

AK LEGISLATURE FINANCE COMMITTEES FILES 2007-2008 3385

**SB**

**242**

**SFIN**

**FILE**

*Adopted  
2/4/08*

RECEIVED  
JAN 29 2008

25-LS1352A.1  
Bullock  
1/29/08

AMENDMENT 1

OFFERED IN THE SENATE  
TO: SB 242

BY SENATOR STEDMAN

- 1 Page 1, line 7:
- 2 Delete "(k) AND (l)"
- 3 Insert "(j) AND (k)"
- 4
- 5 Page 4, line 13:
- 6 Delete "AS 43.55.165(k) AND (l)"
- 7 Insert "AS 43.55.165(j) AND (k)"
- 8
- 9 Page 4, line 23:
- 10 Delete "AS 43.55.165(k) and (l)"
- 11 Insert "AS 43.55.165(j) and (k)"

# FISCAL NOTE

STATE OF ALASKA  
2008 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: SB 242  
( ) Publish Date: \_\_\_\_\_

Identifier (file name): SB242-DNR-O&G-01-24-08 Dept. Affected: Natural Resources  
Title Oil & Gas Production Tax Dates RDU Resource Development  
Component Oil and Gas Development  
Sponsor Senate Resources  
Requester Senate Finance Component Number 439

**Expenditures/Revenues** (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>								
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>0.0</b>

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

<b>CHANGE IN REVENUES ( )</b>								
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**FUND SOURCE** (Thousands of Dollars)

	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
<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>	<b>0.0</b>

Estimate of any current year (FY2008) cost: \_\_\_\_\_

**POSITIONS**

	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Full-time							
Part-time							
Temporary							

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

SB 242 changes the retroactive date for a recently adopted increase in the production tax rate from July 1, 2007 to December 20, 2007. This bill also allows a taxpayer to avoid interest and penalties due to late payments by making any additional taxes due based on the disallowance of certain deductions (the disallowance of most unscheduled maintenance, of costs incurred due to violation of law) to be paid by April 2008.

SB 242's change in the retroactive date would not have an impact on going forward investment decisions of the taxpayer since past production tax liability is a sunk cost. (Continued on next page)

Prepared by: Kevin Banks, Acting Director  
Division Oil and Gas  
Approved by: Tom Irwin, Commissioner  
Natural Resources

Phone 269-8800  
Date/Time January 24, 2008  
Date January 24, 2008

FISCAL NOTE

STATE OF ALASKA  
2008 LEGISLATIVE SESSION

BILL NO. SB 242

ANALYSIS CONTINUATION

SB 242 also repeals the recently adopted provisions that sets a standard deduction for deductible operating costs for 2007, 2008, and 2009 at the Prudhoe Bay and Kuparuk River Units based on inflation adjusted operating costs incurred in each unit in 2006. Currently, a producer cannot deduct from taxable income potential additional operating costs for a new project within the Kuparuk River or Prudhoe Bay Unit.

# FISCAL NOTE

STATE OF ALASKA  
2008 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: SB 242  
( ) Publish Date: \_\_\_\_\_

Identifier (file name): SB242-DOR-TAX-1-24-08 Dept. Affected: Revenue 04  
Title: Oil and Gas Production Tax Dates RDU: Taxation and Treasury  
Component: Taxation and Treasury  
Sponsor: Senate Resources  
Requester: Senate Finance Component Number: 2476

## Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>								
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>0.0</b>

<b>CAPITAL EXPENDITURES</b>								
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<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								
Constitutionally Dedicated Fund								
<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>	<b>0.0</b>

Estimate of any current year (FY2008) cost: 800,000.0

### POSITIONS

Full-time								
Part-time								
Temporary								

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

This measure proposes to change the effective date of a major portion of the oil and gas production tax passed by the legislature as HB 2001 on November 16, 2007, from July 1, 2007 to December 20, 2007. The measure also proposes to repeal AS 43.55.165(k) and (l) of the production tax law, commonly known as the "standard deduction" for leases or properties that qualify under that provision. The standard deduction provision applies only to properties in the Prudhoe Bay Unit and in the Kuparuk Unit, and was scheduled to sunset on December 31, 2009.

The primary revenue impact under this proposal would be that attributable to the change in effective dates. Based upon most recent information of oil price and production levels, we estimate that the effective date change would reduce forecasted revenues for FY 2008 by approximately \$800 million.

Prepared by: Jonathan Iversen, Director, and Cherie Nienhuis, Potlouloum Economist  
Division: Tax Division  
Approved by: Jerry Burnett  
Department of Revenue

Phone: 269-1033  
Date/Time: 1/24/08 3:00 PM  
Date: 1/24/2008

FISCAL NOTE

STATE OF ALASKA  
2008 LEGISLATIVE SESSION

BILL NO. SB 242

ANALYSIS CONTINUATION

The change in revenues due to the repeal of the standard deduction provision is much less quantifiable. The Department of Revenue has not yet implemented regulations to require and obtain forward-looking expenditure information from the companies operating under oil and gas leases in the state. Therefore, little is known about future spending plans in the two units that qualify under the standard deduction provision. Additionally, we anticipate that tax provisions that target specific entities and types of costs such as the standard deduction, could likely impact taxpayer investment decisions.

Further, the standard deduction is based on operating expenditures made in 2006 as a starting point for future deductions. This presents difficulties in estimating future deductions because 2006 expenditures have not yet been audited and may contain expenditures for items that are no longer deductible under the new tax legislation.

Prior to the passage of the new production tax, our forecast for operating expenditures for Prudhoe Bay and Kuparuk units through 2009 was not significantly different from the amounts calculated for the standard deduction. Therefore, we do not anticipate much impact on revenues from the proposed removal of the standard deduction provision.

# 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

RECEIVED

2/1/08

JAN 25 2008

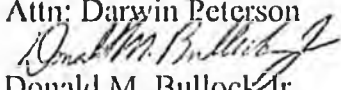
State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

January 25, 2008

**SUBJECT:** Sectional summary for SB 242 (Work Order No. 25-LS1352A)

**TO:** Senator Bert Stedman  
Co-Chair of the Senate Finance Committee  
Attn: Darwin Peterson

**FROM:**   
Donald M. Bullock Jr.  
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Deletes a reference to AS 43.55.165(k) and (l); AS 43.55.165(k) and (l) are repealed in sec. 5 of the bill.

Section 2. Changes the date for identifying the provisions of AS 43.55.011 - 43.55.180 that were in effect for the purpose of ascertaining the amounts received after December 31, 2007 that exceed the amounts that would have been received under prior law.

Section 3. Amends the transition provision relating to the payment of taxes and filing of statements that were due for the period after March 31, 2006 and before December 20, 2007.

Section 4. Amends the transition provision relating to the retroactivity of regulations to allow the regulations to apply retroactively to December 20, 2007 rather than July 1, 2007.

Section 5. Repeals AS 43.55.165(k) and (l). Those subsections related to a limitation on the amount of lease expenditures that may be taken as a deduction when computing the production tax value of oil and gas.

Section 6. Repeals secs. 1(c), 74(c), and 74(d), ch. 1, SSSLA 2007 because certain changes in that Act are no longer retroactive to July 1, 2007. Section 1(c) related to the

appropriation of money received after June 30, 2007 and before January 1, 2008 because of the increased tax revenue expected under ch. 1, SSSLA 2007. Section 74(c) addressed the retroactive application of AS 43.55.165(k) and (l), subsections that would be repealed in sec. 5 of this bill. Section 74(d) made secs. 15 - 28, 32 - 35, 53 - 61, 63, 65, and 66 of ch. 1, SSSLA 2007 retroactive to July 1, 2007, except as provided in sec. 74(b) of that Act.

Section 7. Makes secs. 15 - 28, 32 - 35, 53 - 61, 63, 65, and 66 of ch. 1, SSSLA 2007, applicable to oil and gas produced after December 19, 2007.

Section 8. Provides for the treatment and application of any overpayment of tax that may have occurred because of the retroactive application of certain provisions in ch. 1, SSSLA 2007.

Section 9. Makes sections 1 - 7 of the bill retroactive to December 20, 2007.

Section 10. Provides for an immediate effective date.

DMB:med  
08-049.med

2/1/08

# SB 242

Presentation to Alaska State  
Legislature,  
Senate Finance Committee  
Dan E. Dickinson, CPA, CMA  
Feb 1, 2008

# SB 242 – Two Production Tax Changes

- (1) Change effective date for a number of terms from July to December of 2003
- (2) Use actual opex costs instead of 3% of 2006 actuals for 2007, 2008, 2009.

# SB 242 - Change Effective Date

SCS CHSB 2001(Fin) am S passed in November, with major revenue sections retroactive to July 1, 2007.

This bill would move the effective date to December 20, 2007 – prospective as of the date of the special session legislation.

- Regulations will have to provide for combining two regimes into a single year;
  - Would be 11 days/353 days instead of six months/6 months

# SB 242 - Change Effective Date

- Fiscal Note: Incremental effect of SCS CSHB 2001 (Fin) am S for FY 2008
  - \$1,609 million
  - so one half would be \$805 million
- Rough estimate of major sources
  - Change from 22.5% to 25% = \$160 million
  - Change in progressivity = \$400 million
  - Change in credits\* = \$110 million

# SB 242 - Change Effective Date

From DOR Nov 15, 2007 Fiscal Note  
For SCS CSHB 2001 (Fin):

Fiscal Year	ANS WC \$	Status Quo PPT	ACES	SCS CSHB 2001(FIN)	Increase or (Decrease) from PPT	Increase or (Decrease) from ACES
2008	71.65	1,947	2,368	3,556	1,609	1,188
2009	64.55	1,430	1,985	2,372	942	387



# SB 242 – Kuparuk & Prudhoe Units Opex

- For CY 2007, 2008, 2009, opex allowance grows by 3% annually from CY 2006 base.
- Mechanics – Net tax began April 1, 2006 so base is 9 months of costs in CY 2006
  - 2007 allowance is 137% ( $4/3 * 103\% = 137\%$ )
  - 2008, 2009, 103% of prior year

# Opex fixed or variable cost?

	<u>If opex costs are fixed</u>	<u>If opex costs are variable</u>
Decreasing Volumes	<del>103% increase</del> (no volume effect)	<del>110% increase</del> (assumed 6% decline)
Increasing Volumes (from facility sharing)		

# Opex variable cost with declining volumes


	3% Increase in cost allowance	6% Decline in volumes	Unit Cost	Change in Unit Cost
2006	2,000.0	200.0	10.00	
2007	2,060.0	188.0	10.96	110%
2008	2,121.8	176.7	12.01	110%
2009	2,185.5	166.1	13.16	110%

# Opex variable cost with declining volumes

	3% Increase in cost allowance	RSB Decline in volumes	Unit Cost	Change in Unit Cost
2006	1,285.2	205.5	6.25	
2007	1,323.8	191.7	6.91	110%
2008	1,363.5	190.8	7.15	103%
2009	1,404.4	187.8	7.48	105%

Volumes converted from DOR RSB FY volumes, costs 70% of NS dollars

# Opex fixed or variable cost?

	<u>If opex costs are fixed</u>	<u>If opex costs are variable</u>
Decreasing Volumes	103% increase (no volume effect)	110% increase (assumed 6% decline)
Increasing Volumes (from facility sharing)		

# Variable costs without cap

- Facility Owner has spare capacity, and therefore agrees to process an additional 1,000 bbls at a charge of \$10 a barrel or \$10,000 dollars.
- Facility Owner incurs costs of \$10,000, receives reimbursement of \$10,000 – no net production tax effect.
- New Producer receives deduction for \$10,000 – at 40% tax rate 6,000 out of pocket

# Fixed costs without cap

- Facility Owner has spare capacity, and therefore agrees to process an additional 1,000 bbls charging \$10,000 dollars.
- Facility Owner receives reimbursement of \$10,000 – which increases net and progressivity (at %40 tax rate (25%+ 16% progressivity) pays \$4,000 in taxes)
- To receive \$10,000, facility owner has to charge \$17,000
- New Producer receives deduction for \$17,000 – at 40% tax rate \$10,000 out of pocket

# Opex fixed or variable cost?

	<u>If opex costs are fixed</u>	<u>If opex costs are variable</u>
Decreasing Volumes	103% increase (no volume effect)	110% increase (assumed 6% decline)
Increasing Volumes (from facility sharing)		<del>Works like fixed cost without cap</del>

# Opex fixed or variable cost?

	<u>If opex costs are fixed</u>	<u>If opex costs are variable</u>
Decreasing Volumes	103% increase (no volume effect)	110% increase (assumed 6% decline)
Increasing Volumes (from facility sharing)	Works like fixed costs without cap – higher cost for new producer	

# SB 242 – Kuparuk & Prudhoe Units Opex

- Two approaches
  - One third done – can compare actual 2007 costs with derived 2007 allowance
  - Projected effect at end of cap – can compare 2009 with 2010

# SB 242 – Kuparuk & Prudhoe Units Opex

- Figures I am about to present are averages and aggregates
- Production incented individual project by individual project
- Point of net tax is lower tax on more expensive projects, higher tax on easier production.

# SB 242 – Kuparuk & Prudhoe Units Opex - “One third done”

- Ideally, as of yesterday, could compare 137% of CY 2006 opex with as filed CY 2007 opex. Too high? Too low?
- However –
  - Monthly filings by taxpayers not consistent as to how much or what information reported, so total opex will actually be filed on March 31, 2007.

# SB 242 – Kuparuk & Prudhoe Units Opex - “One third done”

- If just one company in each of the units filed clear costs, and we assume that only unit costs are listed, then data could be derived
- However, DOR believes this data remains confidential – would need to go into executive session

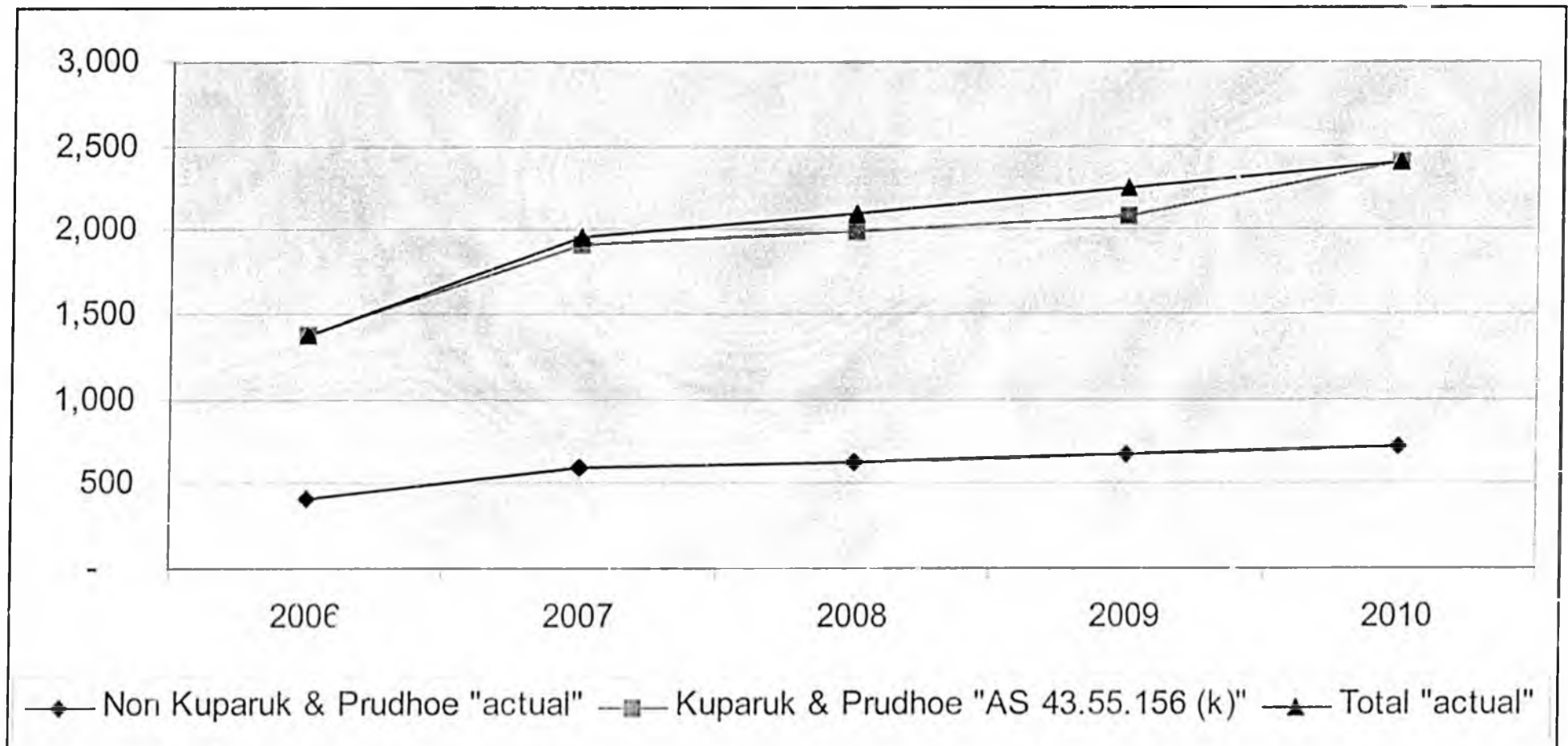
# SB 242 – Kuparuk & Prudhoe Units Opex - “One third done”

- DOR did report that for the first half of the year –
  - the “as filed actuals” and
  - the “ AS 43.55.165 (k) figures”

Were within 3% of each other.

- (3% of \$2 billion annually = \$60 million)
- (\$60 million \* 25% = 15 million direct taxes)
- (smaller increment for progressivity)

# What would we expect between 2009 and 2010 for allowable opex?



# What would we expect between 2009 and 2010 for allowable opex?

## Step One

Annual Opex estimated by DOR by Fiscal Year

Source	FY	NS opex in millions of dollars		
Fall 97 RSB	FY 2007	2,081	*/13*12	1,921
Fall 97 RSB	FY 2008	2,149		2,149
Fall 97 RSB	FY 2009	2,354		2,354
From DOR	FY 2010	2,334		2,334
From DOR	FY 2011	2,407		2,407

\*Note FY 2007 included some FY 06 costs as the PPT true-up payment for April-June 2006 wasn't make until FY 2007

# What would we expect between 2009 and 2010 for allowable opex?

## Step Two

Build up of opex from CY 2007  
AS 43.55.165 (k) standards  
*applied to entire NS*

Cal 2006*		1,377.0
Cal 2007	137%	1,886.5
Cal 2008	103%	1,943.1
Cal 2009	103%	2,001.4
<b>Cal 2010</b>	<b>103%</b>	<b>2,061.4</b>
<b>Cal 2011</b>	<b>103%</b>	<b>2,123.3</b>

\*\*Note: DOR supplied figure

Cal 2010 - 2011 are for  
comparison only,

AS 43.55.165 (k) does not apply

2/1/2008

Dan E Dickinson, CPA, CMA  
Presentation to Senate Finance

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# What would we expect between 2009 and 2010 for allowable opex?

## Step Three

Translation into Fiscal Years
-------------------------------

Build up of opex from CY 2007 AS 43.55.165 (k) standards <i>applied to entire NS</i>			(5 mos) Jan thru May where CY=FY	(7 mos) June thru Dec where CY=FY-1		AS 43.55.165 (k) build up <i>applied to entire NS</i> , stated in Fiscal Years
Cal 2006*		1,377.0		1,071.0		
Cal 2007	137%	1,886.5	786.0	1,100.5	FY 07	1,857.0
Cal 2008	103%	1,943.1	809.6	1,133.5	FY 08	1,910.1
Cal 2009	103%	2,001.4	833.9	1,167.5	FY 09	1,967.4
<b>Cal 2010</b>	<b>103%</b>	<b>2,061.4</b>	<b>858.9</b>	1,202.5	FY 10	2,026.4
<b>Cal 2011</b>	<b>103%</b>	<b>2,123.3</b>	<b>884.7</b>		FY 11	2,087.2

\*\*Note: DOR supplied figure  
Cal 2010 - 2011 are for comparison only,  
AS 43.55.165 (k) does not apply

\*\*\*Note:  
 $1,377/9*7=$   
1,071

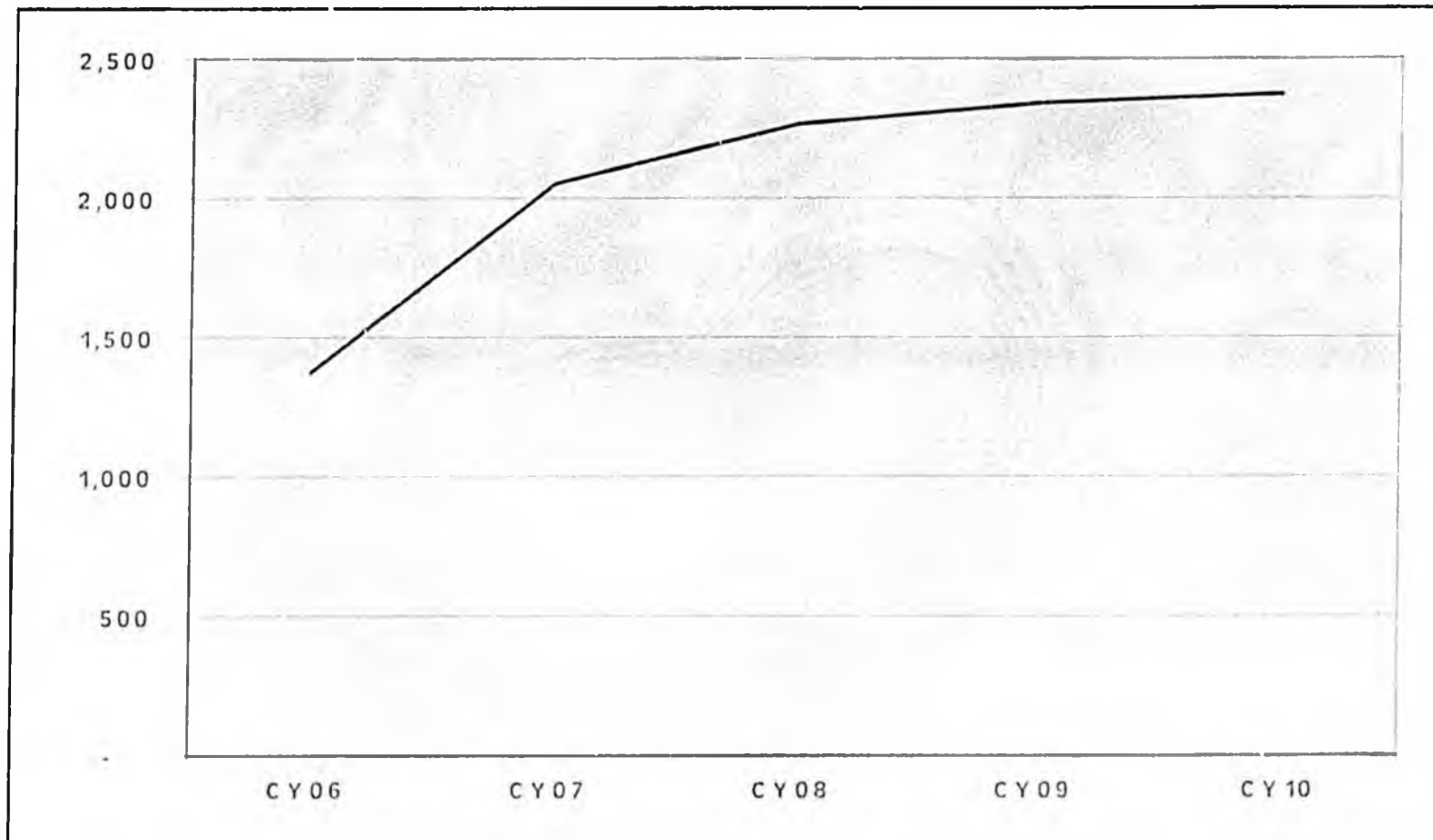
# What would we expect between 2009 and 2010 for allowable opex?

## Step Four

	NS Opex estimated by DOR	AS 43.55.165 (k) build up <i>applied to</i> <i>entire NS,</i> stated in Fiscal Years	Implied Increase opex in areas outside of Kuparuk and Prudhoe	New volumes per RSB
FY 2007	1,921	1,857	63.9	Fjord & Nanuk (2% of volume)
FY 2008	2,149	1,910	238.9	162% increase in other costs
FY 2009	2,354	1,967	386.6	Add Nikaitchuq & Oooguruk Costs
FY 2010	2,334	2,026	307.6	Decrease???
FY 2011	2,407	2,087	319.8	

# What would we expect between 2009 and 2010 for allowable opex?

## DOR Projections per Calendar Year





Official Business

# Alaska State Senate

## Senate Finance Committee

Mail Stop 3100  
State Capitol  
Juneau, Alaska 99801-1182

### AGENDA

Monday, February 4, 2008

9:00 AM

SJR 14-BUDGET RESERVE FUND VOTE REQUIREMENT

SB 242-OIL & GAS PRODUCTION TAX DATES

Public Testimony

Mon., Feb 4

25-LS1350\A  
SJR 14-CBR Fund Vote Requirement

Amend. 1 - adopted 1/30 (Stelman)

# 7 N 006 RO

Opex fixed cost vs variable cost  
SB 242 - low expenditures / retroactive date  
25-LS1250\A. (Sen. Resources)  
Huggins

Ø 1 N DMT H 4 H  
Ø 1 N DCR

Amend 1 - Stelmans adopted 2/4

**COMMITTEE ACTION ON LEGISLATION  
SENATE FINANCE**

**Fax Senate Secretary 2832**

SENATE FINANCE SECRETARY: *N. Thomas*

PAGE 1 OF 1  
DATE: 2/4/08

<p>SHORT TITLE</p> <p align="center"><i>SJR 14</i></p>	<p>ACTION TAKEN ON LEGISLATION</p> <p><input checked="" type="checkbox"/> Moved <u>CS SJR 14 (FIN)</u> Out of Committee</p> <p><input type="checkbox"/> Heard and Held</p> <p><input type="checkbox"/> Bill Postponed to _____</p> <p><input type="checkbox"/> Scheduled but not Heard</p> <p><input type="checkbox"/> Failed to Move Out of Committee</p>
<p>SHORT TITLE</p> <p align="center"><i>SB 242</i></p>	<p>ACTION TAKEN ON LEGISLATION</p> <p><input type="checkbox"/> Moved _____ ( _____ ) Out of Committee</p> <p><input checked="" type="checkbox"/> Heard and Held</p> <p><input type="checkbox"/> Bill Postponed to _____</p> <p><input type="checkbox"/> Scheduled but not Heard</p> <p><input type="checkbox"/> Failed to Move Out of Committee</p>
<p>SHORT TITLE</p>	<p>ACTION TAKEN ON LEGISLATION</p> <p><input type="checkbox"/> Moved _____ ( _____ ) Out of Committee</p> <p><input type="checkbox"/> Heard and Held</p> <p><input type="checkbox"/> Bill Postponed to _____</p> <p><input type="checkbox"/> Scheduled but not Heard</p> <p><input type="checkbox"/> Failed to Move Out of Committee</p>
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2/4/08

## Opposition to Retroactive Legislation (Including Retroactive Taxes)

Memo in support of SB 242 (to repeal retroactive tax)

Fred W. Triem — Petersburg, Alaska

(1) *Government is not a time machine — it should not turn back the clock or the calendar by engaging in retroactive law making:* Government should not adopt retroactive laws. This is why we fought the Revolutionary War: because the Crown imposed unfair and vexatious taxes on our Colonial Ancestors.

(2) *Retroactive legislation violates a core democratic principle that is an integral part of the tradition of American government:* Violates prohibitions against *ex post facto* laws and violates due process of law. Some states have an explicit prohibition against retroactive legislation in their state constitutions; our state constitution contains the prohibition by implication, even though it does not use the word “retroactive.”

(3) *Retroactive legislation has no limiting principle:* If a government can reach back to assess a tax for six months before its enactment, then why not seven months, ten months, twelve months? One year or two years, or more? “If a little bit is good, then more is better.” The absence of any limiting principle is another reason why retroactive law making is inimical to fair government.

(4) *Retroactive law making is a slippery slope that can lead to bigger mischief:* If our Legislature can impose a retroactive tax on one taxpayer or citizen, then it can do so to any citizen. If it can impose a retroactive tax on oil companies, then it could also tax fishermen, school teachers, government workers, land owners — any group of citi-

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zens, in the same way. Consider the example of a local property tax: Could a local municipal government, a city or a borough, go back and revisit last year's property tax, and increase it to pay for new costs? Could a local government retroactively increase property taxes for last year or the year before in order to raise funds to cover government expenses?

**(5) *Retroactive laws impair economic planning and subvert market forces:***

To operate effectively, a business makes a budget and operates within it. Our business and property owners must have stability in government. They should have a warning when government intends to increase tax burdens, so they can adjust their operations and budgets to accommodate these additional burdens. But a business cannot make these adjustments retrospectively. And neither should government.

**(6) *Retroactive taxes are based on populist economics, a desire to redistribute wealth, not on valid principles:*** The imposition of a tax that reaches backward in time violates a cardinal principle of our political thought, to wit: the prohibition against retroactivity when imposing a duty (e.g., to pay a tax or fine) or imposing liability or punishment. It is simply Un-American.

**(7) *Retroactive laws harm Alaska's reputation:*** We don't want Alaska to be known as a place that pulls dirty tricks on business. We should not want to be known as a place that enacts retroactive laws or imposes retroactive taxes. We Alaskans should be concerned about how the rest of the world views us. In this matter, we may come across as arrogant and greedy. This retroactive tax does not put us in a favorable light.

**(8) *History teaches us the evils of unfair taxation:*** Similar legislative conduct by Great Britain in the period 1725-1775, especially in the realm of taxation, were the root

FRED W. TIEM

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Petersburg, Alaska  
99833-0129

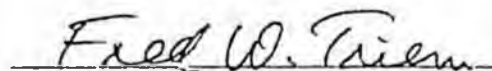
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cause of the American Revolution and inspired the Declaration of Independence. Recall one of the principal complaints in the Declaration: "For imposing taxes on us without our Consent."<sup>1</sup>

(9) **Conclusion:** *The Alaska Legislature should not enact retroactive laws:* If there is a revenue goal to be met, the tax should be purely prospective and the tax rate adjusted to meet the State's financial needs. But don't do this retroactively! That would violate core principles of fair government.

Respectfully submitted this 4th day of February 2008 at Juneau, Alaska.



Fred W. Triem<sup>2</sup>

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<sup>1</sup> **Historical Reasons:** Similar conduct, especially in the area of taxation, is what inspired our colonial ancestors to write the DECLARATION OF INDEPENDENCE and were the root cause of the American Revolution: the Molasses Tax, Sugar Tax, Tea Tax, Stamp Tax, etc. These are the events that inspired not only the DECLARATION OF INDEPENDENCE but also the two (2!) provisions in our CONSTITUTION that prohibit *ex post facto* laws and any act that reaches backward in time and imposes a liability for events that already have happened: U.S. CONSTITUTION, Art. I, §9, ("No Bill of Attainder or ex post facto Law shall be passed"), and Art. I, §10 ("No state shall . . . pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contract") (capitalization as in the original).

<sup>2</sup> **Disclaimer of personal interest in the proposed legislation:** I do not have any financial interest in SB 242 or in any of the companies (tax payers) that are affected by it. I do not have any clients, friends, relatives or family members who have any interest in this matter. My reason for submitting my views is simply and solely a desire to promote fair government and to oppose retroactive law making.

FRED W. TRIEM

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**SB**

**243**

**HFIN**

**FILE**



# FISCAL NOTE

STATE OF ALASKA  
2008 LEGISLATIVE SESSION

Fiscal Note Number: 1  
 Bill Version: CSSB 243(HES)  
 (S) Publish Date: 2/27/08  
 Dept. Affected: Health & Social Services  
 RDU: Senior and Disabilities Svcs  
 Component: Senior/Disabilities Svcs Admin

ID (File name) SB243-DHSS-SDSA-1-24-2008  
 Title COMMISSION ON AGING

Sponsor DAVIS  
 Requester SENATE HES

Component No. 2663

**Expenditures/Revenues** (Thousands of Dollars)

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

	Appropriation		Information				
	Required						
	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>							
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>0.0</b>

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

<b>CHANGE IN REVENUES (0)</b>							
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**FUND SOURCE** (Thousands of Dollars)

	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
1002 Federal Receipts							
1003 GF Match							
1004 GF							
1037 GF/Mental Health							
Other (Specify Type-do not abbreviate)							
Other (Specify Type-do not abbreviate)							
<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>	<b>0.0</b>

Estimate of any current year (FY2008) cost: \_\_\_\_\_

**POSITIONS**

	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Full-time							
Part-time							
Temporary							

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

This bill has zero fiscal impact. It seeks to bring into alignment grant duties and responsibilities that were previously given to DHSS when the Commission on Aging and Division of Senior Services became part of this department. Any fiscal impact from these changes has already been realized and assimilated into the grants process.

Prepared by: Rod Moline, Division Director  
 Division: Senior and Disabilities Services  
 Approved by: Karlson Jackson, Commissioner  
 Agency: Department of Health and Social Services

Phone 465-3819  
 Date/Time 01/23/2008  
 Date 01/24/2008



# Alaska State Legislature

Please enter into the record my testimony to the \_\_\_House Finance Committee on  
\_\_\_\_\_SB231\_\_\_\_\_.

Please accept the following as written testimony.

Dear CO-Chairman Chenault and Committee Members:

In these final hours of session of the 25<sup>th</sup> Legislature, we wish to thank you for your good efforts on behalf of the Kenai Peninsula and the State of Alaska.

We were very heartened to witness the passage of S.B. 231, yesterday, The Housing Trust, 19-0. This measure, now referred to the House Finance Committee, not only reflects collaboration on a state level – the Alaska Mental Health Trust Authority and Alaska Housing Finance Authority but will assist Peninsula agencies' collaboration. Through our two-year hearing process before dozens of local public and private agencies addressing at risk or homeless residents, the answer was unanimous – we are in dire need of low-income housing on the Peninsula. The Alaska Mental Health Authority has been a consistent mentor and provided financial, technical and moral support for Love INC's mission of transitional housing. Your vote for passage will serve those without voices – the 'at risk' poor and the homeless – and give them opportunity to return to productive citizenship starting with a roof over their heads. Thank you.

Love INC of the Kenai Peninsula  
Ingrid Edgerly, Executive Director  
Catherine Y. DeLacoe, Project Mgr  
Dan Van Zee, Project Mgr

CS FOR SENATE BILL NO. 243(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

*Amended*

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 2/27/08

Referred: Finance

Sponsor(s): SENATOR DAVIS

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the duties and powers of the Alaska Commission on Aging and the  
2 Department of Health and Social Services."

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

4 \* Section 1. AS 47.05.010 is amended to read:

5 Sec. 47.05.010. Duties of department. The Department of Health and Social  
6 Services shall

7 (1) administer adult public assistance, the Alaska temporary assistance  
8 program, and all other assistance programs, and receive and spend money made  
9 available to it;

10 (2) adopt regulations necessary for the conduct of its business and for  
11 carrying out federal and state laws granting adult public assistance, temporary cash  
12 assistance, diversion payments, or self-sufficiency services for needy families under  
13 the Alaska temporary assistance program, and other assistance;

14 (3) establish minimum standards for personnel employed by the

1 department and adopt necessary regulations to maintain those standards;

2 (4) require those bonds and undertakings from persons employed by it  
3 that, [WHICH] in its judgment, are necessary, and pay the premiums on them;

4 (5) cooperate with the federal government in matters of mutual  
5 concern pertaining to adult public assistance, the Alaska temporary assistance  
6 program, and other forms of public assistance;

7 (6) make the reports, in the form and containing the information, that  
8 the federal government from time to time requires;

9 (7) cooperate with the federal government, its agencies, or  
10 instrumentalities in establishing, extending, and strengthening services for the  
11 protection and care of homeless, dependent, and neglected children in danger of  
12 becoming delinquent, and receive and expend funds available to the department by the  
13 federal government, the state, or its political subdivisions for that purpose;

14 (8) cooperate with the federal government in adopting state plans to  
15 make the state eligible for federal matching in appropriate categories of assistance, and  
16 in all matters of mutual concern, including adoption of the methods of administration  
17 that are found by the federal government to be necessary for the efficient operation of  
18 welfare programs;

19 (9) adopt regulations, not inconsistent with law, defining need,  
20 prescribing the conditions of eligibility for assistance, and establishing standards for  
21 determining the amount of assistance that an eligible person is entitled to receive; the  
22 amount of the assistance is sufficient when, added to all other income and resources  
23 available to an individual, it provides the individual with a reasonable subsistence  
24 compatible with health and well-being; an individual who meets the requirements for  
25 eligibility for assistance shall be granted the assistance promptly upon application for  
26 it;

27 (10) grant to a person claiming or receiving assistance and who is  
28 aggrieved because of the department's action or failure to act, reasonable notice and an  
29 opportunity for a fair hearing by the department, and the department shall adopt  
30 regulations relative to this;

31 (11) enter into reciprocal agreements with other states relative to

1 public assistance, welfare services, and institutional care that are considered advisable;

2 (12) establish the requirements of residence for public assistance,  
3 welfare services, and institutional care that are considered advisable, subject to the  
4 limitations of other laws of the state, or law or regulation imposed as conditions for  
5 federal financial participation;

6 (13) establish the divisions and local offices that are considered  
7 necessary or expedient to carry out a duty or authority assigned to it and appoint and  
8 employ the assistants and personnel that are necessary to carry on the work of the  
9 divisions and offices, and fix the compensation of the assistants or employees, except  
10 that a person engaged in business as a retail vendor of general merchandise, or a  
11 member of the immediate family of a person who is so engaged, may not serve as an  
12 acting, temporary, or permanent local agent of the department, unless the  
13 commissioner of health and social services certifies in writing to the governor, with  
14 relation to a particular community, that no other qualified person is available in the  
15 community to serve as local welfare agent; for the purposes of this paragraph, a  
16 "member of the immediate family" includes a spouse, child, parent, brother, sister,  
17 parent-in-law, brother-in-law, or sister-in-law;

18 (14) provide education and health-related services and referrals  
19 designed to reduce the number of out-of-wedlock pregnancies and the number of  
20 induced pregnancy terminations in the state;

21 (15) investigate reports of abuse, neglect, or misappropriation of  
22 property by certified nurse aides in facilities licensed by the department under  
23 AS 47.32;

24 (16) establish state policy relating to and administer federal  
25 programs subject to state control as provided under 42 U.S.C. 3001 - 3058ee  
26 (Older Americans Act of 1965), as amended, and related federal regulations;

27 (17) administer the older Alaskans service grants under  
28 AS 47.65.010 - 47.65.050 and the adult day care and family respite care grants  
29 under AS 47.65.100.

30 \* Sec. 2. AS 47.30.036 is amended to read:

31 Sec. 47.30.036. Duties of the board. The board shall

- 1 (1) preserve and protect the trust corpus under AS 37.14.009;
- 2 (2) coordinate with other state agencies involved with programs
- 3 affecting persons in need of mental health services;
- 4 (3) review and consider the recommendations submitted under
- 5 AS 44.29.140(2), AS 47.30.666(6), AS 47.45.240(a)(8) [AS 47.45.240(a)(10)], and
- 6 AS 47.80.090(13);
- 7 (4) adopt bylaws governing its meetings, selection of officers,
- 8 proceedings, and other aspects of board procedure;
- 9 (5) make an annual written report of its activities to the governor and
- 10 the public and notify the legislature that the report is available; and
- 11 (6) fulfill its obligations under AS 47.30.046.

12 \* Sec. 3. AS 47.45.230 is amended to read:

13 **Sec. 47.45.230. Executive director.** The executive director of the commission

14 shall

15 [(1)] formulate and submit to the department a comprehensive

16 statewide plan that identifies the concerns and needs of older Alaskans and present

17 that plan to the commission [;

18 (2) ADMINISTER, WITH THE APPROVAL OF THE

19 COMMISSIONER OF HEALTH AND SOCIAL SERVICES, FEDERAL

20 PROGRAMS SUBJECT TO STATE CONTROL AS PROVIDED UNDER 42 U.S.C.

21 2001 - 3058cc (OLDER AMERICANS ACT), AS AMENDED; AND

22 (3) ADMINISTER, WITH THE APPROVAL OF THE

23 COMMISSIONER OF HEALTH AND SOCIAL SERVICES, STATE PROGRAMS

24 AS PROVIDED UNDER AS 47.65].

25 \* Sec. 4. AS 47.45.240(a) is amended to read:

26 (a) The commission shall

27 (1) subject to review by the department, approve a comprehensive

28 statewide plan that identifies and addresses the concerns and needs of older Alaskans

29 and, with reference to the approved plan, prepare and submit to the governor and

30 legislature an annual analysis and evaluation of the services that are provided to older

31 Alaskans;

1                   (2) make recommendations directly to the governor and the legislature  
2 with respect to legislation, regulations, and appropriations for programs or services  
3 that benefit older Alaskans;

4                   (3) encourage the development of municipal commissions serving  
5 older Alaskans and community-oriented programs and services for the benefit of older  
6 Alaskans;

7                   (4) employ an executive director who serves at the pleasure of the  
8 commission;

9                   (5) help older Alaskans lead dignified, independent, and useful lives;

10                  (6) request and receive reports and audits from state agencies and local  
11 institutions concerned with the conditions and needs of older Alaskans;

12                  (7) [WITH THE APPROVAL OF THE COMMISSIONER OF  
13 HEALTH AND SOCIAL SERVICES, SET POLICY FOR THE ADMINISTRATION  
14 OF FEDERAL PROGRAMS SUBJECT TO STATE CONTROL AS PROVIDED  
15 UNDER 42 U.S.C. 3001 - 3058cc (OLDER AMERICANS ACT), AS AMENDED;

16                  (8) WITH THE APPROVAL OF THE COMMISSIONER OF  
17 HEALTH AND SOCIAL SERVICES, SET POLICY FOR THE ADMINISTRATION  
18 OF STATE PROGRAMS AS PROVIDED UNDER AS 47.65;

19                  (9)] give assistance, on request, to the senior housing office in the  
20 Alaska Housing Finance Corporation in administration of the senior housing loan  
21 program under AS 18.56.710 - 18.56.799 and in the performance of the office's other  
22 duties under AS 18.56.700; and

23                  (8) [(10)] provide to the Alaska Mental Health Trust Authority, for its  
24 review and consideration, recommendations concerning the integrated comprehensive  
25 mental health program for persons who are described in (d) of this section and the use  
26 of the money in the mental health trust settlement income account in a manner  
27 consistent with regulations adopted under AS 47.30.031.

28 \* Sec. 5. AS 47.45.240(b) is amended to read:

29                  (b) To accomplish its duties, the commission may

30                         (1) review, evaluate, and comment upon state programs concerned  
31 with the problems and the needs of older Alaskans;

1 (2) collect facts and statistics, and make studies of conditions and  
2 problems pertaining to the employment, health, housing, financial security, social  
3 welfare, and other concerns that bear upon the well-being of older Alaskans;

4 (3) provide information about public programs that would be of  
5 interest or benefit to older Alaskans;

6 (4) appoint special committees, which may include persons who are  
7 not members of the commission, to complete necessary studies;

8 (5) promote community education efforts regarding the problems and  
9 concerns of older Alaskans;

10 (6) contract for necessary services;

11 (7) consult and cooperate with persons, organizations, and groups  
12 interested in or concerned with programs of assistance to older Alaskans;

13 (8) advocate improved programs of benefit to older Alaskans; and

14 (9) recommend [SET] standards for levels of services for older  
15 Alaskans for programs administered by the department [COMMISSION; AND

16 (10) ADOPT REGULATIONS NECESSARY FOR THE  
17 ADMINISTRATION OF AS 47.45.200 - 47.45.290 AND TO COMPLY WITH  
18 FEDERAL LAW].

19 \* Sec. 6. AS 47.45.290 is amended by adding a new paragraph to read:

20 (3) "department" means the Department of Health and Social Services.

21 \* Sec. 7. AS 47.65.010 is amended to read:

22 **Sec. 47.65.010. Older Alaskans service programs.** An amount to carry out  
23 the provisions of AS 47.65.010 - 47.65.050 may be appropriated annually by the  
24 legislature. The amount appropriated shall be fully distributed by the department  
25 [ALASKA COMMISSION ON AGING] to sponsors of older Alaskans service  
26 programs in accordance with the provisions of AS 47.65.010 - 47.65.050.

27 \* Sec. 8. AS 47.65.020 is amended to read:

28 **Sec. 47.65.020. Grants for community service programs.** Not less than 60  
29 percent of the amount appropriated by the legislature for older Alaskans service  
30 programs under AS 47.65.010 - 47.65.050 shall be allocated annually by the  
31 department [COMMISSION] as community program grants to sponsors of older

1 Alaskans service programs. Payments shall be made on the basis of applications  
2 submitted to the department [COMMISSION] by sponsors of community programs.

3 \* Sec. 9. AS 47.65.030 is amended to read:

4 **Sec. 47.65.030. Pilot project grants.** (a) The balance of the amount  
5 appropriated for older Alaskans service programs under AS 47.65.010 - 47.65.050 not  
6 allocated under AS 47.65.020 shall be allocated annually by the department  
7 [COMMISSION] as grants to support pilot projects for the benefit of older Alaskans  
8 under this section.

9 (b) The department [COMMISSION] shall adopt standards for pilot project  
10 grants and, after adoption of the standards as regulations, in accordance with AS 44.62  
11 (Administrative Procedure Act), shall apply the standards to determine eligibility of  
12 applicants for pilot project grants. In awarding pilot project grants, the department  
13 [COMMISSION] shall

14 (1) enter into agreements with the project sponsor to operate one or  
15 more of the selected pilot projects consistent with the standards adopted;

16 (2) monitor and evaluate, in a written report, each pilot project; the  
17 report must include

18 (A) a description of the project and of the persons served by it;

19 (B) the problems presented by the persons served by the  
20 project;

21 (C) a description of the problems most effectively handled by  
22 the project; and

23 (D) an estimate of projected cost of operation of the project for  
24 the next three succeeding years.

25 \* Sec. 10. AS 47.65.040(a) is amended to read:

26 (a) Except as provided in (f) of this section, a sponsor receiving a grant under  
27 AS 47.65.010 - 47.65.050 shall contribute to the total cost of the program or project.

28 The contribution may be in cash or in-kind services. The amount of the sponsor's  
29 required contribution is determined by the application of the following formula:  
30 average per capita full and true value of all property in the municipality or community  
31 in which the project or program takes place divided by the average per capita full and

1 true value of all property in the state, and then multiplied by the contribution  
 2 percentage to the estimated total program or project cost as determined by the  
 3 department [COMMISSION] at the time of approval of a grant application. However,  
 4 the amount of the sponsor's contribution may not amount to more than 10 percent of  
 5 the total program or project cost.

6 \* Sec. 11. AS 47.65.040(c) is amended to read:

7 (c) If an application is submitted for a program or project in a municipality or  
 8 community for which no average per capita full and true property value determination  
 9 has been made,

10 (1) if the population of the municipality or community is 750 or more,  
 11 the department [COMMISSION] shall request the state assessor to compute the  
 12 average per capita full and true property value of that municipality or community and  
 13 report it;

14 (2) if the population is less than 750, the department  
 15 [COMMISSION] may substitute for the average per capita full and true value of  
 16 property in the municipality or community an amount equal to the average per capita  
 17 full and true value of property in the smallest municipality for which that amount has  
 18 been determined by the state assessor.

19 \* Sec. 12. AS 47.65.040(e) is amended to read:

20 (e) The grant awarded by the department [COMMISSION] may not exceed  
 21 the estimated total program or project cost as determined by the department  
 22 [COMMISSION] less the contribution by the sponsor determined in accordance with  
 23 this section.

24 \* Sec. 13. AS 47.65.040(f) is amended to read:

25 (f) When awarding a grant to support a pilot project under AS 47.65.010 -  
 26 47.65.050, the department [COMMISSION] may waive all or part of the sponsor  
 27 contribution required under this section if waiver is in the public interest. The  
 28 department [COMMISSION] shall adopt regulations establishing standards for  
 29 granting waivers under this subsection.

30 \* Sec. 14. AS 47.65.050 is amended to read:

31 **Sec. 47.65.050. Administrative requirements.** (a) Payments received by a

1 sponsor under AS 47.65.010 - 47.65.050 may be used only to meet costs of services  
 2 that [WHICH] the department [COMMISSION] has determined directly benefit  
 3 older Alaskans. A payment may not be made by the department [COMMISSION]  
 4 under this section unless the department [COMMISSION] determines that the  
 5 sponsor

6 (1) meets accepted standards of fiscal accountability for public funds;

7 (2) can demonstrate, when requested, the actual cost of services that it  
 8 is providing for the benefit of older Alaskans; and

9 (3) agrees to make available, upon request, all fiscal information  
 10 relating to service for which payments are provided under AS 47.65.010 - 47.65.050.

11 (b) The department [COMMISSION] may not make payments to a sponsor  
 12 whose program includes family respite care services or home care services unless the  
 13 sponsor has agreed to request criminal history record information as permitted by P.L.  
 14 105-277 and AS 12.62 for the individual who will provide the services within 10  
 15 business days after the individual is hired to provide the services and review the  
 16 information within five business days after receiving it.

17 \* Sec. 15. AS 47.65.100(a) is amended to read:

18 (a) In addition to administering grants for adult day care programs and family  
 19 respite care services for older Alaskans under AS 47.65.010 - 47.65.050, the  
 20 department [COMMISSION] may make grants under this section from funds  
 21 otherwise available to it for adult day care programs and family respite care services  
 22 for frail older persons and other similarly disabled adults.

23 \* Sec. 16. AS 47.65.100(b) is amended to read:

24 (b) In order to fund grants under this section, the department  
 25 [COMMISSION AND THE DEPARTMENT OF HEALTH AND SOCIAL  
 26 SERVICES] may seek and enter into contracts or grants with any party, including  
 27 reimbursable service agreements with other state agencies.

28 \* Sec. 17. AS 47.65.100(c) is amended to read:

29 (c) The department [COMMISSION] shall, by regulation, set fees for  
 30 services provided under this section. The fees must be based on a sliding scale formula  
 31 that takes into account the client's income.

1 \* Sec. 18. AS 47.65.100(e) is amended to read:

2 (c) The department [COMMISSION] may not award a grant under this  
3 section for family respite care services or for adult day care services that include home  
4 care services unless the grantee has agreed to request criminal history record  
5 information as permitted by P.L. 105-277 and AS 12.62 for the individual who will  
6 provide the services within 10 business days after the individual is hired to provide the  
7 services and review the information within five business days after receiving it.

8 \* Sec. 19. AS 47.65.290(3) is repealed and reenacted to read:

9 (3) "department" means the Department of Health and Social Services;

*Adopted 5/9/08*

25-LS1351E.1  
Mischel  
3/27/08

AMENDMENT 1

*Meyer By Request*

OFFERED IN THE HOUSE  
TO: CSSB 243(HES)

1 Page 6, following line 20:

2 Insert a new bill section to read:

3 **\*\* Sec. 7. AS 47.55.020(d) is amended to read:**

4 (d) Notwithstanding AS 47.55.070 and (b) of this section, a resident of a home  
5 whose income, assets, and other resources are insufficient to pay the monthly rate set  
6 under AS 47.55.030(b), and who does not have private insurance to cover the cost of  
7 care, qualifies for payment assistance if the resident is otherwise in compliance with  
8 requirements under this chapter. The amount of payment assistance equals the amount  
9 needed, when added to other income and assets of the resident, to pay the monthly rate  
10 set under AS 47.55.030(b). Payment assistance received by a home resident is a debt  
11 to the state. In determining the amount of payment assistance for which a home  
12 resident qualifies, the following income, assets, and other resources of the resident  
13 shall be disregarded:

14 (1) income from any source in an amount up to \$100 a month as  
15 established by the department by regulation;

16 (2) the following assets received under 43 U.S.C. 1601 et seq. (Alaska  
17 Native Claims Settlement Act):

18 (A) cash dividends and other income equal to at least \$2,000 as  
19 established by the department by regulation;

20 (B) stock;

21 (C) noncash dividends from stock; and

22 (D) land;

23 (3) a permanent fund dividend issued under AS 43.23;

1                   (4) compensation to volunteers under the federal retired and senior  
2 volunteers (42 U.S.C. 5001), foster grandparents (42 U.S.C. 5011), and senior  
3 companion (42 U.S.C. 5013) programs made in accordance with 42 U.S.C. 5044(f);

4                   (5) federal World War II restitution payments made under 50 U.S.C.  
5 App. 1989b-4 and c-5;

6                   (6) payments under AS 18.67 (Violent Crimes Compensation Board);

7                   (7) an amount, determined by the department by regulation, that is  
8 sufficient for burial expenses of the resident, the resident's spouse, and dependents of  
9 the resident;

10                  (8) real property being used as the primary residence of the resident's  
11 spouse or a dependent of the resident;

12                  (9) other real or personal property equal to at least a total value of up  
13 to \$10,000 as established by the department by regulation;

14                  (10) federal payments that are excluded by law from income for  
15 federal assistance purposes."

16  
17    Renumber the following bill sections accordingly.

# Alaska State Legislature

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Senator Bettye Davis@legis.state.ak.us  
<http://www.akdemocrats.org>

## Senator Bettye Davis

### CS for Senate Bill 243(HES), 25-LS1351E

**"An Act relating to the duties and powers of the Alaska Commission on Aging and the Department of Health and Social Services."**

### SPONSOR STATEMENT

---

The CS for Senate Bill 243(HES), 25-LS1351E, has a zero fiscal note. As required by a 2007 Legislative Audit, this "clean-up" bill brings into alignment grant duties and responsibilities that were previously given to the Department of Health and Social Services (DHSS), when the Commission on Aging (ACoA) and Division of Senior Services became part of DHSS. For this reason, statutory changes repeatedly replace "Commission" (ACoA) with "Department" (DHSS) to properly recognize the duties and responsibilities of each. This bill, which mirrors CSHB 279(HES), 25-LS1106E, assigns authority for establishing state policy related to the Older Americans Act federal programs and state programs for Older Alaskans to the Department of Health and Social Services. DHSS is recognized as the state "Unit on Aging." The bill also transfers grant authority related to senior service grants, adult day care, and family respite care grants from the Alaska Commission on Aging to DHSS. DHSS has assigned these grant administrative duties to Senior and Disabilities Services.

As background to the importance of the duties and responsibilities recognized in this bill, the Alaska Commission on Aging is responsible for planning, advocacy, and community education activities related to the health and welfare of older Alaskans. It has relationships with state departments and agencies across the state, including the governor's office, the Alaska Mental Health Trust Authority, the Alaska Housing and Finance Corporation, and non-governmental organizations. The need for senior programs and services is rapidly increasing. Per the State plan for Senior Services FY 2008-FY 2011, Alaska already has the highest proportion of baby boomers (32%) in the nation, and its senior population is growing faster than almost any other state. By 2030 seniors 60+ will comprise 17% of the Alaska population, with a doubling of the number of those 65+.

# LEGAL SERVICES

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## MEMORANDUM

March 11, 2008

**SUBJECT:** Sectional summary for CSSB 243(HES)  
(Work Order No. 25-LS1351/E)

**TO:** Senator Bettye Davis  
Attn: Tom Obermeyer

**FROM:** Kathryn L. Kurtz  
Assistant Revisor

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Adds duties for the Department of Health and Social Services that include establishing state policy for older Alaskans and administering grants for older Alaskans, adult day care, and family respite care.

Section 2. Changes the reference to a paragraph in AS 47.45.240(a) to reflect the renumbering of the paragraph because of an amendment in sec. 4 of the bill.

Section 3. Changes the duties of the executive director for the Alaska Commission on Aging to formulate for the department a statewide plan for older Alaskans and deletes the duties pertaining to administering related federal grants and programs.

Section 4. Makes the Alaska Commission on Aging statewide plan subject to the review of the department and deletes program policy responsibilities of the commission.

Section 5. Limits the authority of the Alaska Commission on Aging to recommending standards of services provided to older Alaskans that are administered by the department and deletes rulemaking authority of the commission.

Section 6. Defines "department" as the Department of Health and Social Services in AS 47.45.010 - 47.45.160.

Section 7. Transfers authority for the distribution of appropriations for services to older

Senator Bettye Davis  
March 11, 2008  
Page 2

Alaskans from the commission to the department.

Section 8. Transfers the allocation authority for community service program funding for services to older Alaskans from the commission to the department.

Section 9. Transfers the allocation authority for pilot project grants for services to older Alaskans from the commission to the department.

Section 10. Transfers the authority to set contribution amounts for grants from the commission to the department.

Section 11. Transfers the authority to request state assessor computations from the commission to the department.

Section 12. Transfers the authority to estimate program costs for grant awards from the commission to the department.

Section 13. Transfers the authority to waive contributions and adopt regulations for waivers from the commission to the department.

Section 14. Transfers the authority to administer grants and make payments for services to older Alaskans from the commission to the department.

Section 15. Transfers the authority to make grants for adult day care and family respite services from the commission to the department.

Section 16. Removes the commission's authority to enter into certain contract and grant agreements.

Section 17. Transfers the authority to set fees for adult day care and family respite services from the commission to the department.

Section 18. Transfers the authority to award grants for family respite care and adult day care services from the commission to the department.

Section 19. Repeals the definition for "commission" and replaces it with the definition for "department." Defines "department" to be the Department of Health and Social Services in AS 47.65.

KLK:med  
08-177.med

# STATE OF ALASKA

## DEPT. OF HEALTH & SOCIAL SERVICES

*Alaska Commission on Aging*

SARAH PALIN, GOVERNOR

P.O. BOX 110693

JUNEAU, ALASKA 99811-0693

PHONE: (907) 465-3250

FAX: (907) 465-1398

March 25, 2008

The Honorable Mike Chenault, Co-Chair  
House Finance Committee  
Alaska State Capitol, Room 505  
Juneau, AK 99801-1182

The Honorable Kevin Meyer, Co-Chair  
House Finance Committee  
Alaska State Capitol, Room 515  
Juneau, AK 99801-1182

**Subject: Support for CSSB 243 (HES) Statute Modifications for the Alaska Commission on Aging and the Department of Health and Social Services**

The Alaska Commission on Aging (ACoA) encourages passage of SB 243, a clean-up bill that amends state law to align the statutes with the changes to the mission and work of the ACoA and the Department of Health and Social Services which were initiated by Executive Order 108 of July 1, 2003.

In essence, the Executive Order transferred grant administration and state agency on aging responsibilities previously performed by the Alaska Commission on Aging in the Department of Administration to the Department of Health and Social Services as the State Unit on Aging and re-established ACoA in DHSS. Furthermore, Executive Order 108 established Senior and Disabilities Services, which assumed the grant administration functions previously performed by ACoA. The Commission has retained all other responsibilities it previously performed within the Department of Administration, with the exception of those related to senior grants, which have been assigned to Senior and Disabilities Services.

Specifically, this proposed legislation:

- ❖ Assigns authority for establishing state policy related to Older Americans Act federal programs and state programs for Older Alaskans to the Department of Health and Social Services, as the State Unit on Aging, and
- ❖ Transfers grant authority related to senior service grants, adult day care, and family respite care grants from ACoA to the Department of Health and Social Services. The Department has assigned these grant administrative duties to Senior and Disabilities Services.

The U.S. Administration on Aging distributes Older Americans Act funds to states to support home and community based services for seniors. For a state to receive these funds, a state agency must be designated as the "state unit on aging." In Alaska, the Department of Health and Social Services is the State Unit on Aging as determined by Executive Order 108. The state unit responsibilities (as defined by the federal Older Americans Act) are carried out jointly by Senior and Disabilities Services and the Alaska Commission on Aging.

While SDS is responsible for administering and distributing federal funds, the Commission has been responsible for planning, community education, and advocating for Alaska seniors.

Passage of SB 243 is requested to amend statutes so that they reflect the current roles of ACoA and the Department and to cure the "one and only finding" reported by the Division of Legislative Audit in its sunset review of the ACoA in July 2007. ACoA supports this legislation which allows the Commission to focus its work on planning, education, and advocacy activities on behalf of Alaska's seniors.

The 2007 audit reviewed the operation and activities of the Commission for the period July 1, 2003 through June 30, 2007 to determine if the termination date of the Commission should be extended and if the Commission is operating in the public interest. The audit report was very positive and found more than a 90% approval rating by those surveyed on a variety of dimensions related to the Commission's planning, advocacy, and community education activities. Regarding the organizational changes initiated by Executive Order 108, the report conclusions stated "... ACoA has emerged from the reorganization as a respected planner, educator, and advocator for Alaska's seniors...(p. 7)", that a public need exists for the continuation of ACoA, and recommend that the legislature extend ACoA's termination date to June 30, 2016. They found no complaints filed against the Commission.

Thank you for your consideration of this legislation.

Sincerely,

Barbara LaF  
Chair, Alaska Commission on Aging

Sincerely,

Denise Daniello  
ACoA Executive Director

CC: Representative Stoltze, Vice Chair  
Representative Harris  
Representative Kelly  
Representative Thomas

Representative Crawford  
Representative Gara  
Representative Joule  
Representative Nelson



March 13, 2008

The Honorable Lyman Hoffman, Co-Chair  
Senate Finance Committee  
Alaska State Capitol, Room 518  
Juneau, AK 99801-1182

MAR 13 2008

The Honorable Bert Stedman, Co-Chair  
Senate Finance Committee  
Alaska State Capitol, Room 516  
Juneau, AK 99801-1182

RE: SB 243 (Davis) - Support

Dear Co-Chairs Hoffman and Stedman:

On behalf of the members of AARP in Alaska, we encourage you and your colleagues on the Senate Finance Committee to support SB 243 which is authored by Senator Bettye Davis.

SB 243 is basically a "clean up" bill which brings the Alaska Commission on Aging into compliance with changes that have been in place for several years that deal with Commission responsibilities and those of Senior and Disability Services.

SB 243 incorporates the recommendations of the Legislative Auditor.

AARP recommends an "AYE" vote on SB 243.

Should you have any questions about our position, please feel free to contact me (586-3637) or Patrick Luby, AARP Advocacy Director (907-762-3314).

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Marie Darlin".

Marie Darlin, Coordinator  
AARP Capital City Task Force  
415 Willoughby Avenue, Apt. 506  
Juneau, AK 99801  
586-3637 (voice)  
463-3580 (fax)

CC: Vice Chair Charlie Huggins  
Senator Kim Elton  
Senator Donald Olson

Senator Joe Thomas  
Senator Fred Dyson  
Senator Bettye Davis

# ALASKA

state plan  
senior services  
FY 2008 - FY 2011



**State of Alaska  
Department of Health & Social Services**

**ALASKA COMMISSION ON AGING  
State Plan for Senior Services**

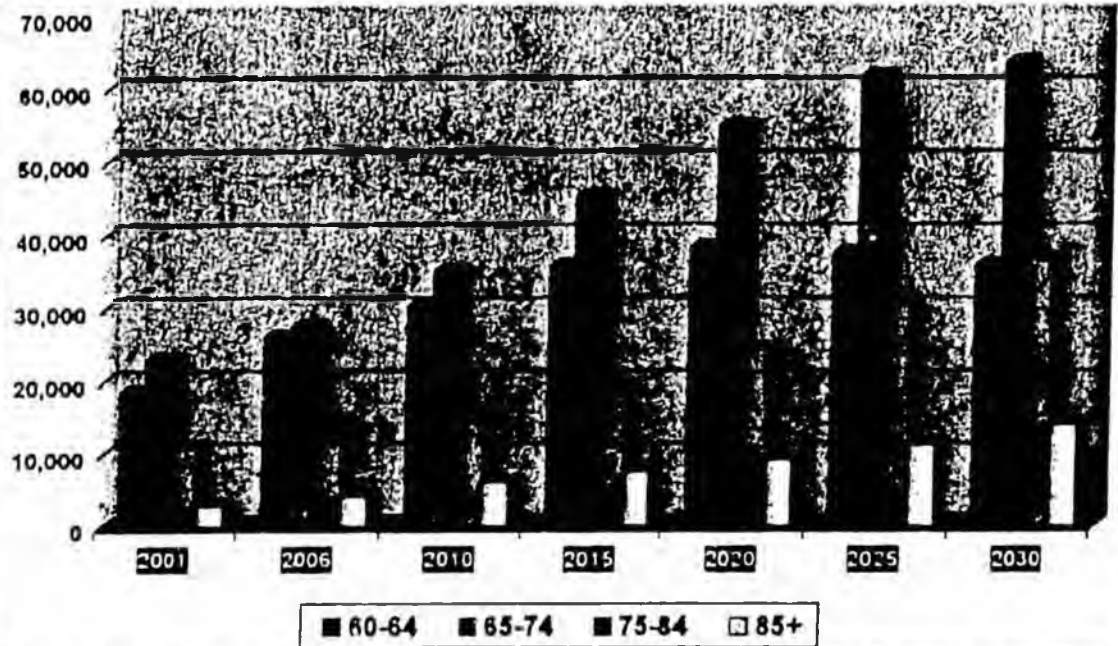
**FY 2008 – FY 2011  
(July 1, 2007 – June 30, 2011)**

**Sarah Palin, Governor  
State of Alaska**

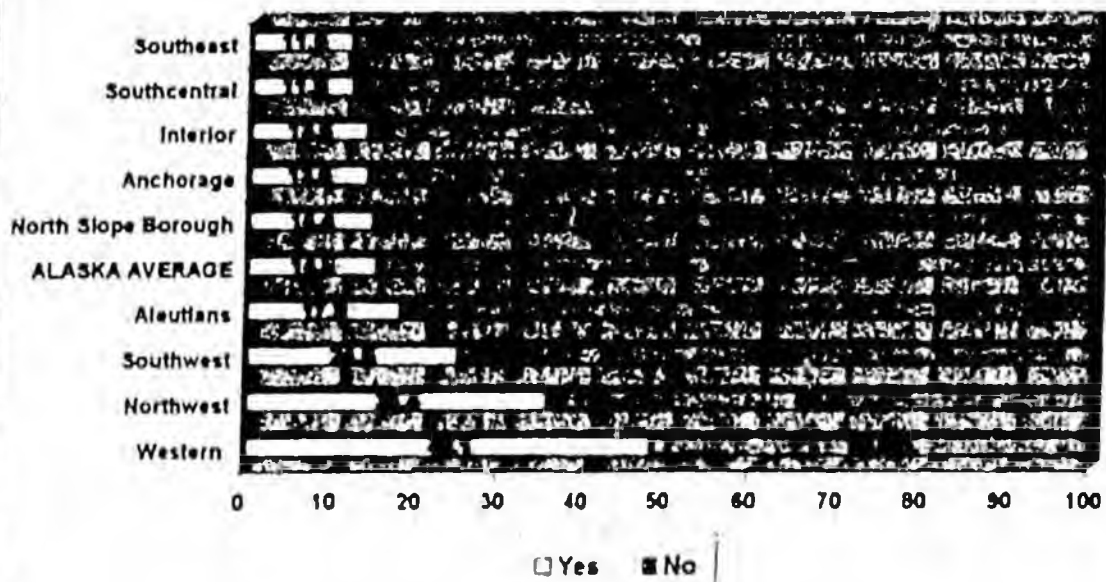
**Karleen K. Jackson, Ph.D., Commissioner  
Alaska Department of Health & Social Services**



Older Alaskans by Age Group, 2001 - 2030

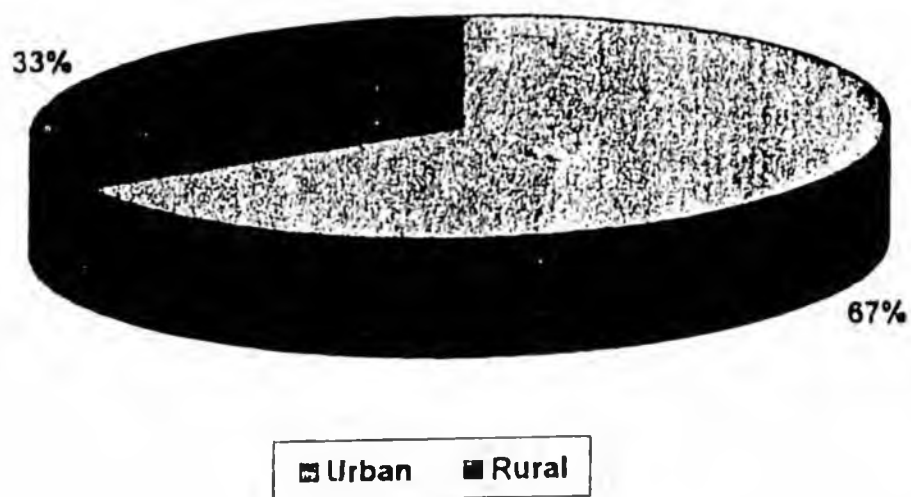


Seniors 65+ Receiving SeniorCare Benefits, April 2007

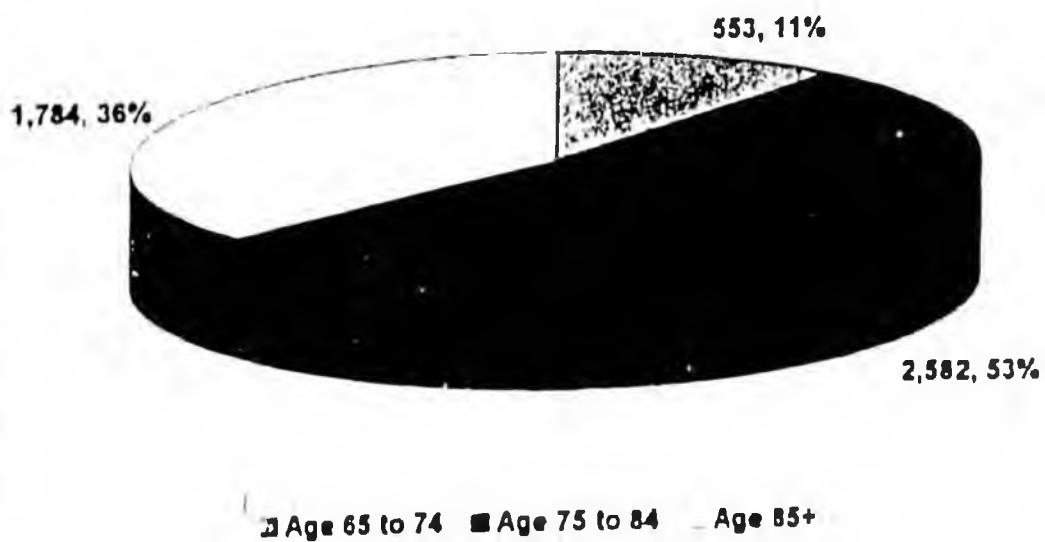


ALL GRAPHS PRODUCED BY ACoA

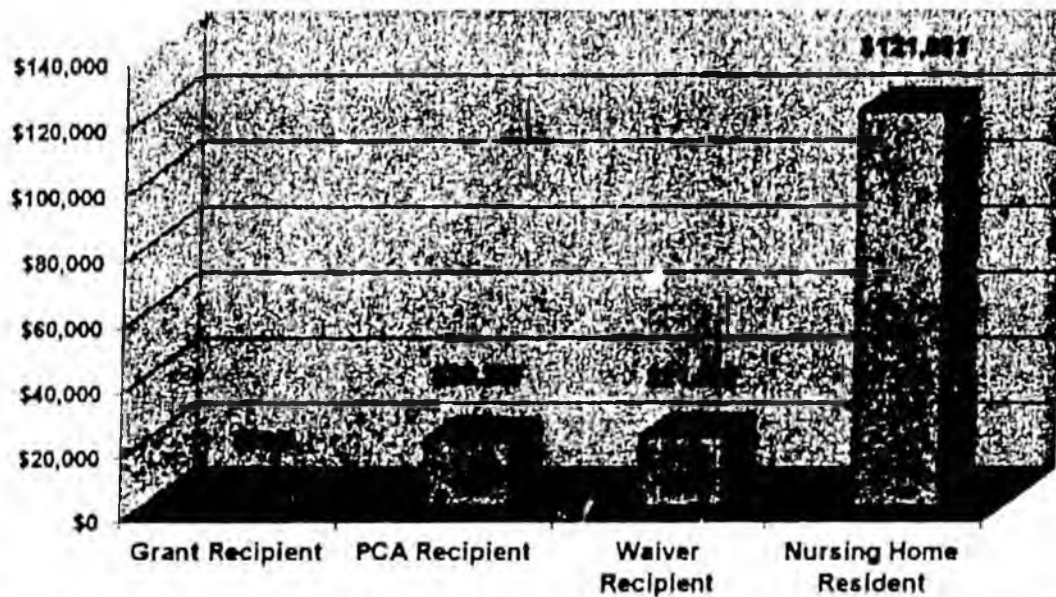
### Urban and Rural Older Alaskans



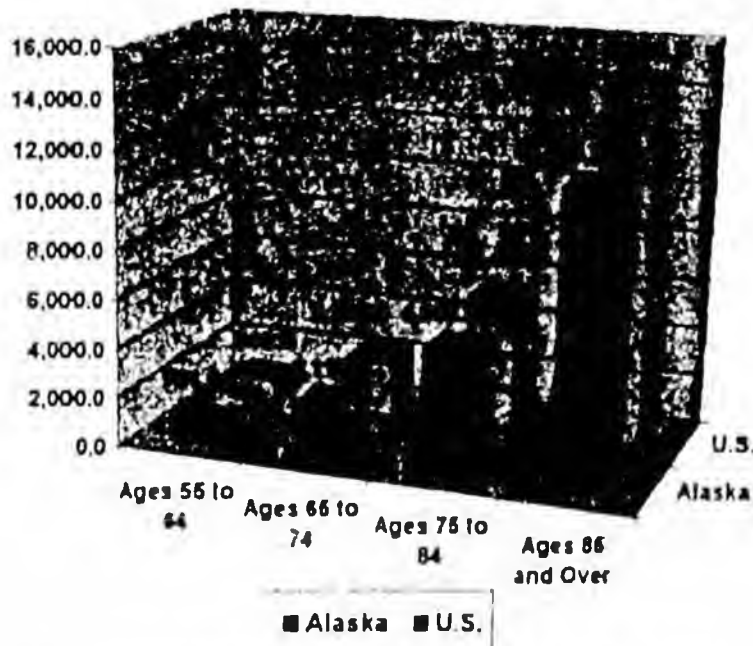
### Estimated Number of Alaskans Age 65+ with ADRD



**Average Annual Costs of Long-Term Care Options, FY 08  
(Senior & Disabilities Services)**



**Age-Adjusted Death Rates (Per 100,000) by Age Group**



ALL GRAPHS PRODUCED BY ACoA



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Assistant Secretary  
Administration on Aging

Washington D.C. 20201

JUN 26 2007

The Honorable Sarah Palin  
Governor of Alaska  
P.O. Box 110001  
Juneau, Alaska 99811-0001

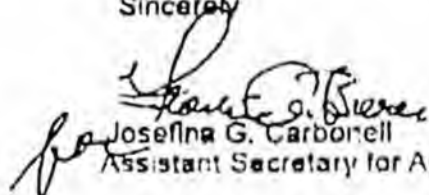
Dear Governor Palin:

It is my pleasure to inform you that the four-year Alaska State Plan for Senior Services beginning July 1, 2007 through June 30, 2011 is approved. It is a comprehensive document that integrates Older Americans Act requirements with the extensive, collaborative plans produced by the inter-agency State Plan Advisory Committee.

I am particularly pleased by the efforts of the Alaska Commission on Aging in involving seniors, the public and providers as well as state agencies in the development and public review of the plan. This proactive strategy will enhance Alaska's continuing development of its service delivery system with an emphasis on choices for older individuals.

The Regional Office staff of the U.S. Administration on Aging in Seattle and I look forward to working with you in the implementation of the State Plan. If you have questions or concerns, please do not hesitate to contact us. I appreciate your dedication and commitment toward improving the lives of older persons in Alaska.

Sincerely,

  
Josefina G. Carbone  
Assistant Secretary for Aging

**ALASKA  
DEPARTMENT OF HEALTH & SOCIAL SERVICES  
STATE PLAN FOR SENIOR SERVICES  
APPROVAL**

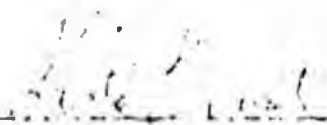
The Alaska Department of Health & Social Services (DHSS) hereby submits the Alaska State Plan for Senior Services for the period of July 1, 2007 through June 30, 2011 (State fiscal years 2008 through 2011). Governor Sarah Palin has designated the Department of Health & Social Services as Alaska's sole state agency on aging. The Alaska Commission on Aging within DHSS has been authorized by Alaska Statute [(AS 47.45.240(a)(1))] to develop the state plan on aging in accordance with the provisions of the Older Americans Act and its amendments. The plan, as submitted, documents the needs of older Alaskans and establishes direction for the coordination of all State activities related to seniors, with an emphasis on those efforts related to the Older Americans Act, including the development of a comprehensive and coordinated system for the delivery of supportive services.

The Plan, as submitted, has been developed in accordance with all federal statutory and regulatory requirements.

*The State Plan for Senior Services is hereby approved by the Commissioner of the Department of Health & Social Services, as the Governor's designee, and constitutes authorization to proceed with activities under the Plan upon approval by the Assistant Secretary for Aging.*

*I hereby approve this State Plan and am pleased to present it to Alaskans.*

Date

  
\_\_\_\_\_  
Karleen K. Jackson, Ph.D., Commissioner  
Alaska Department of Health & Social Services

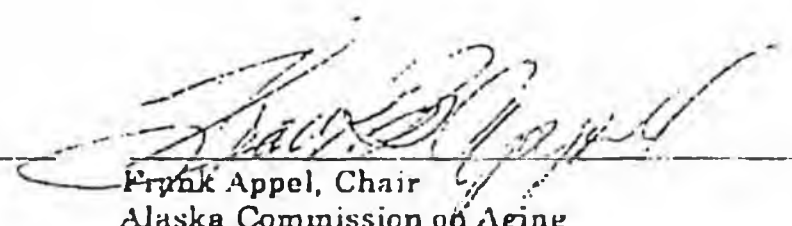
ALASKA COMMISSION ON AGING  
STATE PLAN FOR SENIOR SERVICES  
APPROVAL

*The State Plan for Senior Services is hereby approved by the Alaska Commission on Aging, as the agency authorized by the Commissioner of the Department of Health & Social Services and by Alaska Statute ((AS 17.45.240(a)(1)) to develop the state plan on aging in accordance with the provisions of the Older Americans Act and its amendments.*

Frank Appel, Chair  
Michael Black, Designee, Department of Commerce, Community & Economic  
Development  
Lillian Boen-Kasnick  
Patricia Branson  
Sharon Howerton-Clark  
Betty Keegan  
Banarsi Lal  
Rod Moline, Designee, Department of Health & Social Services  
Iver Malutin  
Paula Pawlowski  
Edward Zastrow

Date

3/07

  
Frank Appel, Chair  
Alaska Commission on Aging

**Alaska's State Plan for Senior Services,  
FY 2008 – FY 2011  
May 1, 2007**

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## Executive Summary

As the state with the highest proportion of baby boomers (32%), Alaska will find its senior population growing faster than almost any other state as that group reaches its senior years. While in the past many Alaskans chose to leave the state after retirement, more and more retirees now prefer to remain here. By 2030, the proportion of seniors 65+ will double to comprise 13% of the Alaska population, with those age 60+ making up 17%. The oldest group of seniors, those age 85+, is expected to almost triple during the next 25 years, vastly increasing the number of Alaskans living with Alzheimer's disease and related disorders (ADRD).

While census data do not show high levels of poverty among Alaska seniors, the census does not consider differences in cost of living among different areas of the country. The most financially vulnerable groups of seniors typically include widowed and divorced women, Alaska Natives and other racial minorities, high-school dropouts, people not eligible for Social Security benefits (perhaps due to a subsistence lifestyle), those with a limited work history, and the oldest seniors (whose fixed incomes have taken a beating from inflation over the years).

Surprisingly to some who may view seniors as a liability to the state, retired Alaskans constitute one of the largest and healthiest sectors of Alaska's economy. In 2004, according to the University of Alaska Institute for Social and Economic Research, retired Alaskans age 60 and older contributed almost \$1.5 billion to the state's economy, primarily from retirement income and health care spending. This was roughly ten times the total cost of State programs targeting seniors. Senior spending provides a large economic multiplier effect in local communities, and many other advantages, including a high volume of local spending, a diverse job mix, a low level of seasonality, stability from year to year (not dependent on fluctuating world market conditions), an environmentally benign footprint, compatibility with other industries, non-enclave location (not concentrated in remote rural areas), and economies of scale which reduce costs for all Alaskans, particularly in health care services.

Alaskan seniors have a lower age-adjusted death rate than U.S. seniors overall. While more older Alaskans smoke, drink heavily, and binge drink, as a group they are more likely to eat plenty of fruits and vegetables, engage in physical activity, and describe themselves as being in good health. Falls are the leading cause of non-fatal injuries requiring hospitalization for every age group in Alaska, but serious injuries from falls increase dramatically in the senior population. Sadly, suicide rates among older Alaskans are considerably higher than national averages, though suicide does not constitute a leading cause of death here. Top causes of death in the older age groups in Alaska include cancer, heart disease, cerebrovascular disease, chronic lower respiratory disease, and Alzheimer's disease.<sup>1</sup>

Challenges on the horizon for older Alaskans include income insecurity, the

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<sup>1</sup> Alaska Bureau of Vital Statistics

need for more reliable access to health care and long-term care supports, a looming physician shortage, absence of geriatric education among providers, a shortage of a sufficient senior services and health care services workforce to meet future needs, the need for emergency preparedness for a wide range of potential disasters, and soaring energy and utility costs.

The State of Alaska provides a wide range of programs and services addressed to seniors, spanning multiple divisions and departments. Funds from the Older Americans Act as well as State general funds and resources from the Alaska Mental Health Trust Authority and other federal, State, and non-governmental sources help to pay for these services, many of which are provided through grant agreements with local non-profit service agencies. While the services and benefits available to Alaska seniors are impressive, increasing strain on the state's services system from the burgeoning senior population is inevitable, and demands advance planning (in particular the creation of a long-term care strategic plan) as well as a coordinated advocacy effort to obtain increased funding for senior needs.

This state plan focuses on six overall goals, with their respective objectives and recommended strategies. The goals cover keeping seniors healthy, active, and involved in their communities; ensuring access to an integrated array of health and social supports along the continuum of care; supporting families in their efforts to care for loved ones at home and in the community; providing a range of adequate, accessible, secure and affordable housing options for seniors; supporting a stable senior services and health care workforce as well as a range of attractive employment opportunities for seniors; and ensuring that older Alaskans are safe from catastrophic events and protected from personal exploitation, neglect, and abuse. For each year of the plan's coverage, an annual implementation plan will be created by all interested senior organizations, with each committing to work on specific strategies outlined in the plan.

While similar weighting factors (total number of seniors, seniors age 80+, minority seniors, poverty-level seniors, and rural seniors) have been used in the funding framework for this state plan as in the previous (FY 2003 – FY 2007) plan, seniors' demographic patterns have shifted substantially since the 2000 census. While no region of the state is seeing an actual decrease in its number of seniors, some regions are growing at a much faster rate than others. Railbelt census areas (those along the central rail corridor of the state, especially the Kenai Peninsula Borough, the Matanuska-Susitna Borough, Anchorage, and Fairbanks North Star Borough) are experiencing an influx of seniors from out-of-state and from more rural, remote regions of Alaska. Older Alaskans may move to more populated areas to obtain services or to be closer to relatives. In order to avoid the shock of a dramatic fund shift for some regions in the first year of this plan and to give those regions slated for a loss of funding the opportunity to seek other resources, the State will continue to use the FY 2003 – FY 2007 funding allotments during FY 2008 and FY 2009; in FY 2010, allocations will reflect 50% of the change dictated by the new funding framework, and by FY 2011 100% of the fund shifts will be implemented.

The coming quarter-century will usher in a dramatic period of growing need for senior services in Alaska. Nevertheless, seniors' many contributions to the state and its economy are recognized, and the State considers it a privilege to plan for and provide the services needed to preserve their quality of life. Alaska's State Plan for Senior Services, FY 2008 – FY 2011 presents a wide-ranging, inclusive vision to guide the effort to provide those services in a respectful manner that upholds the dignity and independence of older Alaskans.