise in sea surface temperatures during the prior year. The declaration did not assert a direct connection between sea surface temperature and the decline in salmon returns. The declaration did state that, due to the low salmon returns to Western Alaska, there was a shortage of food in the area, there was an imminent shortage of fuel in the area during the coming winter, and there were imminent widespread threats to health and safety in the area. It was the present or imminent shortage of food and fuel and an unspecified weather condition associated with the rise in sea surface temperature and with the decline in salmon returns that apparently provided the basis for the disaster declaration.

Though the conditions described in the governor's disaster declaration for the fishery disaster are less dramatic than the 1964 Good Friday earthquake, the 1967 Fairbanks flood, or the 1996 wild fires in the Matanuska-Susitna Valley, the circumstances underlying the governor's declaration arguably fall within the current definition of "disaster" under

AS 26.23.900(2).<sup>17</sup> The governor is responsible for determining whether events constitute a disaster. The governor's exercise of discretion to find that a disaster exists would be construed broadly in order to further the important public policies underlying AS 26.23, if a disaster declaration were ever challenged in the courts.

Section 5, CSSB 101(FIN)(draft version K) proposes to significantly change the definition of "disaster"<sup>27</sup> for purposes of AS 26.23. Of particular relevance to the 1998 Western Alaska fishery disaster, a disaster cannot result from an unspecified weather condition (only specifically enumerated weather conditions can serve as a basis for a disaster) or from a shortage of food or fuel. Under the proposed definition of "disaster", a shortage of food or fuel would not justify a disaster declaration unless the shortage was a consequence of a specific natural or man-made event listed in the definition of "disaster".

---

<sup>17</sup> For purposes of the Alaska Disaster Act (AS 23.26.010 - 23.26.220), a "disaster" is (emphasis added):

the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from a natural or man-made cause, including

(A) fire, flood, earthquake, landslide, mudslide, avalanche, wind-driven water, weather condition, tsunami, volcanic activity, epidemic, air contamination, blight, infestation, explosion, riot, or shortage of food, water, fuel, or clothing;

(B) the release of oil or a hazardous substance, if the release requires prompt action to avert environmental danger or damage; and

(C) equipment failure, if the failure is not a predictably frequent or recurring event or preventable by adequate equipment maintenance or operation.

<sup>27</sup> The definition of "disaster" as proposed by CSSB 101(FIN)(draft version K) reads:

"disaster" means the occurrence or imminent threat of widespread or severe damage, injury, loss of life or property, or shortage of food, water, or fuel resulting from

(A) hurricane, tornado, storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, avalanche, snowstorm, prolonged extreme cold, or drought;

(B) fire, flood, or explosion;

(C) the release of oil or a hazardous substance if the release requires prompt action to avert environmental danger or mitigate environmental damage; or

(D) equipment failure if the failure is not a predictably frequent or recurring event or preventable by adequate equipment maintenance or operation;

Senator John Torgerson

March 27, 1999

Page 3

Thus, if the proposed changes to the definition of "disaster" made by CSSB 101(FIN)(draft version K) are enacted, a condition of disaster emergency could not be declared for a failure of salmon returns based on the circumstances identified in the Declaration of Disaster Emergency for the 1998 fishery disaster.

If I may be of further assistance, please advise.

GM:glc

99-141.glc

## AS IT IS NOW

### Sec. 26.23.025. The legislature and disaster emergencies.

(a) The provisions of this section apply when the governor declares a condition of disaster emergency under AS 26.23.020 (c) and in response to the disaster the governor proposes to expend

(1) more than \$1,000,000 of the assets of the disaster relief fund under AS 26.23.300 (b);

(2) more than \$500,000 of the assets of the disaster relief fund under AS 26.23.300 (c); or

(3) an amount from the disaster relief fund that exceeds the unallocated balance of the fund.

(b) When the governor declares a condition of disaster emergency while the legislature is in session, concurrently with the issuance of the proclamation, the governor shall prepare and deliver to the presiding officers of the legislature and to the persons who chair the finance committees in each house of the legislature

(1) a financing plan relating to the source or sources of money available from sources identified in AS 26.23.050 (b) that the governor proposes to use to cope with the disaster; or

(2) a supplemental appropriation to provide money necessary to cope with the disaster.

(c) When the governor declares a condition of disaster emergency while the legislature is not in session, concurrently with the issuance of the disaster emergency proclamation the governor shall

(1) convene a special session of the legislature under this subsection within five days unless the presiding officers of both the house of representatives and the senate agree that a special session should not be convened and so advise the governor in writing; and

(2) prepare and deliver to the presiding officers of the legislature and to the persons who chair the finance committees in each house of the legislature

(A) a financing plan relating to the source or sources of money available from sources identified in AS 26.23.050 (b) that the governor proposes to use to cope with the disaster; or

(B) a supplemental appropriation to provide money necessary to cope with the disaster.

(d) If the declaration of a disaster emergency occurs while the legislature is in session, or if a special session is held, actions taken by the governor under this chapter that are not ratified by a concurrent resolution adopted during that session are void.

(e) If the legislature does not convene in special session under (c)(1) of this section, the governor may act under this chapter in a manner that is consistent with the financing plan submitted.

(f) The legislature, by concurrent resolution, may terminate a disaster emergency at any time.

**Sec. 44.33.285. Action by governor. (ECONOMIC DISASTER)**

The governor may, upon recommendation of the commissioner of commerce and economic development, designate by proclamation an area as an area impacted by an economic disaster. When an area is so designated, the legislature may appropriate money for assistance grants and the governor may recommend in the governor's budget submission that capital projects planned for the area be accelerated and that new projects be funded for the area. The proclamation may provide that waivers of capital projects requirements, as authorized in AS 44.33.300, become effective only to the extent set out in the proclamation.

**Sec. 26.23.900. Definitions.**

In this chapter

(1) "commission" means the Alaska State Emergency Response Commission;

(2) "disaster" means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from a natural or man-made cause, including ( BUT NOT LIMITED. IS WHAT IT MEANS

(A) fire, flood, earthquake, landslide, mudslide, avalanche, wind-driven water, weather condition, tsunami, volcanic activity, epidemic, air contamination, blight, infestation, explosion, riot, or shortage of food, water, fuel, or clothing;

(B) the release of oil or a hazardous substance, if the release requires prompt action to avert environmental danger or damage; and

(C) equipment failure, if the failure is not a predictably frequent or recurring event or preventable by adequate equipment maintenance or operation;

(3) "disaster emergency" means the condition declared by proclamation of the governor or declared by the principal executive officer of a political subdivision to designate the imminence or occurrence of a disaster;

(4) "emergency" has the meaning given in 42 U.S.C. 5122;

(5) "hazardous substance" has the meaning given in AS 46.03.826 ;

(6) "major disaster" has the meaning given in 42 U.S.C. 5122;

FEMA

42 USC Sec. 5122

**TITLE 42 - THE PUBLIC HEALTH AND WELFARE**

**CHAPTER 68 - DISASTER RELIEF**

**SUBCHAPTER I - FINDINGS, DECLARATIONS, AND DEFINITIONS**

-HEAD-

Sec. 5122. Definitions

-STATUTE-

As used in this chapter -

(1) Emergency. - "Emergency" means any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.

(2) Major disaster. - "Major disaster" means any natural catastrophe (including any hurricane, tornado, storm, high water, wind driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this chapter to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

## HOW SOME OTHER STATES DEFINE "DISASTER"

### **MINNESOTA:**

#### 12.03 Definitions.

##### Subd. 2. Disaster.

"Disaster" means a situation that creates an actual or imminent serious threat to the health and safety of persons, or a situation that has resulted or is likely to result in catastrophic loss to property or the environment, and for which traditional sources of relief and assistance within the affected area are unable to repair or prevent the injury or loss.

##### Emergency.

"Emergency" means an unforeseen combination of circumstances that calls for immediate action to prevent a disaster from developing or occurring.

##### Subd. 4. Emergency management.

"Emergency management" means the preparation for and the carrying out of emergency functions, other than functions for which military forces are primarily responsible, to prevent, minimize and repair injury and damage resulting from disasters, from acute shortages of energy, or from incidents occurring at nuclear power plants that pose radiological or other health hazards. These functions include, without limitation, firefighting services, police services, medical and health services, rescue, engineering, warning services, communications, radiological, chemical and other special weapons defense, evacuation of persons from stricken areas, emergency human services, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services, implementation of energy supply emergency conservation and allocation measures, and other functions related to civilian protection, together with all other activities necessary or incidental to preparing for and carrying out these functions.

##### Subd. 5b. Hazard mitigation.

"Hazard mitigation" means an action taken to reduce or eliminate the long-term risk to human life and property from natural and other types of hazards.

##### Subd. 5c. Imminent.

"Imminent" means clear and present danger to life or property rights as a result of an emergency or disaster.

### **FLORIDA:**

252.34 Definitions.--As used in ss. 252.31-252.60, the term:

(1) "Disaster" means any natural, technological, or civil emergency that causes damage of sufficient severity and magnitude to result in a declaration of a state of emergency by a county, the Governor, or the President of the United States. Disasters shall be identified by the severity of resulting damage, as follows:

(a) "Catastrophic disaster" means a disaster that will require massive state and federal assistance, including immediate military involvement.

(b) "Major disaster" means a disaster that will likely exceed local capabilities and require a broad range of state and federal assistance.

(c) "Minor disaster" means a disaster that is likely to be within the response capabilities of local government and to result in only a minimal need for state or federal assistance.

(2) "Division" means the Division of Emergency Management of the Department of Community Affairs, or the successor to that division.

(3) "Emergency" means any occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property.

(4) "Emergency management" means the preparation for, the mitigation of, the response to, and the recovery from emergencies and disasters. Specific emergency management responsibilities include, but are not limited to:

(a) Reduction of vulnerability of people and communities of this state to damage, injury, and loss of life and property resulting from natural, technological, or manmade emergencies or hostile military or paramilitary action.

(b) Preparation for prompt and efficient response and recovery to protect lives and property affected by emergencies.

(c) Response to emergencies using all systems, plans, and resources necessary to preserve adequately the health, safety, and welfare of persons or property affected by the emergency.

(d) Recovery from emergencies by providing for the rapid and orderly start of restoration and rehabilitation of persons and property affected by emergencies.

(e) Provision of an emergency management system embodying all aspects of preemergency preparedness and postemergency response, recovery, and mitigation.

(f) Assistance in anticipation, recognition, appraisal, prevention, and mitigation of emergencies which may be caused or aggravated by inadequate planning for, and regulation of, public and private facilities and land use.

(5) "Local emergency management agency" means an organization created in accordance with the provisions of ss. 252.31-252.91 to discharge the emergency management responsibilities and functions of a political subdivision.

(6) "Manmade emergency" means an emergency caused by an action against persons or society, including, but not limited to, enemy attack, sabotage, terrorism, civil unrest, or other action impairing the orderly administration of government.

(7) "Natural emergency" means an emergency caused by a natural event, including, but not limited to, a hurricane, a storm, a flood, severe wave action, a drought, or an earthquake.

(8) "Political subdivision" means any county or municipality created pursuant to law.

(9) "Technological emergency" means an emergency caused by a technological failure or accident, including, but not limited to, an explosion, transportation accident, radiological accident, or chemical or other hazardous material incident.

#### ARIZONA:

A. The governor may declare an emergency arising from such major disasters as provided in this section and incur liabilities therefor, regardless of whether or not the legislature is in session.

1. Invasions, hostile attacks, riots or insurrections.

2. Epidemics of disease or plagues of insects.

3. Floods or floodwaters.

4. Acts of God or any major disaster.

5. Wild land fires, but only after all necessary authorizations under section 37-623.02 are exhausted.

## Legislative Budget and Audit and Disaster \$

### AS24.20.201 powers

(a) The Legislative Budget and Audit Committee has the power to:

(4) review revenue projections, state agency appropriation requests, the expenditure of state funds, including the relationship between state agency program accomplishments and legislative intent, and the fiscal policies and procedures of state government;

(5) review and approve proposed changes to agency authorized budgets as provided in AS 37.07 (Executive Budget Act);

(6) make recommendations concerning appropriations, their expenditure, and the fiscal policies and procedures of state government to the governor when appropriate, and to the legislature;

### AS37.07.080 program execution (executive budget act)

(h) The increase of an appropriation item based on additional federal or other program receipts not specifically appropriated by the full legislature may be expended in accordance with the following procedures:

(1) the governor shall submit a revised program to the Legislative Budget and Audit Committee for review;

(2) 45 days shall elapse before commencement of expenditures under the revised program unless the Legislative Budget and Audit Committee earlier recommends that the state take part in the federally or otherwise funded activity;

(3) should the Legislative Budget and Audit Committee recommend within the 45-day period that the state not initiate the additional activity, the governor shall again review the revised program and if the governor determines to authorize the expenditure, the governor shall provide the Legislative Budget and Audit Committee with a statement of the governor's reasons before commencement of expenditures under the revised program.

**SUMMARY OF DISASTERS IN ALASKA SINCE 1978**

**Senator John Torgerson**

- |   |                     |
|---|---------------------|
| 1) How many disasters have there been in Alaska?                                      | 190 since 1978      |
| 2) How many disasters received Federal Assistance?                                    | 32 or 17% of total  |
| <u>Disasters funded from state GF</u><br>3) How many have been <u>under \$500,000</u> | 143 or 75% of total |
| 4) How many have been over \$500,000  | 47 or 25% of total  |
| 5) How many have been between \$500,000 and \$1,000,000                               | 28 or 15%           |
| 5) How many have been over \$1,000,000  | 20 or 11% of total  |
| 5a) Of the 20 disasters over \$1,000,000<br>how many received Federal money?          | 12                  |

CONTINUATION OF FORM: P2

YEAR	GENERAL FUND	FEDERAL FUND	INTERAGENCY RECEIPTS	SUPP. TOTAL	IA NON-FIRE SUPPORT	COMP. TOTAL	ACRES PROTECTED	NUMBER FIRES
FY98	\$23,686.1	\$8,379.4		\$32,065.5	\$14.6	\$32,080.1	134,000	591
FY97	12,552.5	\$8,897.1		\$21,449.6	\$39.7	\$21,489.3	134,000	568
FY96	16,592.4	\$13,306.2		\$29,898.6	\$416.4	\$30,315.0	134,000	615
FY95	5,572.7	\$8,334.1	\$3,618.4	\$17,525.2	\$4,674.5	\$22,199.7	134,000	430
FY94	5,649.1	\$4,413.7	4,602.9	\$14,665.7		\$14,665.7	134,000	508
FY93	7,743.3	\$3,069.0	5.1	\$10,817.4		\$10,817.4	134,000	516
FY92	15,071.1	\$4,126.0	19.8	\$19,216.9		\$19,216.9	134,000	517
FY91 high	27,531.2	\$23,446.8	27.1	\$51,005.1		\$51,005.1	134,000	819
FY90 low	4,263.7	\$5,771.3	2,110.7	\$12,145.7		\$12,145.7	134,000	545
FY89	7,104.4	\$2,250.0		\$9,354.4		\$9,354.4	134,000	370
FY88	11,697.0	\$2,412.6		\$14,109.6		\$14,109.6	134,000	460
FY87	8,238.5	\$2,376.9		\$10,615.4		\$10,615.4	134,000	514
FY86	6,904.6	\$2,752.4		\$9,657.0		\$9,657.0	134,000	661
TOTAL	\$152,606.6	\$89,535.5	\$10,384.0	\$252,526.1	\$5,145.2	\$257,671.3		7,114

GENERAL FUND/YR	FEDERAL/YR	IA/YR	TOTAL/YR	IA NON-FIRE SUPPORT/YR	TOTAL
\$10,982.9	\$5,483.4	\$749.7	\$17,215.9	\$467.7	\$17,683.7

AVERAGE (high GF, Fed and IA FY91 and low GF, Fed and IA FY90 removed) EXPENDITURES = \$11.0 million GF and \$.7 million, IA = \$11.7 million GF.

INTERAGENCY NON-FIRE SUPPORT:

FY 95 \$4,674.5 of funds were expended in support of Koyukuk Flood in Fall 1994.

FY 96 \$416.4 of funds expended on Fall Storm Support, Search and Rescue (SAR), and Fuel Support.

FY 97 \$39.7 of funds were expended on Search and Rescue for Public Safety, Petersburg Water Crisis, and Fuel Support for ADF&G.

FY 98 \$14.6 of funds were expended on Search and Rescue for Public Safety, Wildfire Beetle, and Fuel Support for ADF&G.

**ADDITIONAL EXPLANATION FORM**

AGENCY NATURAL RESOURCES

BRU STATEWIDE FIRE SUPPRESSION PROGRAM

Page 3 of 9  
Revised Date:

FY00

0000922

Disaster Cost Index

RECEIVED

MAR 17 1999

Senate Finance  
Committee

DISASTER	DSTR #	TOTAL	FED REVENUE	GENERAL FUNDS
Katuk	78-1	\$171,573.00	\$0.00	\$171,573.00
Campbell Creek, Anchorage	78-2	\$10,811.00	\$0.00	\$10,811.00
Wrangel/Craig	78-3	\$392,000.00	\$0.00	\$392,000.00
Matanuska-Susitna Borough	79-4	\$50,000.00	\$0.00	\$50,000.00
Delta Fire	79-5	\$3,250,000.00	\$0.00	\$3,250,000.00
West Coast	80-6	\$121,352.00	\$0.00	\$121,352.00
Willow Creek	80-7	\$20,118.00	\$0.00	\$20,118.00
Kodiak Island	80-8	\$171,771.00	\$0.00	\$171,771.00
Anchorage Windstorm	80-9	\$461,448.00	\$0.00	\$461,448.00
Bristol Bay	81-10	\$113,083.00	\$0.00	\$113,083.00
Copper Center	81-11	\$13,168.00	\$0.00	\$13,168.00
Angoon	81-12	\$10,987.00	\$0.00	\$10,987.00
Southcentral	82-13	\$275,013.00	\$0.00	\$275,013.00
Emmonak	82-14	\$259,623.00	\$0.00	\$259,623.00
Fort Yukon	82-15	\$811,323.00	\$0.00	\$811,323.00
Russian Mission	83-16	\$141,324.00	\$0.00	\$141,324.00
Takotna	83-17	\$358,650.00	\$0.00	\$358,650.00
Kipnuk	83-18	\$905.00	\$0.00	\$905.00
Aniak	83-19	\$75,614.00	\$0.00	\$75,614.00
Ketchikan	84-20	\$1,000.00	\$0.00	\$1,000.00
Cordova	84-21	\$125,777.00	\$0.00	\$125,777.00
Chefornak	84-22	\$32,193.00	\$0.00	\$32,193.00
Unalakleet	84-23	\$726,865.00	\$0.00	\$726,865.00
Mountain Village	84-24	\$986,427.00	\$0.00	\$986,427.00
Elim	84-25	\$384,588.00	\$0.00	\$384,588.00
Kotzebue	84-26	\$673,101.00	\$0.00	\$673,101.00
Cold Bay	84-27	\$1,345.00	\$0.00	\$1,345.00
Alakanuk	84-28	\$277,544.00	\$0.00	\$277,544.00
Emmonak	84-29	\$22,884.00	\$0.00	\$22,884.00
Cold Bay	85-30	\$740,000.00	\$0.00	\$740,000.00
Russian Mission	85-31	\$89,325.00	\$0.00	\$89,325.00
Southeast Alaska	85-32	\$958,519.00	\$0.00	\$958,519.00
Haines	85-33	\$1,581,506.00	\$0.00	\$1,581,506.00
Savoonga	85-34	\$255,954.00	\$0.00	\$255,954.00
Gambell	85-35	\$33,673.00	\$0.00	\$33,673.00
Buckland	85-36	\$83,585.00	\$0.00	\$83,585.00
Kobuk	85-37	\$17,979.00	\$0.00	\$17,979.00
Anvik	85-38	\$17,878.00	\$0.00	\$17,878.00
Emmonak	85-39	\$72,832.00	\$0.00	\$72,832.00
Pilot Station	85-40	\$34,736.00	\$0.00	\$34,736.00
Upper Kuskokwim River	85-41	\$56,826.00	\$0.00	\$56,826.00
Pitka's Point	86-42	\$12,740.00	\$0.00	\$12,740.00
Bethel	86-43	\$475,507.00	\$0.00	\$475,507.00
Gambell	86-44	\$201,693.00	\$0.00	\$201,693.00
Cordova	86-45	\$16,462.00	\$0.00	\$16,462.00
Manakotak	86-46	\$69,449.00	\$0.00	\$69,449.00
Thorne Bay	86-47	\$258,512.00	\$0.00	\$258,512.00
Mellakalla	86-48	\$90,547.00	\$0.00	\$90,547.00

Submitted  
Department  
Military and  
Veteran's Aff  
Distributed  
by Senator  
Torgerson

Disaster Cost Index

DISASTER	DSTR #	TOTAL	FED REVENUE	GENERAL FUNDS
Unalaska	86-49	\$181,937.00	\$0.00	\$181,937.00
Thorne Bay (Bridge)	86-52	\$11,778.00	\$0.00	\$11,778.00
Venetie	86-51	\$54,615.00	\$0.00	\$54,615.00
Pelican	86-52	\$18,024.00	\$0.00	\$18,024.00
Crown Point	86-53	\$712,097.00	\$0.00	\$712,097.00
Napakiaik	86-54	\$15,000.00	\$0.00	\$15,000.00
Chukchi Sea Storm	87-55	\$3,791,026.00	\$2,252,618.00	\$1,538,408.00
Southcentral AK Flood	87-56	\$8,642,440.00	\$5,375,542.00	\$3,266,898.00
Aniak (Sewer)	87-57	\$52,500.00	\$0.00	\$52,500.00
Venetie	87-58	\$86,000.00	\$0.00	\$86,000.00
Kotzebue	87-59	\$1,231,610.00	\$0.00	\$1,231,610.00
Sleetmute/Red Devil	87-60	\$51,602.00	\$0.00	\$51,602.00
Delta Junction	87-61	\$22,257.00	\$0.00	\$22,257.00
Aniak	87-62	\$993,861.00	\$0.00	\$993,861.00
Buckland	87-63	\$203,548.00	\$0.00	\$203,548.00
Richardson Highway	88-64	\$0.00	\$0.00	\$0.00
Wainwright Fire	88-65	\$2,186,931.00	\$0.00	\$2,186,931.00
Angoon	88-66	\$29,514.00	\$0.00	\$29,514.00
Togiak	88-67	\$35,000.00	\$0.00	\$35,000.00
Klehini River Bridge	88-68	\$92,482.00	\$0.00	\$92,482.00
Barrow School Fire	88-69	\$2,410,159.00	\$1,396,822.00	\$1,013,337.00
Haines Flooding	88-70	\$78,590.00	\$0.00	\$78,590.00
Beaver	88-71	\$22,990.00	\$0.00	\$22,990.00
Chetumuk	88-72	\$272,735.00	\$0.00	\$272,735.00
Chenera Bay	88-73	\$36,423.00	\$0.00	\$36,423.00
Pitka's Point	88-74	\$97,761.00	\$0.00	\$97,761.00
Nondalton	88-75	\$776,897.00	\$0.00	\$776,897.00
Crooked Creek	88-76	\$133,230.00	\$0.00	\$133,230.00
Napakiaik/Napaskiak	88-77	\$125,292.00	\$0.00	\$125,292.00
Katag	89-78	\$28,883.00	\$0.00	\$28,883.00
Eagle	89-79	\$8,242.00	\$0.00	\$8,242.00
Shishmaref	89-80	\$318,072.00	\$0.00	\$318,072.00
Klawock	89-81	\$48,157.00	\$0.00	\$48,157.00
Yukon Flats	89-82	\$84,757.00	\$0.00	\$84,757.00
Omega Block(Cold Wthr)	89-83	\$1,319,656.00	\$881,288.00	\$438,368.00
Northwest Arctic Borough	89-84	\$4,974,908.00	\$3,672,967.00	\$1,301,941.00
St. George	89-85	\$229,853.00	\$170,598.00	\$59,255.00
Sand Point	89-86	\$23,062.00	\$16,174.00	\$6,888.00
Ahkiok	89-87	\$45,937.00	\$31,931.00	\$14,006.00
North Slope Borough	89-88	\$113,364.00	\$0.00	\$113,364.00
Valdez Oil Spill	89-89	\$361,679.00	\$0.00	\$361,679.00
Galena	89-90	\$175,124.00	\$129,265.00	\$45,859.00
Glennallen	89-91	\$15,000.00	\$0.00	\$15,000.00
Circle	89-92	\$196,657.00	\$0.00	\$196,657.00
Ft. Yukon	89-93	\$194,812.00	\$0.00	\$194,812.00
89 Spring Floods	89-94	\$4,739,881.00	\$3,232,831.00	\$1,507,050.00
Klawock	90-95	\$9,927.00	\$0.00	\$9,927.00
Fairbanks North Star Boro	90-96	\$65,640.00	\$0.00	\$65,640.00
Mat-Su Borough	90-97	\$358,772.00	\$0.00	\$358,772.00

Disaster Cost Index

DISASTER	DSTR #	TOTAL	FED REVENUE	GENERAL FUNDS
Whittier	90-98	\$634,103.00	\$0.00	\$634,103.00
Municipality of Anchorage	90-99*	\$2,269,000.00	\$0.00	\$2,269,000.00
Seward/Kenai Peninsula	90-100	\$529,552.00	\$0.00	\$529,552.00
Richardson Highway	90-101	\$0.00	\$0.00	\$0.00
Search and Rescue	90-102	\$100,000.00	\$0.00	\$100,000.00
Mt. Redoubt	90-103	\$269,886.00	\$0.00	\$269,886.00
KPB Mt. Redoubt	90-104	\$149,403.00	\$0.00	\$149,403.00
Tatitlek	90-105	\$92,242.00	\$0.00	\$92,242.00
Broadcasting	90-106	\$130,000.00	\$0.00	\$130,000.00
Kongiganak	90-107	\$20,000.00	\$0.00	\$20,000.00
Moose	90-108	\$196,522.00	\$0.00	\$196,522.00
Manakotak	90-109	\$15,000.00	\$0.00	\$15,000.00
Stebbins	90-110	\$1,000,000.00	\$0.00	\$1,000,000.00
Hazard Mt. 89 Spring Flood	90-111	\$619,828.00	\$328,472.00	\$291,356.00
Snow and Ice Removal	90-112	\$2,000,000.00	\$0.00	\$2,000,000.00
McGrath	90-113	\$39,409.00	\$0.00	\$39,409.00
Kobuk	90-114	\$6,153.00	\$0.00	\$6,153.00
Fire Suppresion	90-115	\$1,000,000.00	\$0.00	\$1,000,000.00
Teklanika Fire	90-116	\$1,000,000.00	\$0.00	\$1,000,000.00
Bethel	90-117	\$600,176.00	\$0.00	\$600,176.00
Statewide Fires	91-118	\$1,995,914.00	\$1,021,500.00	\$974,414.00
Hazard Mitigation C.W.	91-119	\$556,754.00	\$264,985.00	\$291,769.00
Lower Kuskokwim	91-120	\$835,297.00	\$0.00	\$835,297.00
otzebue	91-121*	\$463,500.00	\$0.00	\$463,500.00
Nome	91-122	\$105,000.00	\$0.00	\$105,000.00
Teller	91-123	\$173,723.00	\$0.00	\$173,723.00
Lowell Creek Tunnell	91-124	\$369,786.00	\$0.00	\$369,786.00
Diomede	91-125	\$622,594.00	\$0.00	\$622,594.00
Eagle	91-126	\$33,174.00	\$0.00	\$33,174.00
Togiak	91-127	\$51,384.00	\$0.00	\$51,384.00
Larsen Bay	91-128	\$20,000.00	\$0.00	\$20,000.00
Karluk	91-129	\$22,000.00	\$0.00	\$22,000.00
Marshall	91-130	\$15,741.00	\$0.00	\$15,741.00
Angoon	91-131	\$91,468.00	\$0.00	\$91,468.00
Fairbanks North Star Boro	91-132	\$1,664,378.00	\$663,286.00	\$1,001,092.00
Aniak	91-133	\$550,089.00	\$230,666.00	\$319,423.00
McGrath	91-134	\$608,391.00	\$298,071.00	\$310,320.00
Red Devil	91-135	\$239,953.00	\$130,379.00	\$109,574.00
Anvik	91-136	\$181,700.00	\$41,971.00	\$139,729.00
Grayling	91-137	\$78,630.00	\$3,569.00	\$75,061.00
Emmonak	91-138	\$398,246.00	\$191,544.00	\$206,702.00
Holy Cross	91-139	\$20,265.00	\$0.00	\$20,265.00
Alakanuk	91-140	\$210,506.00	\$55,034.00	\$155,472.00
Shageluk	91-141	\$57,867.00	\$9,321.00	\$48,546.00
Galena	92-142	\$67,061.00	\$0.00	\$67,061.00
DNR Fire Suppression	92-143	\$0.00	\$0.00	\$0.00
Mat-Su Borough	92-144	\$515,900.00	\$0.00	\$515,900.00
Whitestone	92-145	\$168,700.00	\$0.00	\$168,700.00
Little Diomede	92-146	\$67,684.00	\$0.00	\$67,684.00

Disaster Cost Index

DISASTER	DSTR #	TOTAL	FED REVENUE	GENERAL FUNDS
Aniak Loan	92-147	\$5,082.00	\$0.00	\$5,082.00
Diomedea Fire	92-148	\$974,172.00	\$0.00	\$974,172.00
New Koliganek	92-149	\$67,526.00	\$0.00	\$67,526.00
Kodiak	92-150	\$1,564,957.00	\$0.00	\$1,564,957.00
Earthquake Mitigation	92-151	\$225,748.00	\$0.00	\$225,748.00
Seward Sewage	92-152	\$754,541.00	\$0.00	\$754,541.00
Eagle Village Flood	92-153*	\$205,000.00	\$0.00	\$205,000.00
Eagle City Flood	92-154	\$61,147.00	\$0.00	\$61,147.00
Galena Ice Jam Flood	92-155	\$442,615.00	\$0.00	\$442,615.00
Flood Response	92-156	\$22,059.00	\$0.00	\$22,059.00
Yukon River Flood	92-157	\$1,167,796.22	\$0.00	\$1,167,796.22
Fire Disaster	93-152	\$0.00	\$0.00	\$0.00
Norton Sound Herring Fish	93-159	\$0.00	\$0.00	\$0.00
Haines Highway Disaster	93-160	\$0.00	\$0.00	\$0.00
Mt. Spurr	93-161	\$287,846.00	\$0.00	\$287,846.00
Nome	93-162	\$0.00	\$0.00	\$0.00
Kuskokwim Chum	94-163	\$0.00	\$0.00	\$0.00
Tenakee Springs Fire	94-164*	\$200,000.00	\$0.00	\$200,000.00
Department of Natural Res	94-165	\$1,000,000.00	\$0.00	\$1,000,000.00
Shaker IV	94-166	\$357,778.00	\$0.00	\$357,778.00
Prince of Wales Island	94-167	\$0.00	\$0.00	\$0.00
Fort Yukon Haz Mit	94-168	\$356,765.00	\$166,000.00	\$190,765.00
McGrath Road Disaster	94-169	\$170,999.00	\$0.00	\$170,999.00
Galena Flood	94-170*	\$663,500.00	\$0.00	\$663,500.00
Cummins Road	95-171	\$38,810.00		\$38,810.00
Mal-Su Borough Loan	95-172	\$500,000.00		\$500,000.00
1994 Falls Floods PA	95-173	\$60,713,870.00	\$52,558,473.00	\$8,155,397.00
1994 Koyukuk Flood Haz Mit	95-173	\$11,402,495.00	\$8,551,871.00	\$2,850,624.00
1994 Koyukuk Flood TH	95-173	\$335,616.00	\$335,616.00	\$0.00
Mellakalla	95-174	\$31,863.00		\$31,863.00
Skagway	95-175	\$112,786.00		\$112,786.00
Yukon-Delta Kuskokwim	95-176*	\$228,050.00		\$228,050.00
Aniak	95-177*	\$406,000.00		\$406,000.00
Bethel	95-178	\$128,861.00		\$128,861.00
Statewide Fire	95-179	\$0.00		\$0.00
1995 Southcentral Flood	96-180*	\$13,054,800.00	\$9,900,000.00	\$3,154,800.00
Miller's Reach Fire	96-181*	\$15,868,000.00	\$12,000,000.00	\$3,868,000.00
96 Southeast Storm	96-182*	\$630,000.00		\$630,000.00
Tanana/Copper River Flood	97-185*	\$944,614.00		\$944,614.00
Bristol Bay Fish 1997	98-184*	\$515,000.00	\$375,000.00	\$140,000.00
Shishmaref 1997	98-186*	\$1,403,500.00	\$800,000.00	\$603,500.00
DNR Fire Suppression	98-187*	\$0.00		\$0.00
Endicott Mtn Flooding	98-188*	\$826,000.00		\$826,000.00
WAFD	98-189*	\$26,100,000.00	\$18,000,000.00	\$8,100,000.00
98 Southeastern Storm	98-190*	\$2,535,500.00	\$1,108,100.00	\$1,427,400.00
* - Indicates disasters that are open and total spent equals total authorized				
<b>TOTALS</b>		<b>\$215,847,167.22</b>	<b>\$124,193,894.00</b>	<b>\$91,653,273.22</b>

## State Emergency Response Commission

### Resolution

At the April 14, 1999 meeting of the State Emergency Response Commission, Senate Bill 101 was a topic of discussion. After much discussion amongst the SERC Commission Members and the representatives of the Local Emergency Planning Committees, the following resolution was unanimously passed:

Whereas, the State of Alaska, State Emergency Response Commission is tasked with the responsibility to provide guidance for planning and preparedness for all hazards which might endanger the people, property or environment in the State of Alaska.

Whereas, by unanimous consent of the SERC Members and from representatives of the Local Emergency Planning Committees throughout the State, the State Emergency Response Commission expresses their opposition to Bill 101 regarding "An Act relating to disasters and to the disaster relief fund."

Whereas, the State Emergency Response Commission, requested that the Co-Chair, Department of Military and Veterans Affairs Commissioner Phillip Oates, provide to the Legislature a statement of concern regarding Senate Bill 101 regarding "An Act relating to disasters and to the disaster relief fund."

Signed:



Phillip E. Oates  
Co-Chair SERC  
Commissioner, DMVA

Alaska State Legislature  
House Finance Committee

REPRESENTATIVE  
MARK HANLEY

Co-Chair  
(907) 465-4838  
Fax (907) 465-2418

INTERIM ADDRESS  
716 W. 4th Ave., Suite 300  
Anchorage, Alaska 99501-2133  
(907) 258-8182  
Fax (907) 258-8168



State Capitol, Juneau, Alaska 99801-1182

REPRESENTATIVE  
GENE THERIAULT

Co-Chair  
(907) 465-4797  
Fax (907) 465-3884

INTERIM ADDRESS  
119 N. Cushman, Suite 101  
Fairbanks, Alaska 99701  
(907) 488-0857  
Fax (907) 488-4271

MEMORANDUM

DATE: November 24, 1998

TO: Senator Randy Phillips, Chairman  
Legislative Budget and Audit Committee

FROM: Representative Gene Therriault, Co-Chair *MSB*  
House Finance Committee *for*

SUBJECT: Western Alaska Fisheries Disaster - Information Request

At the last L.B.&A. Committee meeting, agency officials provided the Committee with a briefing on the Western Alaska Fisheries Disaster. While this update was useful, I respectfully ask that you consider having OMB provide more detailed information to the Committee at the next meeting.

Specifically, I would like to see a summary which shows for each program contained in this relief effort:

- the anticipated funding amounts, by source (fed or state).
- the anticipated amount of state match required, if any.
- all expenditures and obligations to-date.
- the total expenditures projected.
- an estimated time frame for completion.
- a brief description of the purpose, eligibility requirements, and targeted beneficiaries.
- how effectiveness will be measured upon completion.

Thank you for consideration of my request.