

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

5531 SSTA SB 442 - SB 499



Ombudsman

March 3, 1988

RECEIVED
MAR 4 1988

State of Alaska

Reply to:

3201 C Street, Suite 403
Anchorage, Alaska 99503
(907) 583-3673

P.O. Box WO
Juneau, Alaska 99811
(907) 465-4970

Senator Mitch Abood, Chairman
Senate State Affairs Committee
Post Office Box V
Juneau, Alaska 99811-3100

Dear Senator Abood:

Enclosed is a position statement on SB442, "An Act relating to the Older Alaskans Commission and the protection of elderly persons; and establishing the office of the older Alaskans ombudsman" that was referred to the Senate State Affairs Committee for a hearing on March 2, 1988 and has been held for future hearings.

As you can see from the position statement, I generally support SB442. Advocacy for seniors in private long term care facilities is a needed service. My concerns are mainly in the area of the use of term "ombudsman". It will be detrimental to this office to have other complaint handling agencies of the state using the same moniker. Our identity will quickly become watered down. This office risks suffering from the failings of other "ombudsmen". My preference of calling the new office "The Senior Citizens Advocate" apparently is precluded by the requirements of the federal act this legislation is attempting to satisfy.

I offer one additional suggestion to those offered in the position statement. I suggest in Sec. 44.21.232 (a) to have the "shall" modified to "may". It is unreasonable to expect the "ombudsman" to investigate and resolve all the complaints presented to the office. Limited resources simply do not permit such a response from a state agency and there will be some complaints that will be frivolous.

Please let me know if you have questions.

Sincerely,

Duncan C. Fowler
Ombudsman

DCF:pjc
Enclosure



ombudsman

State of Alaska

Reply to:

3201 C Street, Suite 403
Anchorage, Alaska 99503
(907) 563-3673

P.O. Box WO
Juneau, Alaska 99811
(907) 465-4970

POSITION PAPER SB442

ESTABLISHING THE OFFICE OF THE OLDER ALASKAN OMBUDSMAN

The Office of the Ombudsman strongly supports the passage of SB442. Some modifications are proposed to prevent confusion between the proposed office and the existing Office of the Ombudsman.

The Office of the Ombudsman, as established in AS 24.55, is an agency that investigates citizen complaints about the administrative acts of state agencies. (Municipalities may opt for coverage under provisions of AS 24.55.320 by passing an ordinance and paying for the service). The jurisdiction of this office is limited in scope to the administrative acts of state agencies (usually executive branch). It provides investigation and review of some agencies which directly affect the well-being of older Alaskans, e.g. the Pioneer Homes, state institutions, the Division of Public Assistance, the Division of Pioneer Benefits, and the Older Alaskans Commission.

SB442 would codify the program currently called the "Senior Citizens' Ombudsman." That program extends its jurisdiction beyond governmental boundaries into the private sector. In addition to looking at state operated long term care facilities and benefit programs, the Senior Citizen Ombudsman may review complaints about operations of privately operated rest homes and nursing facilities and programs. The State Office of the Ombudsman routinely refers complaints about long term care in the private sector to the existing "Senior Citizens Ombudsman" and we have received good reports about the services provided by the senior citizens' ombudsman and his staff.

The Office of the Ombudsman has been approached in past years by the Older Alaskans Commission to provide the services now required by the federal Older Americans Act. We have not pursued the commission's offer for two reasons:

(1) The extension of the jurisdiction of the state office from the governmental sector to the private sector has not been considered good public policy. This Office of the Ombudsman has believed the private sector should be served by a distinct office, such as that proposed by the Older Americans Act.

(2) Threaded throughout the existing state Ombudsman's Act, AS 24.55, is the requirement that the office function as a neutral party when investigating citizen complaints. The Older Americans Act, on the other hand, requires the Long Term Care Ombudsman program to become an advocate for senior programs.

The difference between providing neutral vs. advocacy services is philosophically significant. The traditional definition of an ombudsman does not support the advocacy role envisioned in the Older Americans Act. The assumption of an advocacy role can affect the manner in which those being investigated view the investigation and their acceptance of subsequent findings. This State Ombudsman's Office has enjoyed the reputation of being a neutral fact finder rather than an advocate for a complainant. This has helped to implement many of our recommendations in the past.

On the other hand, I fully support the advocacy needs of older Alaskans and I applaud the provisions in SB442 which do the following:

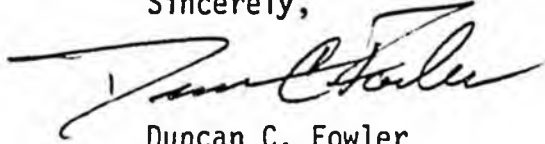
- (1) Provide immunity from liability for the staff and volunteers of the new office (Sec. 44.21.236);
- (2) Provide access to confidential records (Sec.44.21.234);
- (3) Require the records of the office be confidential (Sec. 44.21.235); and especially
- (4) Provide protection from employer retribution to "whistle blowers" (Sec. 44.21.237).

The protection provision is missing from AS 24.55, the statutes governing the State Ombudsman's Office, and there have been negative ramifications for the office because of this lack. Both the Office of the Ombudsman and the Senior Citizens Ombudsman know of complainants, or suspected complainants, losing jobs and becoming the victims of other sorts of harassment because of employer unhappiness with the complaints filed against them. We believe some complainants have lost state benefits for the same reason. SB442 could be strengthened if you insured complainants would not risk the loss of benefits or services because of retaliatory efforts by an agency reviewed by the Senior Citizen Ombudsman.

The similarity in names of the two offices discussed here will cause confusion. That issue should be clear just from reading this paper. It would be the preference of the Alaska Office of the Ombudsman if a name such as "Senior Citizen Advocate" be chosen for the senior program. However, I understand the Older Americans Act requires the use of the term "ombudsman" in the title of the office. Perhaps less confusion would occur if SB442 termed the office the "Long Term Care Ombudsman" in place of "Older Alaskans Ombudsman" and did not use the term "Office of the Ombudsman" in the measure.

In summary, the Office of the Ombudsman welcomes the statutory changes introduced in SB442, since it will provide much needed advocacy services for older Alaskans in an appropriate agency setting. All measures used to reduce confusion between the state's Office of the Ombudsman and our long term care neighbor will be much appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Duncan C. Fowler". The signature is fluid and cursive, with a prominent initial "D" and "F".

Duncan C. Fowler
Ombudsman

DCF:pjc

Senator Rick Uehling

Senate District H
Downtown, Elmendorf, Northeast Anchorage



Senate Finance Committee
Chair, International Trade Committee
Vice-Chair, State Affairs Committee
Labor & Commerce Committee

February 19, 1988

M E M O R A N D U M

TO: Senator Mitch Abood, Chair
Senate State Affairs Committee

FROM: Senator Rick Uehling

SUBJECT: Senate Bill 442

I have asked staff to provide the following background to SB 442, "An Act relating to the Older Alaskans Commission, protection of elderly persons; and establishing the Office of the Older Alaskans Ombudsman."

SB 442 is designed to do three things:

1) to bring the Older Alaskans Commission state statutes (AS 44.21.200 - 44.21.240) into compliance with federal 1987 amendments to the federal Older Americans Act of 1965.

2) to establish the Office of the State Long-Term Care Ombudsman.

3) to establish procedures for the protection of elderly persons in the State of Alaska.

The Older Alaskans Commission has heretofore voluntarily established the Office of the State Long-Term Care Ombudsman, but at this time the office does not exist under state statute and thus has no statutory powers to investigate and resolve complaints. This bill, therefore, brings the Older Alaskans Commission into compliance with the 1987 federal amendments by establishing the Office of the State Long-Term Care Ombudsman and giving it duties and powers that are protected in statute.

This bill additionally meets the requirements of the 1987 amendments to the federal Older Americans Act of 1965 by adding a section which protects those who in good faith report instances of elderly abuse. This so-called "Whistleblowers" provision ensures that a person may bring a civil action for compensatory and punitive damages against an employer or supervisor who violates this subsection, and there is a rebuttable presumption that the detrimental action by the employer or supervisor was retaliatory if it was taken within 90 days of the complaint.



U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
Office of Human Development Services
Administration on Aging

FEB 20 1988



NATIONAL ASSOCIATION OF
AREA AGENCIES ON AGING
"Reaching the Nation's Elderly"

Older Americans Act of 1965, As Amended

Incorporates Amendments Made by Older Americans Act
Amendments of 1984, Public Law ~~98-459~~ ~~October 9, 1984~~
7 100-175 -- November 29, 1987

INCORPORATES THE 1987 AMENDMENTS TO THE OLDER AMERICANS ACT,
INCLUDING IMPLICATIONS FOR *State or*
AREA AGENCIES ON AGING

Raymond C. Mastalish
Executive Director

December 10, 1987

OLDER AMERICANS ACT OF 1965, AS AMENDED

(42 U.S. CODE, § 3001, ET SEQ.)

NOVEMBER 2, 1984

INCORPORATES AMENDMENTS MADE BY OLDER AMERICANS ACT
AMENDMENTS OF 1984, PUBLIC LAW 98-459—OCTOBER 9, 1984

This compilation of the Older Americans Act of 1965, as amended, shows changes made by the Older Americans Act Amendments of 1984, Public Law 98-459, which was signed into law on October 9, 1984. The text of the Act which was not amended is set in "Roman" typeface (as in Sec. 102, which was not changed). Language which was deleted is indicated like this. Language which was added is in Italic.

OLDER AMERICANS ACT OF 1965

(Public Law 89-73)

AN ACT TO PROVIDE ASSISTANCE IN THE DEVELOPMENT OF NEW OR IMPROVED PROGRAMS TO HELP OLDER PERSONS THROUGH GRANTS TO THE STATES FOR COMMUNITY PLANNING AND SERVICES AND FOR TRAINING, THROUGH RESEARCH, DEVELOPMENT, OR TRAINING PROJECT GRANTS, AND TO ESTABLISH WITHIN THE DEPARTMENT OF HEALTH, EDUCATION AND WELFARE AN OPERATING AGENCY TO BE DESIGNATED AS THE "ADMINISTRATION ON AGING"

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Older Americans Act of 1965".

TITLE I—DECLARATION OF OBJECTIVES; DEFINITIONS

DECLARATION OF OBJECTIVES FOR OLDER AMERICANS

SEC. 101. The Congress hereby finds and declares that, in keeping with the traditional American concept of the inherent dignity of the individual in our democratic society, the older people of our Nation are entitled to, and it is the joint and several duty and responsibility of the governments of the United States, ~~and of the several States and their political subdivisions~~ ~~to assist our older people to secure equal opportunity to the full and free enjoyment of the following objectives:~~

(1) An adequate income in retirement in accordance with the American standard of living.

(2) The best possible physical and mental health which science can make available and without regard to economic status.

(3) ~~Suitable housing, independently selected, designed and located with reference to special needs and available at costs which older citizens can afford.~~

and of Indian tribes

Obtaining and maintaining

~~ability to perform normal daily tasks or which threaten his or her capacity to live independently.~~

(b) ~~(1)~~ Each State, in approving area agency plans under this section, shall waive the requirement described in clause (2) of subsection (a) for any category of services described in such clause if the area agency on aging demonstrates to the State agency that services being furnished for such category in the area are sufficient to meet the need for such services in such area.

~~(2)(A) Before an area agency on aging requests a waiver under paragraph (1) of this subsection, the area agency on aging shall conduct a timely public hearing in accordance with the provisions of this paragraph. The area agency on aging requesting a waiver shall notify all interested parties in the area of the public hearing and furnish the interested parties with an opportunity to testify.~~

~~(B) The area agency on aging shall prepare a record of the public hearing conducted pursuant to subparagraph (A) and shall furnish the record of the public hearing with the request for a waiver made to the State under paragraph (1)(A).~~

(c)(1) Subject to regulations prescribed by the Commissioner, an area agency on aging designated under section 305(a)(2)(A) or, in areas of a State where no such agency has been designated, the State agency, may enter into agreements with agencies administering programs under the Rehabilitation Act of 1973, and titles XIX and XX of the Social Security Act for the purpose of developing and implementing plans for meeting the common need for transportation services of individuals receiving benefits under such Acts and older individuals participating in programs authorized by this title.

(2) In accordance with an agreement entered into under paragraph (1), funds appropriated under this title may be used to purchase transportation services for older individuals and may be pooled with funds made available for the provision of transportation services under the Rehabilitation Act of 1973, and titles XIX and XX of the Social Security Act.

STATE PLANS

Sec. 307. (a) Except as provided in section 309(a), each State, in order to be eligible for grants from its allotment under this title for any fiscal year, shall submit to the Commissioner a State plan for a two-, three-, or four-year period determined by the State agency, with such annual revisions as are necessary, which meets such criteria as the Commissioner may by regulation prescribe. Each such plan shall:

(1) ~~contain assurances that the State plan will be based upon area plans developed by area agencies on aging within the State designated under section 305(a)(2)(A) and that the State will prepare and distribute a uniform format for use by area agencies in developing area plans under section 306.~~

(2) ~~provide that each area agency on aging designated under section 305(a)(2)(A) will develop and submit to the State agency for approval an area plan which complies with the provisions of section 306.~~

(C) Whenever the State agency proposes to grant a waiver to an area agency under this subsection, the State agency shall publish the intention to grant such a waiver together with the justification for the waiver at least 30 days prior to the effective date of the decision to grant the waiver. An individual or a service provider from the area with respect to which the proposed waiver applies is entitled to request a hearing before the State agency on the request to grant such waiver. If, within the 30 day period described in the first sentence of this subparagraph, an individual or service provider requests a hearing under this subparagraph, the State agency shall afford such individual or provider an opportunity for a hearing.

(i) If the State agency waives the requirement described in clause (2) of subsection (a), the State agency shall provide to the Commissioner--

(i) a report regarding such waiver that details the demonstration made by the area agency on aging to obtain such waiver;

(ii) a copy of the record of the public hearing conducted pursuant to subparagraph (A); and

(iii) a copy of the record of any public hearing conducted pursuant to subparagraph (C).

(d) An area agency on aging may not require any provider of legal assistance under this title to reveal any information that is protected by the attorney-client privilege.

comply with all of the following requirements:

The plan shall

The plan shall

Requirement for State agency to hold hearing, if requested, when they chose to grant a waiver to the Area Agency regarding funding of priority services: Access, In-home, Legal Assistance.

Change in format of this section appears to strengthen the requirements on State agencies regarding what shall be included in the State plan.

(11) provide that subject to the requirements of merit employment systems of State and local governments, preference shall be given to individuals aged 60 or older for any staff positions (full time or part time) in State and area agencies for which such individuals qualify;

(12) provide assurances that the State will—

(A) establish and operate, either directly or by contract or other arrangement with any public agency or other appropriate private nonprofit organization which is not other than an agency or organization which is responsible for licensing or certifying long-term care services in the State or which is not an association (or an affiliate of such an association) of long-term care facilities (including any other residential facility for older individuals), a long-term care ombudsman program which will—provide an individual who will, on a full-time basis—

(i) investigate and resolve complaints made by or on behalf of older individuals who are residents of long-term care facilities relating to administrative action which may adversely affect the health, safety, welfare, and rights of such residents;

(ii) monitor the development and implementation of Federal, State, and local laws, regulations, and policies with respect to long-term care facilities in the State;

(iii) provide information as appropriate to public agencies regarding the problems of older individuals residing in long-term care facilities;

(i) ~~and~~ provide for training staff and volunteers and promote the development of citizen organizations to participate in the ombudsman program; and

(ii) ~~and~~ carry out such other activities as the Commissioner deems appropriate;

(B) establish procedures for appropriate access by the ombudsman to long-term care facilities and patients' records, including procedures to protect the confidentiality of such records and ensure that the identity of any complainant or resident will not be disclosed without the written consent of such complainant or resident, or upon court order;

(C) establish a statewide uniform reporting system to collect and analyze data relating to complaints and conditions in long-term care facilities for the purpose of identifying and resolving significant problems, with provision for submission of such data to the agency of the State responsible for licensing or certifying long-term care facilities in the State and to the Commissioner on a regular basis; and

(D) establish procedures to ensure that any files maintained by the ombudsman program shall be disclosed only at the discretion of the ombudsman having authority over the disposition of such files, except that the identity of any complainant or resident of a long-term care facility shall not be disclosed by such ombudsman unless—

(i) such complainant or resident, or his legal representative, consents in writing to such disclosure; or

1987 AMENDMENTS - ADDITIONS/DELETIONS

The plan shall

The plan shall provide the following assurances, with respect to a long-term care ombudsman program:

The State agency will

an Office of the State Long-Term Care Ombudsman (in this paragraph referred to as the "Office") and shall carry out through the Office.

The State agency will

The State agency will

The State agency will

the individual's

IMPLICATIONS FOR ^{state} ~~AREA~~ AGENCIES ON AGING

Requires State to establish an Office of the State Long Term Care Ombudsman.

(ii) such disclosure is required by court order; and
(S) in planning and operating the ombudsman program, consider the views of area agencies on aging, older individuals, and provider agencies; A

1987 AMENDMENTS - ADDITIONS/DELETIONS

IMPLICATIONS FOR ^{State} AREA AGENCIES ON AGING

the State agency will

(F) The State agency will--

(i) ensure that no individual involved in the designation of the long-term care ombudsman (whether by appointment or otherwise) or the designation of the head of any subdivision of the Office is subject to a conflict of interest;

(ii) ensure that no officer, employee, or other representative of the Office is subject to a conflict of interest; and

(iii) ensure that mechanisms are in place to identify and remedy any such or other similar conflicts.

(G) The State agency will--

(i) ensure that adequate legal counsel is available to the Office for advice and consultation and that legal representation is provided to any representative of the Office against whom suit or other legal action is brought in connection with the performance of such representative's official duties; and

(ii) ensure that the Office has the ability to pursue administrative, legal, and other appropriate remedies on behalf of residents of long-term care facilities.

(H) The State agency will require the Office to--

(i) prepare an annual report containing data and findings regarding the types of problems experienced and complaints received by or on behalf of individuals residing in long-term care facilities, and to provide policy, regulatory, and legislative recommendations to solve such problems, resolve such complaints, and improve the quality of care and life in long-term care facilities;

(ii) analyze and monitor the development and implementation of Federal, State, and local laws, regulations, and policies with respect to long-term care facilities and services in that State, and recommend any changes in such laws, regulations, and policies deemed by the Office to be appropriate;

Ombudsman program strengthened considerably at State level:

- Avoid conflict of interest in appointment of Office head;
- Legal advice must be available to Office staff;
- Annual report required;
- Federal, State and local laws must be monitored;
- Training must be provided for ombudsman staff (paid and volunteer);
- Area or local ombudsman are to be considered a subdivision of the State Office (paid and volunteer);
- Staff (paid and volunteer) are protected from liability;
- Ombudsman must have access to patients and their records.

(iii) provide information to public agencies, legislators, and others, as deemed necessary by the Office, regarding the problems and concerns, including recommendations related to such problems and concerns, of older individuals residing in long-term care facilities;

(iv) provide for the training of the Office staff, including volunteers and other representatives of the Office, in--

(I) Federal, State, and local laws, regulations, and policies with respect to long-term care facilities in the State;

(II) investigative techniques; and

(III) such other matters as the State deems appropriate;

(v) coordinate ombudsman services with the protection and advocacy systems for individuals with developmental disabilities and mental illness established under part A of the Developmental Disabilities Assistance and Bill of Rights Act and under the Protection and Advocacy for Mentally Ill Individuals Act of 1986; and

(vi) include any area or local ombudsman entity designated by the State Long-Term Care Ombudsman as a subdivision of the Office. Any representative of an entity designated in accordance with the preceding sentence (whether an employee or an unpaid volunteer) shall be treated as a representative of the Office for purposes of this paragraph.

(I) The State will ensure that no representative of the Office will be liable under State law for the good faith performance of official duties.

(J) The State will--

(i) ensure that willful interference with representatives of the Office in the performance of their official duties (as defined by the Commissioner) shall be unlawful;

(ii) prohibit retaliation and reprisals by a long-term care facility or other entity with respect to such interference, retaliation, and

Continued

1987 AMENDMENTS - ADDITIONS/DELETIONS

State
IMPLICATIONS FOR ~~AREA~~ AGENCIES ON AGING

(13) provide with respect to nutrition services that—

(A) each project providing nutrition services will be available to individuals aged 60 or older and to their spouses, and may be made available to handicapped or disabled individuals who have not attained 60 years of age but who reside in housing facilities occupied primarily by the elderly at which congregate nutrition services are provided;

(B) primary consideration shall be given to the provision of meals in a congregate setting, except that each area agency (i) may award funds made available under this title to organizations for the provision of home delivered meals to older individuals in accordance with the provisions of subpart 2 of part C, based upon a determination of need made by the recipient of a grant or contract entered into under this title, without requiring that such organizations also provide meals to older individuals in a congregate setting; and (ii) shall, in awarding such funds, select such organizations in a manner which complies with the provisions of subparagraph (H) *subclause (1)*;

(C) each project will permit recipients of grants or contracts to charge participating individuals *solicit voluntary contributions* for meals furnished in accordance with guidelines established by the Commissioner, taking into consideration the income ranges of eligible individuals in local communities and other sources of income of the recipients of a grant or contract; and (ii) such *charges voluntary contributions* will be used to increase the number of meals served by the project involved, to facilitate access to such meals, and to provide other supportive services directly related to nutrition services;

(D) in the case of meals served in a congregate setting, a site for such services and for comprehensive supportive services is furnished in as close proximity to the majority of eligible individuals' residences as feasible, with particular attention upon a multipurpose senior center, a school, a church, or other appropriate community facility, preferably within walking distance where possible, and where appropriate, transportation to such site is furnished;

(E) each project will establish outreach activities which insure that the maximum number of eligible individuals may have an opportunity to participate;

(F) each project may establish and administer the nutrition project with the advice of persons competent in the field of service in which the nutrition project is being provided, older individuals who will participate in the program, and of persons who are knowledgeable with regard to the needs of older individuals;

(G) each project will provide special menus, where feasible and appropriate to meet the particular dietary needs

(iii) provide for appropriate sanctions with respect to such interference, retaliation, and reprisals; and

(iv) ensure that representatives of the Office shall have--

(1) access to long-term care facilities and their residents; and

(2) with the permission of a resident or resident's legal guardian, have access to review the resident's medical and social records or, if a resident is unable to consent to such review and has no legal guardian, appropriate access to the resident's medical and social records.

(K) The State agency will prohibit any officer, employee, or other representative of the Office to investigate any complaint filed with the Office unless the individual has received such training as may be required under subparagraph (G)(iv) and has been approved by the long-term care ombudsman as qualified to investigate such complaints.

The plan shall

Older Alaskans Commission
Proposed FY89 Budget
as of Oct. 21, 1987

	(1) Title I. I Adm.	(2) Title V Adm.	(3) Older Alaskans Advocate	(4) Title III	(5) Title V	(6) USDA	(7) Title IV	(8) Total
P/S	481.1	150.9	53.3	0	12.0	0	0	697.3
Travel	40.7	8.8	8.5	0	0	0	0	58.0
C/S	92.9	12.8	12.0	33.8	0	0	80.0	231.5
Supplies	6.7	1.7	.6	0	0	0	0	9.0
Equipment	0	0	0	0	0	0	0	0
Grants	0	0	0	6,541.0	1,631.4	237.0	0	8,409.4
<hr style="border-top: 1px dashed black;"/>								
Total	621.4	174.2	74.4	6,574.8	1,643.4	237.0	80.0	9,405.2
Fed.	300.0	174.2	74.4	3,537.5	1,277.2	237.0	80.0	5,680.3
SGF	321.4	0	0	3,037.3	366.2	0	0	3,724.9

Staff positions

PFT

13.0

PPI

2.0

Staff months

168.4

List of Title III and AS 47.65 Grants FY 88

1. Alaska Legal Services, Inc.	144,223	29. Metlakatla Indian Community	78,611
2. City of Aleknagik	9,197	30. Minto Senior Services	55,801
3. Alzheimer's Family Support Group	44,933	31. Nenana Tortella Council on Aging	85,827
4. Anchor-AGE Senior Center	112,250	32. Ninilchik Senior Citizens	19,978
5. Anch. Comm. Mental Health Center	92,750	33. Nome Community Center	96,436
6. City of Bethel	109,080	34. North Star Council on Aging	254,531
7. Bristol Bay Native Association	197,958	35. North Slope Borough	160,308
8. Catholic Community Services	1,212,880	36. Older Persons Action Group	158,245
9. Mabel T. Caverly Senior Center	61,251	37. Palmer Senior Citizens	153,979
10. Chugiak Senior Center	210,259	38. Salvation Army (Transportation Program)	426,951
11. Copper River Native Association	104,413	39. Salvation Army	593,414
12. City of Cordova	73,271	40. Senior Citizens of Kodiak	138,849
13. City of Dillingham	138,636	41. Seldovia Seniors	22,902
14. Fairbanks Native Association	35,021	42. Seward Senior Citizens	52,730
15. Fairbanks Rehabilitation	73,099	43. Soldotna Seniors	17,154
16. City of Fort Yukon	55,100	44. City of Tanana	231,155
17. Foster Grandparents/Senior Companion	74,729	45. Tapraq, Inc.	13,352
18. City of Galena	3,639	46. Upper Tanana Development Corp.	218,600
19. Home Health Care, Inc.	20,236	47. Valdez Senior Citizens	33,824
20. Home Health Care (Case Management)	90,648	48. City of Wainwright	13,957
21. Homer Senior Citizens	123,570	49. Wasilla Area Seniors	120,142
22. City of Houston	8,867	Amount unobligated as of 10/1/87, will be	
23. City of Kenai	141,402	be obligated during FY 88.	5,768
24. Ketchikan Rendezvous Senior Day Svcs.	62,581	TOTAL	\$6,377,500
25. Kotzebue Senior Center	30,065		
26. Kuspuk School District	29,926		
27. Lower Kuskokwim School District	92,802		
28. City of Kenai, Day Care Program	72,200		

9715B1/1007-0477

C700	ADDITIONAL EXPLANATION FORM
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AGENCY Administration
 BRU Older Alaskans Commission
 COMPONENT Older Alaskans Services

Page	4	of	6
Revised Date:			

FY 89

1100643

SFY '88 Grants for Title V

SE Regional Resource Center (OWS)	\$26,744	Palmer Senior Citizens (OLDS)	23,307
Adult Learning Center	9,214	Minto Village Council	20,616
Agricultural Experimental Station	38,168	Nenana Tortella Council on Aging	18,841
Alaska Historical and Transportation Museum	10,047	Nome Senior Citizens	28,130
Alaska Women's Commission	9,770	North Star Council on Aging	8,177
Anchor-AGE Center, Inc.	42,596	Older Persons Action Group (OPAG)	30,379
Anchorage Community Mental Health	8,610	Palmer Senior Citizens	31,885
Angoon, City of	16,250	People Count, Inc.	17,545
AWARE	19,807	Rendezvous Day Care	8,836
Bering Sea Women's Group	20,242	SEACAP	23,045
Bethel, City of	20,832	Salvation Army	272,421
Bristol Bay Native Association	32,940	Seward Senior Citizens	22,530
Catholic Comm. Services (SE Senior Svcs.)	115,717	Southeast Regional Resource Center	49,848
Central Council Tlingit/Haida Tribes of AK	35,989	Tanana, City of	17,277
Chugiak Senior Center	101,139	Tanana Valley Community College	22,987
Cordova, City of	20,331	Upper Tanana Development Corporation	65,662
Denakkannaaga, Inc.	9,292	Valdez Senior Citizens	33,021
City of Dillingham	10,039	Wasilla Senior Citizens	38,909
Fairbanks Arts Association	22,139	Women in Crisis and Counseling	10,269
Foster Grandparent Senior Companion (Fairbanks)	9,782	People Count (OWS)	12,277
Home Health Care, Inc.	6,809	Fairbanks Rehabilitation Association	8,479
Homer Senior Citizens, Inc.	14,442	Ninilchik	7,037
Homer Society of Natural History	36,928	North Star Council on Aging (OWS)	23,425
Kenai, City of	13,280		
Kodiak Senior Citizens	29,652	Amount unobligated as of 9/1/87 will be	
Lower Yukon Health Association	9,639	obligated during FY 88	93,476
Metlakatla Indian Community	8,123		
		TOTAL	\$1,586,900

9/15B1/1007-04/9

FY 89

C700

ADDITIONAL
EXPLANATION
FORM

AGENCY Administration

BRU Older Alaskans Commission

COMPONENT Older Alaskans Services

Page 6 of 6
Revised Date:

000645

Older Alaskans Commission

Box C
Juneau, Alaska 99811-0209
907/465-3250

OAC Grants for Services

The following OAC grant services are part of the long term care continuum in Alaska.

Adult Day Care provides supervision and a wide range of services for seniors needing assistance with daily living tasks. Adult day care usually occurs on a daily basis for 4 to 7 hours, in a group setting. Most of the seniors using adult day care reside at home with their family. Besides providing an extended break in caring for a senior family member, day care services also allow family members to work outside the home, an important factor in maintaining economic security. The following grant agencies provide adult day care:

Anchorage Community Mental Health Clinic, Anchorage
Salvation Army, Anchorage

Chugiak Senior Center, Chugiak
Dillingham Senior Center, Dillingham
Kenai Senior Services, Kenai
Rendezvous Senior Day Care Services, Ketchikan
Southeast Senior Services, Juneau

Respite Care refers to temporary, short-term adult care services either in a person's home or in a congregate setting. While adult day care occurs on a regularly scheduled basis, respite care occurs sporadically, providing temporary relief for the primary care-giver. Only Fairbanks makes available 24 hour respite care, which can last up to two weeks to allow vacation time for the caregiver. The following grantees provide respite care services:

Salvation Army, Anchorage
Chugiak Senior Center, Chugiak
Home Health Care, Anchorage
Fairbanks Rehabilitation Association, Fairbanks

Homemaker/Chore Services: Homemaker services are provided on a regular basis and provide assistance in housecleaning, laundry, errands, meal preparation and other daily tasks essential in maintaining a household. Chore services provide occasional help with household chores such as heavy cleaning or yard work that are not required daily. The following grantees provide homemaker/chore services:

Salvation Army, Anchorage
Seward Senior Services, Seward
Kodiak Senior Center, Kodiak
Cordova Senior Services, Cordova
Dillingham Senior Center, Dillingham
Bristol Bay Native Association, 11 communities
Upper Tanana Development Corporation, 5 communities
Kenai Senior Services, Kenai
Homer Senior Center, Homer
Southeast Senior Services, 15 communities
Fairbanks Native Association, Fairbanks
Seldovia Native Association, Seldovia

Home Health Services are health services provided by a medical professional (L.P.N., R.N., P.A., or M.D.) in a client's home. Services may include blood pressure checks, dental or vision care, foot care, or health education. Only one Commission grantee provides home health services, the Kodiak Senior Center, Kodiak. (The Division of Public Health provides home health care to many seniors around the state.)

Other Supportive Services grants include visiting and telephone reassurance. Visiting occurs usually in a client's home and provides comfort or companionship as well as informal assessment of an individual's mental/physical functioning. Telephone Reassurance provides regular telephone contact to seniors in physical and/or social isolation. Such regular communication insures the health and safety of the senior and reassures them that help is available when needed. Fifteen OAC projects provide such supportive services.

Home-Delivered and Congregate Meals provide one-third of the RDA (Recommended Daily Allowance) of nutritional needs for senior citizens as established by the Food and Nutritional Board of the National Academy of Sciences. Meals are delivered to home-bound seniors or to those temporarily

unable to attend congregate meals due to illness. The following grantees provide home-delivered and/or congregate meals:

Salvation Army, Anchorage
Chugiak Senior Center, Chugiak
Kodiak Senior Center, Kodiak
Cordova Senior Services, Cordova
Dillingham Senior Center, Dillingham
Bristol Bay Native Association, (11 communities)
Upper Tanana Development Corporation 3 communities
North Star Council on Aging, Fairbanks
Kenai Senior Services, Kenai
Homer Senior Center, Homer
Ninilchik Senior Center, Ninilchik
Southeast Senior Services, 15 communities
Fort Yukon Elderly Services, Fort Yukon
North Slope Borough, Barrow
Lower Kuskoowim School District, 20 communities
City of Wainwright
Nome Community Center, Nome
Copper River Native Association, 7 communities
Valdez Senior Center, Valdez
Seldovia Native Association, Seldovia
Tapaq, Inc., Stebbins

Senior Companion services are grant projects that recruit volunteers to provide company for home-bound seniors on a regular basis. One agency provides senior companion services in Juneau, Hoonah and Fairbanks; namely Foster Grandparents/Senior Companions.

Tanana Elders' Residence provides assisted residential services including meals and transportation for up to 15 handicapped and mobile seniors. With full occupancy, cost

per resident is less than \$15,000 per year, which is less than half the cost of Pioneers' Home residency and one-quarter the cost of a private nursing home.

The Senior Citizens Ombudsman was established as a position on the Commission's staff in FY 1987, though it had previously been a grantee position. The Ombudsman investigates complaints from seniors statewide, including those in nursing homes. Through the Ombudsman's activities the Commission stays informed about the long term care network.

INCREMENT/DECREMENT DESCRIPTION (Limit to 98 characters) Adult Day Care Services for Dependent Persons			
AGENCY CONTACT/PHONE NUMBER: Ruth A. Gulyas / 465-3250			
DESCRIBE WHY THIS INCREMENT/DECREMENT IS NEEDED AND WHAT IT PURCHASES: The number of older Alaskans aged 65 and over has grown by more than forty-five percent between 1980 and 1985, an increase larger than any other state. This rate is even greater for the 75+ population. It is projected that Alaska's 05+ population will increase by 250% by 1995. This is the age segment which places the greatest demand upon health and social services including nursing home care. It is this group to whom the Commission's community-based services are targeted with the goal of enabling individuals to avoid costly nursing home care. Adult day care services contribute greatly to this goal. Based upon current utilization, the number of nursing home residents who are 65 years and older will increase 291 percent by the year 2000. Since nearly 100 percent of nursing home costs are paid by the government, this represents a future funding liability in excess of \$200 million unless steps are taken to expand less costly community care. The State may save \$20.00 in long-term care cost for every dollar spent on adult day care. This increase will begin adult day care in three communities (Homer, Fairbanks and one undetermined community). This is based on an average annual cost of \$3,000 per client times 30 clients for \$90,000. An additional \$20,000 is to meet increased demand of existing adult day care programs.			
CHIEF	EXPENDITURE BY OBJECT	AGENCY REQ.	GOV'S REQ.
100	Personal Services		
200	Travel		
300	Contractual Services		
400	Supplies		
500	Equipment		
600	Lands, Buildings, Etc.		
700	Grants, Claims, Etc.	118.0	
800	Miscellaneous		
	TOTAL	118.0	
	I-A Transfer (NON-ADD)		
1002	Federal Receipts		
1003	General Fund Match		
1004	General Fund	118.0	
1005	Program Receipts/CF		
1007	I-A Receipts		
POSITION INFORMATION	PFI		
	PPF		
	Non Permanent		
	Staff Months		
<input checked="" type="checkbox"/> Enhance Existing Service Compared to FY 88 <input type="checkbox"/> New Service Compared to FY 88 <input type="checkbox"/> Continuation of FY 88 Service Level		<input type="checkbox"/> Formula Program	
IMPACT FROM CAPITAL PROJECT (NAME)			
Chapter _____ SLA _____ Page/Line _____			

9/1501/C5/1116-01/2

C5 INCREMENT/DECREMENT REQUEST
Agency Priority 1 of 1

AGENCY Administration
 BRU Older Alaskans Commission
 COMPONENT Older Alaskans Commission
 PROJECT Adult Day Care Services

FY 89

Page 1 of 1
Revised Date: _____

B2 BRU ISSUES

AGENCY Administration
 BRU Older Alaskans Commission

Page 2 of 4
Revised Date: _____

FY 89

INCREMENT/DECREMENT DESCRIPTION (Limit to 98 characters)
Nutrition Services Expansion

AGENCY CONTACT/PHONE NUMBER:
Ruth A. Gulyas / 465-3250

DESCRIBE WHY THIS INCREMENT/DECREMENT IS NEEDED AND WHAT IT PURCHASES:
 Nutritious meals play an essential role in the physical and mental well-being of Alaska's aging population. In many instances, a Commission funded meal which provides one-third of the recommended dietary allowances is the older person's only meal. A study of the nutritional risk of elderly Americans reveals that nearly one in five does not have enough money to purchase adequate food.

This increment will:

- 1) Increase the 28 existing home-delivered meal programs to one meal per day, seven days per week. The current home-delivered meal programs are funded to provide only three to five meals to homebound elderly. \$320.2
 - 2) Increase congregate nutrition services to five days per week for six grantees currently providing meal services less than five days per week. \$ 80.4
 - 3) Begin senior nutrition services to four of the sixteen unserved rural communities that have perviously expressed interest in developing a nutrition program for the elderly. \$120.0
- TOTAL \$528.6

CODE	EXPENDITURE BY OBJECT	AGENCY REQ.	GOV'S REQ.
100	Personal Services		
200	Travel		
300	Contractual Services		
400	Supplies		
500	Equipment		
600	Lands, Buildings, Etc.		
700	Grants, Claims, Etc.	528.6	
800	Miscellaneous		
TOTAL		528.6	
I-A Transfer (NON-ADD)			
1002	Federal Receipts		
1003	General Fund Match		
1004	General Fund	528.6	
1005	Program Receipts/CF		
1007	I-A Receipts		
POSITION INFORMATION			
PFT			
PPT			
Non Permanent			
Staff Months			

<input checked="" type="checkbox"/> Enhance Existing Service Compared to FY 88	<input type="checkbox"/> Formule Program
<input type="checkbox"/> New Service Compared to FY 88	
<input type="checkbox"/> Continuation of FY 88 Service Level	

IMPACT FROM CAPITAL PROJECT (NAME)
 Chapter _____ SLA _____ Page/Line _____

9/1501/C5/1116-01/4

C5 INCREMENT/DECREMENT REQUEST
 Agency Priority 2 of 3

AGENCY Administration
 BRU Older Alaskans Commission
 COMPONENT Older Alaskans Commission
 PROJECT Nutrition Services

FY 89

Page 1 of 1
 Revised Date: _____

B2 BRU ISSUES

AGENCY Administration
 BRU Older Alaskans Commission

FY 89

Page 3 of 4
 Revised Date: _____

Original sponsors: Uehling, Kerttula
and Szymanski

1 IN THE SENATE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR SENATE BILL NO. 442 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Older Alaskans Commission and
7 the protection of elderly persons; and establishing
8 the office of the long term care ombudsman."

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

10 * Section 1. AS 44.21.230(b) is amended to read:

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

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

14 (2) collect facts and statistics, and make studies of
15 conditions and problems pertaining to the employment, health, finan-
16 cial security, social welfare, and other concerns that bear upon the
17 well-being of older Alaskans;

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

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

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

24 (6) contract for necessary services;

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

28 (8) advocate improved programs of benefit to older Alas-
29 kans; and

1 (9) set standards for levels of services for older Alaskans
2 for programs administered by the commission; and

3 (10) adopt regulations necessary for the administration of
4 AS 44.21.200 - 44.21.240 and to comply with federal law.

5 * Sec. 2. AS 44.21 is amended by adding new sections to read:

6 Sec. 44.21.231. OFFICE OF THE LONG TERM CARE OMBUDSMAN. (a)
7 The office of the long term care ombudsman is established in the
8 commission.

9 (b) The ombudsman shall be hired by the commission. A member of
10 the commission who has a financial interest in a long term care facil-
11 ity in the state, or who has any other conflict of interest, may not
12 participate in the hiring of the ombudsman. The ombudsman is a
13 full-time position in the classified service.

14 (c) The ombudsman may not have a financial interest in a long
15 term care facility in the state. The commission shall adopt regula-
16 tions to ensure that the ombudsman, and employees and volunteers of
17 the office, do not have a conflict of interest or an appearance of a
18 conflict of interest.

19 Sec. 44.21.232. DUTIES AND POWERS OF THE LONG TERM CARE OMBUDS-
20 MAN. (a) The ombudsman shall investigate and resolve a complaint
21 made by or on behalf of an older Alaskan who resides in a long term
22 care facility in the state if the complaint relates to a decision,
23 action, or failure to act by a provider or a representative of a
24 provider of long term care services, or by a public agency or social
25 services agency, that may adversely affect the health, safety, wel-
26 fare, or rights of the older Alaskan.

27 (b) The ombudsman may investigate and resolve a complaint made
28 by or on behalf of an older Alaskan relating to the long term care or
29 residential circumstances of the older Alaskan. Complaints under this

1 subsection may relate to any issue not covered under (a) of this
2 section, including the older Alaskan's landlord, senior citizen hous-
3 ing, a public assistance program, a public grant program for services
4 to older Alaskans, public utilities, health care facilities, and
5 health care providers.

6 (c) The ombudsman may

7 (1) subpoena witnesses, compel their attendance, require
8 the production of evidence, administer oaths, and examine any person
9 under oath in connection with a complaint described under (a) of this
10 section; the powers described in this paragraph shall be enforced by
11 the superior court;

12 (2) pursue administrative, legal, or other appropriate
13 remedies on behalf of an older Alaskan who resides in a long term care
14 facility in the state.

15 Sec. 44.21.233. TRAINING AND CERTIFICATION OF STAFF. (a) The
16 ombudsman shall provide for the training and certification of office
17 staff, including volunteers and other representatives of the office.
18 Training must include instruction in federal, state, and local laws
19 and policies relating to long term care facilities in the state, and
20 in investigative techniques. The ombudsman may require other appro-
21 priate training. The ombudsman may decertify a person under this
22 section for good cause in accordance with regulations adopted by the
23 commission.

24 (b) An employee, volunteer, or other representative of the
25 office may not investigate a complaint under AS 44.21.232 unless
26 certified as having completed training under this section and approved
27 by the ombudsman as qualified to investigate the complaint.

28 Sec. 44.21.234. ACCESS TO LONG TERM CARE FACILITIES, OLDER
29 ALASKANS, AND RECORDS. (a) A person may not deny access to a long

1 term care facility or to an older Alaskan by the ombudsman or an
2 employee, volunteer, or other representative of the office.

3 (b) Notwithstanding the provisions of AS 44.21.232(c)(1), the
4 ombudsman may obtain medical or other records of an older Alaskan who
5 resides in a long term care facility in the state only with the con-
6 sent of the older Alaskan or the older Alaskan's legal guardian or, if
7 the older Alaskan is unable or incompetent to consent and does not
8 have a legal guardian, only with a court order.

9 Sec. 44.21.235. CONFIDENTIALITY. (a) Records obtained or
10 maintained by the ombudsman are confidential, are not subject to
11 inspection or copying under AS 09.25.110 - 09.25.120 and, except as
12 provided in (b) of this section, may be disclosed only at the dis-
13 cretion of the ombudsman.

14 (b) The identity of a complainant or an older Alaskan on whose
15 behalf a complaint is made may not be disclosed without the consent of
16 the identified person or the person's legal guardian, unless required
17 by court order.

18 Sec. 44.21.236. IMMUNITY FROM LIABILITY. (a) A person who, in
19 good faith, makes a complaint described in AS 44.21.232 is immune from
20 civil or criminal liability that might otherwise exist for making the
21 complaint.

22 (b) The ombudsman, or an employee, volunteer, or other represen-
23 tative of the office, is immune from civil or criminal liability for
24 the good faith performance of official duties.

25 Sec. 44.21.237. INTERFERENCE WITH THE LONG TERM CARE OMBUDSMAN
26 AND RETALIATION PROHIBITED. (a) A person may not intentionally
27 interfere with the ombudsman, or an employee, volunteer, or represen-
28 tative of the office, in the performance of official duties under
29 AS 44.21.232.

1 (b) An employer or supervisor of a person who, in good faith,
2 makes a complaint described in AS 44.21.232 may not discharge, demote,
3 transfer, reduce the pay or benefits or work privileges of, prepare a
4 negative work performance evaluation of, or take other detrimental
5 action against the person because of the complaint. The person making
6 the complaint may bring a civil action for compensatory and punitive
7 damages against an employer or supervisor who violates this subsec-
8 tion. In the civil action there is a rebuttable presumption that the
9 detrimental action by the employer or supervisor was retaliatory if it
10 was taken within 90 days after the complaint was made.

11 (c) A person who violates this section is guilty of a class B
12 misdemeanor.

13 Sec. 44.21.238. LEGAL COUNSEL FOR THE LONG TERM CARE OMBUDSMAN.
14 The attorney general shall provide legal advice and representation in
15 connection with any matter relating to the powers, duties, and opera-
16 tion of the office, and in any legal action brought against the om-
17 budsman or an employee, volunteer, or other representative of the
18 office. If the attorney general cannot provide legal advice or repre-
19 sentation because of a conflict of interest, the ombudsman may employ
20 private legal counsel.

21 Sec. 44.21.239. COOPERATIVE AGREEMENTS. The commission shall
22 enter into cooperative agreements concerning the operations of the
23 office, including protocols for investigations, with state and local
24 agencies that have jurisdiction over long term care facilities or over
25 the abuse and neglect of older Alaskans.

26 * Sec. 3. AS 44.21.240 is amended to read:

27 Sec. 44.21.240. DEFINITIONS. In AS 44.21.200 - 44.21.240,

28 (1) "commission" means the Older Alaskans Commission;

29 (2) "long term care facility" means a foster home or other

1 residential facility for dependent adults that is required to be
2 licensed under AS 47.35 and a nursing home as defined in AS 08.70.180;

3 (3) "office" means the office of the long term care ombuds-
4 man;

5 (4) "older Alaskan" means a resident who is 60 years of age
6 or older;

7 (5) "ombudsman" means the long term care ombudsman hired
8 under AS 44.21.231;

9 (6) "senior citizen housing" has the meaning given in
10 AS 44.47.620(e).

11 * Sec. 4. AS 47.24.010 is amended by adding a new subsection to read:

12 (h) An employer or supervisor of a person who, in good faith,
13 makes a report of harm under this section may not discharge, demote,
14 transfer, reduce the pay or benefits or work privileges of, prepare a
15 negative work performance evaluation of, or take other detrimental
16 action against the person because of the report. The person making
17 the report may bring a civil action for compensatory and punitive
18 damages against an employer or supervisor who violates this subsec-
19 tion. In the civil action there is a rebuttable presumption that the
20 detrimental action by the employer or supervisor was retaliatory if it
21 was taken within 90 days after the report of harm was made.
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S B

444

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 3/2/88 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: FINANCE

**FISCAL NOTE(S) ATTACHED **
IN ACCORDANCE WITH AS 24.08.035
(see below)

2/16/88

DATE TURNED INTO OFFICE 3/11/88

Mr. President:

State Affairs

Committee considered SB 444

eligibility for permanent fund dividends and providing civil penalties
for certain conduct involving permanent fund dividends; efd

and recommended:

replace with CS _____ same title
 new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted and attached

** Committee attached or adopted fiscal note(s)
 zero fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Signature]
[Signature]
W. K. ...

[Signature]
Chairman signature and recommendation

Committee Backup Attached

Alaska State Senate

P.O. Box V
Juneau, AK 99811
Tel: (907) 465-2444
465-3862/465-4923



Senate Finance Committee
State Affairs Committee
Vice-Chair, Rules Committee
Chair, Administrative Regulation Review

William L. Hensley

SENATE BILL 444:

A BILL TO REDUCE

THE FLOW OF PERMANENT FUND DIVIDENDS

OUT OF ALASKA

Summary

Alaska's population is falling and so is the number of permanent fund dividends paid -- but the number of people filing for and receiving dividends outside the state is growing. The number of people applying for 1987 dividends from out of Alaska and receiving the checks out of Alaska is expected to increase by more than 25 percent over the figure for 1986. The total will be about 12,500 people, which represents more than two percent of all recipients for 1987. More than \$8 million will be sent to those filing for and receiving dividends outside of Alaska.

The proposed legislation would add to the eligibility requirements for dividends the condition that an applicant be physically present in the state on the date of application, which can anytime be between April 1 and June 30. In addition, the proposed legislation would cut off a person's ability to receive dividends if he or she was not physically present in Alaska during most of the eligibility period (October 1 - March 31) for more than five consecutive years.

The Problem

Alaska statutes set out two requirements before someone can receive a permanent fund dividend. A person is eligible to apply if that person (1) has been a state resident for at least the six consecutive months between October 1 and March 31, and (2) is a state resident on the date of application (AS 43.23.005). The requirement of the intent to make Alaska a permanent home is absolute.

The requirement of physical presence in Alaska, however, does not mean that a person has to spend each day of the October 1 - March 31 eligibility period in the state. By regulation, a person is allowed to spend up to 60 consecutive days -- and 90 total days -- outside the state during the winter eligibility period without it affecting eligibility (15 AAC 23.665(k)). If a person is gone more than two months straight or more than three months total, however, that person is only eligible if he or she has an "allowable absence."

Absences which are allowable by statute are: (1) vocational, professional and other education which is not reasonably available in Alaska; (2) postsecondary or secondary education; (3) military service; (4) medical treatment; (5) service in Congress; and (6) service in the Peace Corps (AS 43.23.095).

The statute provides that the Department of Revenue, which administers the program, may add other allowable absences. Absences made allowable by regulation are: (1) service on the staff of a U.S. Senator or U.S. Representative for Alaska; (2) prisoners and minors committed to state custody; (3) service as a state employee; (4) any absence whose "nature and duration . . . are temporary and are consistent with an intent to return to the state and remain permanently in the state" (the "catch-all" exception); and (5) spouses, children, and other dependents of residents who are absent for allowable reasons (15 AAC 23.665(a-j and 1)).

Allowable absences thus draw a sharp line dividing those people who claim an intent to make Alaska their permanent home. If such a person is gone from Alaska for most of the winter or gone for all of the spring without an allowable absence, that person cannot legally receive that year's permanent fund dividend. If a person has an allowable absence, on the other hand, that person may be gone for all of the winter window, gone for all of the spring filing period, and gone the whole rest of the year -- year after year after year.

Under current law, there is no flat rule against someone coming to Alaska for a day, leaving the state on an allowable absence, and collecting permanent fund dividends as long as he lives while never setting foot in the state again. There are some regulations requiring the Department of Revenue to scrutinize with particular care absences claimed for state employment, medical purposes, certain educational purposes, or the catch-all exception. There is also a regulation placing the burden on the applicant to prove intent to return and remain permanently in Alaska if absences claimed for secondary or postsecondary education, military service in Congress or Congressional staff, state employment, or the catch-all exception exceed five years.

Despite these regulations, 300 people who have not been in Alaska for more than five years were paid 1986 dividends. The growing use of allowable absences has caused a substantial increase in the number of people applying for and receiving permanent fund dividends outside of Alaska. The total is estimated to be about 12,500 for 1987. This is more than a 25% jump over the 1986 at a time when the state's estimated population and total number of dividend recipients are both dropping. More than two percent of 1987 dividends will go to this group, which represents more than \$8 million. About 95% of this group claimed an allowable absence in 1987.

The Proposed Remedy: SB 444

The proposed legislation adds a requirement of physical presence in the state on the date of application. Formerly, a person could be gone all year, after year, and still claim a dividend if that person claimed an allowable absence and an intent to return and remain permanently. This requirement will provide an additional test of a person's intent to return to and remain permanently in the state. It will also make sure that the person has not completely lost touch with Alaska. Finally, this requirement will make it more likely dividends will be spent in Alaska.

Requiring the applicant to certify that he or she is physically present on the date of application and provide two other persons who will certify the same is an administratively feasible way of accomplishing these goals. This requirement will not be an excessive burden on the applicant, as he or she can choose any day to file among the 90 days of the April 1 - June 30 filing period. The only exceptions for this requirement of physical presence are medical treatment not available in Alaska and service in Congress. Spouses and dependents of the first two groups will also be eligible.

The proposed legislation also makes a flat rule cutting off allowable absences after five consecutive years (with the same narrow exceptions as proposed for the requirement of physical presence on the date of application). The effect of this, when combined with the requirement of physical presence when applying, is to allow a person to be gone for most of the winter five years in a row while being present for one day in the spring each year, but after that time require an applicant to return to Alaska to spend most of the winter.

Finally, the proposed legislation establishes civil penalties for willful misrepresentation, gross negligence, or reckless disregard of material facts concerning eligibility. Current law allows two methods of dealing with individuals who have wrongly claimed permanent fund dividends. One method is available against all individuals who have received dividends to which they were not entitled, whatever their state of mind. This method is the assessment, an administrative procedure in which the Department of Revenue attempts to collect the dividend which the individual received. (AS 43.23.035b)) The other method is criminal prosecution, which is aimed only at those who have intentionally engaged in fraud. (The crime is "unsworn falsification" under AS 11.56.210.) Intent to defraud can be difficult to prove, especially to the high standard of beyond a reasonable doubt required by the criminal law.

The proposed legislation would authorize the Department of Revenue to seek civil penalties which could exceed the value of the dividend(s) wrongly obtained for those who have engaged in undesirable behavior short of intentional fraud. The bill would establish civil fines of up to \$5,000 for those who are found to have engaged in willful misrepresentation, gross negligence or reckless disregard of material facts involving their eligibility for dividends. The standard of proof required would be lesser than that required on criminal prosecutions.

My office was assisted in the preparation of this explanation of SB 444 by Cliff Groh, Special Assistant to the Commissioner of Revenue - 465-2323.

Alaska State Senate

P.O. Box V
Juneau, AK 99811
Phone: (907) 465-2444
465-3862/465-4923



Senate Finance Committee
State Affairs Committee
Vice-Chair, Rules Committee
Chair, Administrative Regulation Review

William L. Hensley

QUESTIONS AND ANSWERS ON SB 444

LEGISLATION TIGHTENING UP PERMANENT

FUND DIVIDEND ELIGIBILITY

REQUIREMENTS

Q. What are the requirements for someone to receive a Permanent Fund Dividend under the law today?

A. First, the person applying has to be a resident of Alaska for at least the six consecutive months between October 1 - March 31. Second, a person must be a state resident on the date of application, sometime between April 1 and June 30 of each year. (AS 43.23.005 and 15 AAC 23.625) Thus to get a dividend, someone must be a state resident for most of the fall and winter and still claim to be a resident for one day in the spring.

Q. What does it take to be a state resident?

A. First, that the person either must be physically present in Alaska for 90 days or more between October 1 and March 31 or be absent for an allowable reason (called an "allowable absence").

Second, the person must have an intent to remain permanently if that person is physically present in the state, and must have an intent to return and remain permanently if the person is absent. (AS 43.23.095 and 15 AAC 23.665(k)) (The law also requires someone to have an allowable absence if he or she is absent more than 60 total days in the state between October 1 and March 31.)

Q. Which absences are allowable?

A. Absences which are allowable by statute are: (1) vocational, professional, and other specific education which is not reasonably available in Alaska; (2) postsecondary or secondary education; (3) military service; (4) medical treatment; (5) service in Congress; and (6) service in the Peace Corps (AS 43.23.095).

The statute also provides that the Department of Revenue, which administers the program, may add other allowable absences. Absences made allowable by regulation are: (1) service on the staff of a U.S. Senator or U.S.

Representative for Alaska; (2) prisoners and minors committed to state custody; (3) service as a state employee; (4) any absence whose "nature and duration . . . are temporary and are consistent with an intent to return to the state and remain permanently in the state" (the "catch-all" exception); and (5) spouses, children and other dependents of residents who are absent for allowable reasons (15 AAC 23.665(a-j and l)).

Q. If the law recognizes allowable absences, does this mean that someone applying for the dividend does not have to be physically present in the state even for one day of the year?

A. That's right. Allowable absences draw a sharp line dividing those people who claim an intent to make Alaska their permanent home. If such a person is gone from Alaska for most of the winter or gone for all of the spring without an allowable absence, that person cannot legally receive that year's permanent fund dividend. If a person has an allowable absence, on the other hand, that person may be gone for all of the winter residency period, gone for all of the spring filing period, and gone the whole rest of the year - year after year after year.

Q. Are there any barriers under current law to stop completely someone from coming to Alaska for a day, leaving on an allowable absence, and receiving Permanent Fund Dividends for as long as the person keeps the allowable absence without ever setting foot in the state again?

A. No, there is no flat rule preventing that from happening.

There are some regulations requiring the Department of Revenue to scrutinize with particular care absences claimed for state employment, medical purposes, certain educational purposes, or the catch-all exception. There is also a regulation placing the burden on the applicant to prove intent to return and remain permanently in Alaska if absences are claimed for more than five years for secondary or postsecondary education, military service, service in Congress or Congressional staff, state employment, or the under catch-all exception.

Q. Do these regulations prevent people from receiving dividends who have not been in Alaska for five years or more?

A. No. Three hundred people received dividends in 1986 who stated that they had not been physically present in Alaska for five years or more.

Q. What is the effect of the law permitting allowable absences on the number of people receiving dividends out of Alaska?

A. The growing use of allowable absences has caused a substantial increase in the number of people applying for and receiving permanent fund dividends outside of Alaska. The total is estimated to be about 12,500 for 1987. This is more than a 25% jump over 1986 at a time when the state's estimated population and total number of dividend recipients are both dropping. More than two percent of 1987 dividends will go to this group, which represents more than \$8 million. About 95% of this group claimed an allowable absence in 1987.

Q. How would SB 444 remedy this problem?

- A. SB 444 would: (1) require that an applicant for a Permanent Fund Dividend be physically present in the State on the date of application (the application period is April 1 - June 30); (2) establish a flat prohibition on a person's ability to receive a Permanent Fund Dividend after five consecutive years claiming any allowable absence; and (3) establish civil penalties for willful misrepresentation, gross negligence, or reckless disregard of material facts concerning eligibility.
- Q. What effect would this legislation have on what a person would need to receive a permanent Fund Dividend?
- A. A person would always need an intent to make Alaska his or her permanent home. A person could still be absent on an allowable absence during the entire eligibility period of October 1 - March 31. The person would have to return to be physically present in Alaska on the date the person applies - which could be during the filing period of April 1 - June 30. The person could be absent five years in a row during the October 1 - March 31 eligibility period, but would need to return to Alaska to spend most of the October 1 - March 31 period in the sixth year to be eligible for that sixth year.
- Q. Why does the legislation add a requirement of physical presence?
- A. This requirement will provide an easily measured indicator of a person's intent to return to Alaska and remain permanently. If enacted, the bill would reflect a legislative presumption that the person who truly intends to return and remain permanently will retain sufficient ties to the state to be present at least one day during the 90-day filing period.
- Q. Why does the legislation set the date of application as the time the applicant must be physically present in the state?
- A. Requiring the applicant to certify that he or she is physically present on the date of application is an administratively simple way of testing a person's intent to return and remain permanently in Alaska. The application form already requires that an applicant certify his or her residency on the date of application, and also requires that two other persons certify the applicant's residency. This legislation would allow the Department of Revenue to require the applicant and these two certifying witnesses to attest to the additional simple fact that the applicant is here in Alaska the date he or she signs the form.
- Q. Will this requirement of physical presence on the date of application be an excessive burden on the applicant?
- A. No. The applicant can choose any day of the 90-day filing period (April 1 - June 30) to return to file.
- Q. Are there any exceptions to the proposed rules that applicants must be physically present on the date of application and cannot claim allowable absences after five consecutive years of being gone from the state during the eligibility period?

A. Yes, there are two narrow exceptions. The only exceptions to both proposed rules are to obtain medical treatment not available in Alaska or service in Congress. Spouses and dependents of these two groups will also be eligible.

Q. What effect will these charges have on each dividend?

A. The Department of Revenue has estimated that if this bill became law, in the first year each dividends would be at least \$15 higher than it would otherwise be.

Q. How do the new proposed civil penalties work?

A. The proposed legislation establishes civil penalties for willful misrepresentation, gross negligence, or reckless disregard of material facts concerning eligibility. Current law allows two methods of dealing with individuals who have wrongly claimed permanent fund dividends. One method is available against all individuals who have received dividends to which they were not entitled, whatever their state of mind. This method is the assessment, an administrative procedure in which the Department of Revenue attempts to collect the dividend which the individual received. (AS 43.23.035(b)) The other method is criminal prosecution, which is aimed only at those who have intentionally engaged in fraud. (The crime is "unsworn falsification" under AS 11.56.210.) Intent to defraud can be difficult to prove, especially to the high standard of beyond a reasonable doubt required by the criminal law.

The proposed legislation would authorize the Department of Revenue to seek civil penalties which could exceed the value of the dividend(s) wrongly obtained for those who have engaged in undesirable behavior short of intentional fraud. The bill would establish civil fines of up to \$5,000 for those who are found to have engaged in willful misrepresentation, gross negligence, or reckless disregard of material facts involving their eligibility for dividends. The standard of proof required would be over them that required on criminal prosecutions.

Q. What is the overall effect of this bill?

A. This legislation both tightens up the rules for eligibility for Permanent Fund Dividends and makes those rules easier to apply.

My office was assisted in preparation of this explanation of SB 444 by Cliff Groh, Special Assistant to the Commissioner of Revenue - 465-2323.

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

MAR 11 1988

March 10, 1988

The Honorable Willie Hensley
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Willie,

I applaud your introduction of SB 444, the bill tightening up eligibility requirements for Permanent Fund Dividends. I share your concern for the integrity of the Permanent Fund Dividend program, and want to make sure we can guarantee that all people receiving Permanent Fund Dividends are not just "Alaskans in spirit."

Sincerely,

A handwritten signature in dark ink, appearing to read "Steve Cowper".

Steve Cowper
Governor

FISCAL NOTE

REQUEST

Revision Date: _____
Title: An Act relating to eligibility
for permanent fund dividends
Sponsor: Hensley, Kerttula, Abood et.al.
Requestor: _____

Agency Affected: Revenue
BRU: Permanent Fund Dividend Division
Components: Permanent Fund Dividend
Division

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
OPERATING						
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
SUPPLIES	-0-	-0-	-0-	-0-	-0-	-0-
EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
LANDS & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
GRANTS, CLAIMS	-0-	-0-	-0-	-0-	-0-	-0-
MISCELLANEOUS	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: Please see attached.

Prepared By: Ervin B. Jones, Director
Division: Permanent Fund Dividend Division

Phone: 465-2323
Date: March 10, 1988

Approved by Commissioner: [Signature]
Agency: Revenue

Date: 3/10/88

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Department of Revenue
Permanent Fund Dividend Division
Fiscal Note Analysis
SB 444
As of March 10, 1988

This legislation would reduce the number of eligible applicants for Permanent Fund Dividends by approximately 10,000 in 1989. Although an exact figure is not possible, this reduction in applicants will serve to increase future Permanent Fund Dividends by approximately \$15.

Since persons not filing from out-of-state represent a substantial part of the Division's civil investigation effort, any real reduction will result in some decreased administrative costs in the FY 91 budget request, all else being equal. Some portion of the potential savings will be directed to increasing our efforts in criminal investigation, to reduce the potential for fraudulent filings. See attached position paper.

DEPARTMENT OF REVENUE
POSITION PAPER ON
SB 444

Introduction

The Department of Revenue supports SB 444. This bill tightens up the rules on Permanent Fund Dividend eligibility and makes those rules easier to enforce. The bill would raise the annual dividend by at least \$15, and carries a zero fiscal note.

SB 444 would go a long way to reverse a trend allowed by current law. Both the state population and the number of people receiving Permanent Fund Dividends are falling. But the number of people receiving Permanent Fund Dividends who apply from out of state is rapidly increasing.

More than 12,000 dividends are now going to people who give out-of-state addresses when they file. This is more than two percent of all 1987 Permanent Fund Dividends, and represents a 25 percent increase over the figure for 1986. The Department of Revenue estimates that a minimum of two-thirds of this group -- at least 8,000 people -- are gone from the state for more than a year by the time they receive a dividend. Approximately 300 people are receiving 1986 and 1987 Permanent Fund Dividends who have not physically touched Alaska in more than five years.

Loopholes in the Eligibility Requirements for Permanent Fund Dividends

The substantial and growing number of people receiving Permanent Fund Dividends who apply from outside of Alaska is the product of some loopholes in the eligibility requirements for Permanent Fund Dividends.

Under current law, there are three requirements for someone to receive a Permanent Fund Dividend. First, the person must file an application between April 1 and June 30. Second, the person applying has to be a resident of Alaska for at least the six consecutive months between October 1 and March 31. Third, a person must be a state resident on the date of application. Thus, to get a dividend, someone must be a state resident for most of the fall and winter and still claim to be a resident for one day in the spring (AS 43.23.005 and 15 AAC 23.625).

There are two requirements for someone to be a state resident. First, the person must have an intent to remain permanently if that person is physically present in the state, and must have an intent to return and remain permanently if the person is absent (AS 43.23.095 and 15 AAC 23.665(k)). Second, the person either must be physically present in Alaska for 90 days or more between October 1 and March 31 or be absent for an allowable reason (called an "allowable absence"). The law also requires someone to have an allowable absence if he or she is absent more than 60 consecutive days from the state between October 1 and March 31.

Allowable absences thus draw a sharp line dividing those people who claim an intent to make Alaska their permanent home. If such a person is gone from Alaska for most of the winter or gone for all of the spring without an allowable absence, that person cannot legally receive that year's Permanent Fund Dividend. If a person has an allowable absence, on the other hand, that person may be gone for all of the winter window, gone for all of the spring filing period, and gone for all of the rest of the year -- year after year after year.

Under current law, there is no flat rule against someone coming to Alaska for a day, leaving the state on an allowable absence, and collecting Permanent Fund Dividends as long as he or she retains the allowable absence while never setting foot in the state again.

Approximately 95 percent of those people receiving 1987 dividends who applied for them from outside the state also claimed allowable absences. More than \$8 million in dividends went to this group.

SB 444's Approach

If enacted, SB 444 would make several changes consistent with the dividend program's philosophy. First, the legislation adds to current law a requirement that an applicant be physically present in Alaska on the date of application, which can be anytime between April 1 and June 30. The bill provides for only narrow exceptions to this requirement: (1) medical treatment not available in Alaska; (2) service in Congress; and (3) spouses and dependents of these people in (1) and (2).

Adding the requirement of physical presence on the date of application would establish a relatively easily measured indicator of the intent held by the person claiming Alaska residency while living elsewhere. The bill's enactment would reflect a legislative presumption that the person who truly intends to return and remain permanently will retain sufficient ties to the state to be present at least one day during the three-month filing period. This additional requirement would also make sure that Permanent Fund Dividend recipients have not completely lost touch with Alaska.

Requiring the applicant to certify that he or she is physically present on the date of application is an administratively simple way of testing a person's intent to return and remain permanently in Alaska. The application form already requires that an applicant certify his or her residency on the date of application, and also requires that two other persons certify the applicant's residency. This legislation would allow the Department of Revenue to require the applicant and these two certifying witnesses to attest to the additional simple fact that the applicant is here in Alaska the date he or she signs the form. This requirement of physical presence on the date of application will not be an excessive burden on the applicant as the applicant can choose any day of the three-month filing period (April 1 - June 30) to file.

This requirement will also make it more likely that dividends will be spent in Alaska. Now, more than \$8 million in dividends goes to people who apply from outside Alaska.

Putting this money back into the state has another benefit. If this bill passed, the Department of Revenue estimates that in 1989 at least 10,000 fewer people will receive dividends than would under current law. This will increase the dividend by more than \$15 per Alaskan.

SB 444 also cuts off allowable absences after five consecutive years (with the few narrow exceptions that apply to the physical presence rule). When combined with the requirement of physical presence when applying, the effect of this is to allow a person to be gone for most of the winter five years in a row while being present for one day in the spring each year. The following year, the applicant would have to return to Alaska to spend most of the winter.

Finally, the proposed legislation establishes civil penalties for willful misrepresentation, gross negligence, or reckless disregard of material facts concerning eligibility. Current law allows two methods of dealing with individuals who have wrongly claimed permanent fund dividends. One method is available against all individuals who have received dividends to which they were not entitled, whatever their state of mind. This method is the assessment, an administrative procedure in which the Department of Revenue attempts to recover the dividend which the individual received (AS 43.23.035(b)). The other method is criminal prosecution, which is aimed only at those who have intentionally engaged in fraud (the crime is "unsworn falsification" under AS 11.56.210). Intent to defraud can be difficult to prove, especially to the high standard of beyond a reasonable doubt required by the criminal law.

The proposed legislation would authorize the Department of Revenue to seek civil penalties which could exceed the value of the dividend(s) wrongly obtained for those who have engaged in undesirable behavior short of intentional fraud. The bill would establish civil fines of up to \$5,000 for those who are found to have engaged in willful misrepresentation, gross negligence, or reckless disregard of material facts involving their eligibility for dividends. The standard of proof required would be lower than that required in criminal prosecutions.

Timing of SB 444

This bill would take effect January 1, 1989 and will have its first impact on the 1989 dividend distribution. This is appropriate, because printing deadlines make it too difficult to make the changes in the 1988 dividend application forms which would be required if the changes in the law went into effect this year.

Information about the loopholes in the Permanent Fund Dividend program appears to be spreading, however, which makes it critical for the Legislature to pass a bill this session which can go into effect for the 1989 dividend distribution. With the one-year lag between passage and implementation effectively forced by printing deadlines, the Legislature must take action this session, or the earliest dividend distribution it can affect will be in 1990.

Paying dividends to the people who claim to be Alaskans but have been gone for years is not what the program is all about. We believe this bill is needed to protect the integrity of the dividend program.

RECEIVED
MAR 10 1988

C
D
March 8, 1988 Tuesday

Chairman and Members of Senate State Affairs Committee

Subject: SB 444---An Act relating to Residence and Permanent Fund Dividends

Dear Members:

A resident to me means someone who physically lives in the State of Alaska.

A "resident" has the following characteristics: an ability to prove physical presence in the state from (1) October to March and at the time of application and receipt of the dividend check; (2) ownership or rental of structure (home, cabin, etc) used for shelter; (3) permanent going membership in a family group whose head of house hold maintains a structure used for shelter; (4) a resident's personal effects (such as toothbrush, clothing, tv set, car, toys etc.) are physically present in the State of Alaska; (5) they receive their mail at an Alaskan address; (6) participate in the economy by spending their income (from what ever source...retirement, Social Security, wages, etc) to purchase food, shelter, and heating fuel in Alaska for their own use.

I find it hard to believe that someone who does not meet #1, #2, #3, #4, #5, #6, should be allowed to receive dividends--for any reason. I therefore recommend that "residency based on intent" be dropped, and that residency based on "physical presence" adopted.

The permanent fund dividend program is the only program which benefits each Alaskan resident fairly and equally. Sending the money to people who don't live here does very little for the Alaskan economy.

Naturally there any be some legitimate exceptions (such as medical treatment) however they should be limited to a 1 year maximum.

Thank you for considering these suggestions.

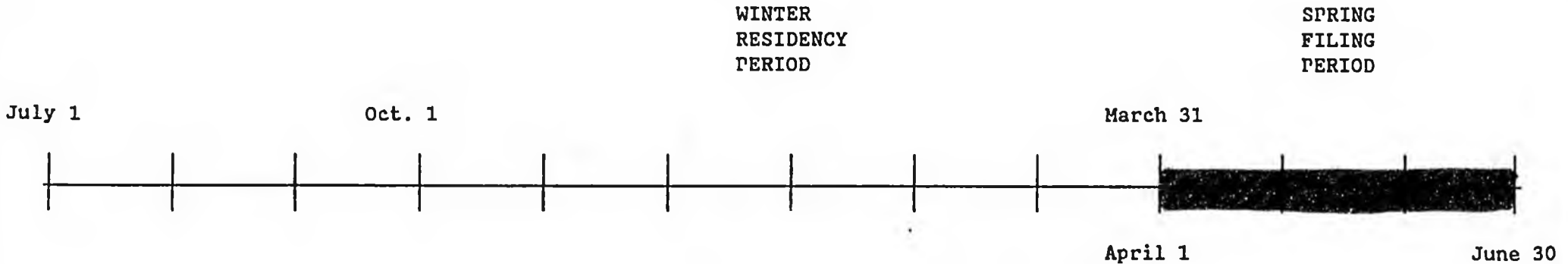
Jim Weidner

Jim Weidner

5479 C.H. R.R.
Fairbanks, Ak. 99712
488-6366

SB 444
TIGHTENING UP ON ELIGIBILITY REQUIREMENTS
FOR PERMANENT FUND DIVIDENDS

THE PERMANENT FUND DIVIDEND YEAR



Requirements for PFD eligibility

CURRENT
LAW

Winter Residency Period

1. Intent to make Alaska a permanent home.
2. Physical presence for more than half of the winter or an allowable absence.

Applicant's Application Day
During Spring Filing Period

1. Timely application.
2. Intent to make Alaska a permanent home.
3. Physical presence on the date of application or an allowable absence.

SB 444 includes all current requirements and adds these additional requirements.

SB 444:
ADDITIONAL
REQUIREMENTS

Requires physical presence for most of the winter after five years of allowable absences (cuts off allowable absences after five years out of the state).

Physical presence on the date of application.

How many PFD's were paid?

1986- 532,000 1987- 530,000

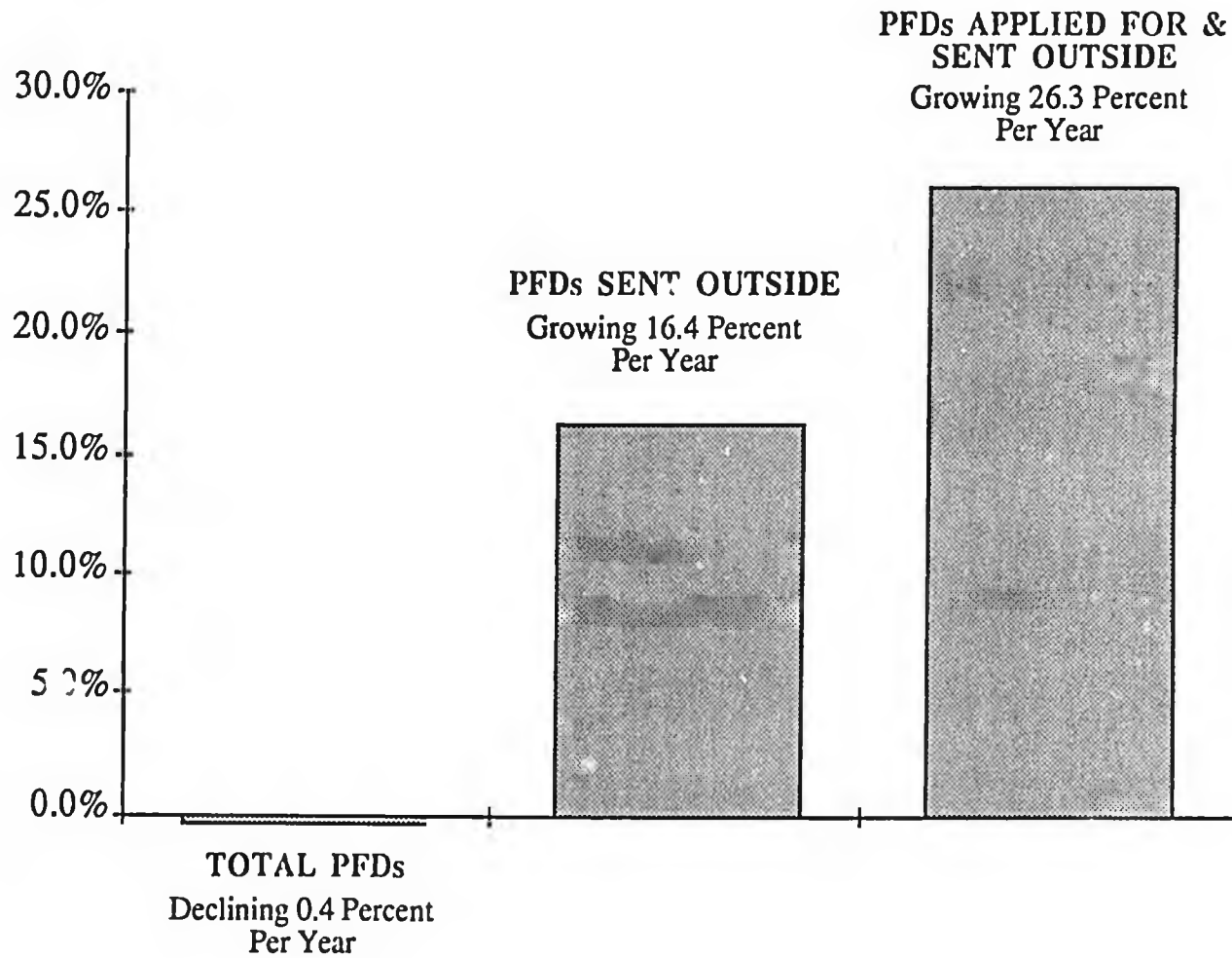
How many of these PFDs were paid to out-of-state addresses?

1986- 19,500 1987- 22,700

**Of these PFDs,
how many were paid
to persons who also
applied from out-of-state?**

1986- 9,900 1987- 12,500

Changes In Permanent Fund Dividends: 1986-87



S B

460

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 2/24/88 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER:

**FISCAL NOTE(S) ATTACHED **
IN ACCORDANCE WITH AS 24.08.035
(see below)

2/16/88
Mr. President:

DATE TURNED INTO OFFICE 3-15-88

State Affairs Committee considered SB 460

costs of administering state contracts

and recommended:

replace with CS SB 460 (SA) same title
 attached amendment(s) and new title

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted and attached

** Committee attached or adopted fiscal note(s)
 zero fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Van Tamm - No Rec
Joe ... No Rec
Paul ... (NO REC)

[Signature]
Chairman signature and recommendation

Committee Backup Attached

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 14, 1988

SUBJECT: Areas of concern in proposed CSSB 460 (State
Affairs)

TO: Senator Mitch Abood
Chair, Senate State Affairs Committee

FROM: Theresa L. Bannister *TB*
Legislative Counsel

This memo accompanies the draft of the proposed
CSSB 460 (State Affairs) that you requested.

Please be aware that sections 1 and 2 of the bill appear to
be inconsistent. Section 1 indicates a purpose of "adding
to or including" certain costs to the bid. Section 2 allows
the agency to "consider" these costs, and does not address
the specific subject of adding to or including the costs in
the bid.

In addition, the use of the word "consider" leaves the
department up in the air as to what it is authorized to do
with these costs, and, perhaps more significantly, the
bidders. When the "lowest responsible and responsive
bidder" is determined, will it be based on the contractor's
bid augmented by the administrative costs or not?

If I may be of further assistance, please advise.

Enclosure

TLB:bb
b4/006

Offered by Sen. Fairs.

1 IN THE SENATE

BY FAIKS

2

CS SENATE BILL NO. 460

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the costs of administering state
7 contracts."

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

9 * Section 1. FINDINGS. The legislature finds that different bids for a
10 contract that is primarily for supplies can require significantly different
11 state costs for the administration of the contract. The legislature also
12 finds that if significant administrative costs would be required due to the
13 nature of a particular bid, the costs should be ^{included in} ~~added to~~ the bid amount
14 before the low bidder is determined.

15 * Sec. 2. AS 36.30 is amended by adding a new section to read:

16 Sec. 36.30.165. INCLUSION OF ADMINISTRATION COSTS. After the
17 opening of the bids for a contract that is primarily for supplies, but
18 before the determination of the successful bidder under AS 36.30.170,
19 the procurement officer shall add ^{consider} ~~to the amount of each bid~~ the sig-
20 nificant ^{administrative} ~~costs, including transportation and per diem costs,~~ that
21 would be incurred by the state to administer the contract under the
22 bid. ~~The resulting figure is the amount of the bid.~~ ^{In this}

section, "administrative costs" means the additional costs that result from the geographical location of the bidder or the bidder's source of supplies, including costs for transportation, communications, per diem and state employee wages.

FISCAL NOTE

REQUEST:

Revision Date: SB 460
Title: An Act relating to costs of administering state contracts
Sponsor: Falks
Requestor: Senate State Affairs

Agency Affected: Administration
BRU: General Services & Supply
Components: Purchasing

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

This zero fiscal note is based on the belief that the fiscal impact of the bill on bids issued by Department of Administration will be minimal.

Prepared By: Robert J. Link *Robert J. Link*
Division: General Services & Supply

Phone: 465-2250
Date: 02/26/88

Approved by Commissioner: John M. Andrews *John M. Andrews*
Agency: Department of Administration

Date: 2/29/88

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)



MAKE IT ALASKAN, INC.

3202 Spenard Road, Suite 200
P.O. Box 93001
Anchorage, Alaska 99509-3001
(907) 258-2878

STATEMENT OF SUPPORT

EXECUTIVE COMMITTEE

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P. David Choquette
Vice-President
Scott Hawkins
Treasurer
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Kathy L. McKibben
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Greg Strong
Frank Turpin
Jose Vicente
Jerry Weaver
Doug Wise
Connie Yoshimura

EX-OFFICIO

Charity Kadow
Caren Mathis
James Wiedeman

SENATE BILL 460

Make It Alaskan, Inc., supports and encourages the passage into legislation of Senate Bill 460, an act relating to an Alaska bidder preference and to procurement involving state money.

Due to the state's noncontiguous geographic location and unique climate, business dealings with non-Alaskan firms may produce administrative expenses not commonly incurred in business dealings with resident businesses. To date, these added expenses have not been taken into consideration in the final awarding of the bid.

Specifically, administrative expenses incurred in the administration of a contract due to the geographic location of the bidder should be considered in the total amount of the bid in order that a fair and equitable comparison be made in the determining of the final bid award. The costs incurred as administrative expense in the administration of a contract can add many, many dollars to the cost of that contract.

As an example, a recent contract was awarded an out of state firm which necessitated additional administrative costs for five (5) trips to the bid awardee's location. These added costs would include air travel and per diem. Had these costs been taken into account prior to the awarding of the bid, the award (low bidder) would have then been an Alaskan firm and the state would not have had the additional costs to pay. The state would have saved money and the money would have stayed in Alaska.

Make It Alaskan, Inc., strongly believes that passage of Senate Bill 460 is a vital step in reducing state administrative costs, encouraging local industry, reducing unemployment and strengthening and stabilizing the state's economy. Therefore, Make It Alaskan, Inc., supports and encourages the passage of this Bill into legislation.

MAKE IT ALASKAN, INC
3202 Spenard Road, Suite 200
P.O. Box 93001
Anchorage, Alaska 99509-3001

STATEMENT OF SUPPORT
SENATE BILL (FAIKS)

Make It Alaskan, Inc. supports and encourages the passage into Legislation of Senate bill 460, an act relating to an Alaska bidder preference, and to procurement involving state money.

Due to the state's noncontiguous geographic location and unique climate, business dealings with non-Alaskan firms may produce administrative expenses not commonly incurred in business dealings with resident businesses. To date, these added expenses have not been taken into consideration in the final awarding of the bid.

Specifically, administrative expenses incurred in the administration of a contract due to the geographic location of the bidder should be considered in the total amount of the bid in order that a fair and equitable comparison be made in the determining of the final bid award. The costs incurred as administrative expense in the administration of a contract can add many, many dollars to the cost of that contract.

As an example, a recent contract was awarded an out of state firm which necessitated additional administrative costs for five (5) trips to the bid awardee's location. These added costs would include air travel and per diem. Had these costs been taken into account prior to the awarding of the bid, the award (low bidder) would have then been an Alaskan firm, and the state would not have had the additional costs to pay. The state would have saved money, and the money would have stayed in Alaska.

Make It Alaskan, Inc. strongly believes that passage of Senate bill 460 is a vital step in reducing state administrative costs, encouraging local industry, reducing unemployment and strengthening and stabilizing the state's economy. Therefore, Make It Alaskan supports and encourages the passage of this bill into legislation.

5-1914B
Bannister
3/14/88

Original sponsor: Faiks

1 IN THE SENATE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR SENATE BILL NO. 460 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the costs of administering state
7 contracts."

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

9 * Section 1. FINDINGS. The legislature finds that different bids for a
10 contract that is primarily for supplies can require significantly different
11 state costs for the administration of the contract. The legislature also
12 finds that if significant administrative costs would be required due to the
13 nature of a particular bid, the costs should be added to or included in the
14 bid amount before the low bidder is determined.

15 * Sec. 2. AS 36.30 is amended by adding a new section to read:

16 Sec. 36.30.165. CONSIDERATION OF ADMINISTRATION COSTS. After
17 the opening of the bids for a contract that is primarily for supplies,
18 but before the determination of the successful bidder under
19 AS 36.30.170, the procurement officer shall consider the significant
20 administrative costs that would be incurred by the state to administer
21 the contract under the bid. In this section, "administrative costs"
22 means the additional costs that result from the geographical location
23 of the bidder or the bidder's source of supplies, including costs for
24 transportation, communications, per diem, and state employee wages.
25
26
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S B

462

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 3-21-88 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: JUDICIARY

**FISCAL NOTE(S) ATTACHED **
IN ACCORDANCE WITH AS 24.08.035
(see below)

2/16/88

DATE TURNED INTO OFFICE 3-2-88

Mr. President:

STATE AFFAIRS Committee considered SB 462

seizure and forfeiture of property in cases involving controlled substances

and recommended:

replace with CS SB 462 (SA) same title
 attached amendment(s) and new title

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted and attached

** Committee attached or adopted fiscal note(s)
 zero fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Signature] (DO PASS)
[Signature]
[Signature]

[Signature]

Chairman signature and recommendation

Committee Backup Attached

Alaska State Legislature



SENATOR
ARLISS STURGULEWSKI

Chairman, Senate Community and Regional Affairs Committee
Vice-Chairman, Senate Judiciary Committee
Member, Senate Resources Committee

2937 SHELDON JACKSON STREET
ANCHORAGE, ALASKA 99504

White in Juneau
P. O. BOX 5
JUNEAU, ALASKA 99411
(907) 465-3818

Senate

MEMORANDUM

18 February 1988

TO: Senator Mitch Abood
Chairman, Senate State Affairs Committee

FROM: Senator Arliss Sturgulewski *AS*

RE: Senate Bill 462

I would appreciate your scheduling of Senate Bill 462 "An Act relating to seizure and forfeiture of property in cases involving controlled substances". Attached is a copy of the current Alaska statute and a sectional analysis of the bill.

This bill is designed to allow law enforcement agencies to administratively pursue forfeiture of property seized as a result of a violation of the controlled substances act.

Current state law allows seized property to be forfeited to the state only through a civil proceeding against the property itself in court. This bill adds an administrative procedure and outlines how it is to be conducted. This procedure is taken from that used by the federal Drug Enforcement Agency.

I feel this legislation strikes a balance between allowing our law enforcement agencies to perform their duties in a timely fashion and protecting the rights of property owners. Please call me or Melissa Fouse of my staff at 465-3818 if you have any questions.

Alaska State Legislature



SENATOR
ARLISS STURGULEWSKI

Chairman, Senate Community and Regional Affairs Committee
Vice-Chairman, Senate Judiciary Committee
Member, Senate Resources Committee

2957 SHELDON JACKSON STREET
ANCHORAGE, ALASKA 99508

While in Juneau
P. O. BOX V
JUNEAU, ALASKA 99811
(907) 465-3818

Senate

29 February 1988

TO: Senator Mitch Abood
Chairman, Senate State Affairs Committee

FROM: Senator Arliss Sturgulewski *as*

Attached is a new working draft of Senate Bill 462. I requested legal services to provide me with this due to concerns on the part of municipalities that due to the dedicated funds prohibition in the state constitution, funds resulting from the administrative forfeiture proceeding authorized by this bill would all have to go into the general fund. Municipalities feel that proceeds from property seized and forfeited to them should be returned to them.

This new bill will allow municipalities to adopt an ordinance allowing municipal law enforcement agencies to conduct an administrative forfeiture proceeding against property just as the department of public safety will be able to do under this legislation.

SECTIONAL ANALYSIS DRAFT CS

Senate Bill 462:

"An Act relating to seizure and forfeiture of property in cases involving controlled substances."

Section 1: Provides that the listed items subject to forfeiture may be forfeited to the municipality as well as to the state.

Adds real property to the list of items eligible for seizure. Provides that if the owner can establish that the owner was neither a consenting party nor privy to the violation then the property may not be forfeited. Makes the same exception for a party with a valid security interest.

Section 2: Adds summary administrative procedure by the state or by a municipality to the list of those proceedings resulting in forfeiture. Provides that any forfeiture proceeding must be commenced within 20 days after the property is seized or the property must be released.

Section 3: Clarifies that property can also be awarded to municipalities. Changes reference to the court having jurisdiction over forfeiture proceedings to procedures set out in the chapter. Adds chief of police of a municipality to section requiring inventory and appraisal within 10 days.

Section 4: Sets out the summary administrative procedure to be followed by the custodian of the seized property.

(a) Limits value of seized property that can be seized administratively to \$100,000 (unless it is a conveyance),

(1) requires notice to be sent to persons having an interest in the property,

(2) requires that notice be published in a newspaper for three weeks and sets out what must be contained in the published notice,

(b) requires a person claiming the property to respond within 20 days and also submit a bond,

(c) sets out the amount and type of the bond to be submitted,

(d) provides that if the bond is satisfactory, the administrative proceeding shall be terminated and within 20 days the civil proceeding against the property shall be commenced. Provides that if the bond is not satisfactory, a reasonable time must be allowed for corrections.

(e) makes it clear that the filing of a bond does not entitle the claimant to the property.

(f) if the property is not claimed, the custodian of the property shall declare the property forfeited and notify the custodian of the property.

Section 5: sets out notice requirements for circumstances under which the forfeiture proceeding is not done administratively, such as going to court.

Section 6: adds municipality to clarify that this section applies to municipalities as well as the state.

Section 7: clarifies that this section on disposal of property applies to property forfeited to the state. Clarifies that proceeds from sale of forfeited property goes to the state general fund after expenses are paid.

Section 8: deletes requirement that a municipal law enforcement agency must be authorized by the commissioner of public safety to disposal of controlled substances. This is a conforming change to section 3 of the bill.

Section 9: adds to definitions section.

Section 10: adds new section 29.35.135 to list of home rule limitations in Title 29.

Section 11: adds new section to Title 29 allowing municipalities to adopt an ordinance authorizing the chief of police to conduct a summary administrative forfeiture proceeding.

FROM SENATOR STURGULEWSKI
29 February 1988

SECTIONAL ANALYSIS

"An Act relating to seizure and forfeiture of property in cases involving controlled substances."

Section 1: Adds real property to the list of items eligible for seizure. Provides that if the owner can establish that the owner was neither a consenting party nor privy to the violation then the property may not be forfeited. Makes the same exception for a party with a valid security interest.

Section 2: Adds summary administrative procedure to the list of those proceedings resulting in forfeiture. Provides that any forfeiture proceeding must be commenced within 20 days after the property is seized or the property must be released.

Section 3: Changes reference to the court having jurisdiction over forfeiture proceedings to procedures set out in the chapter.

Section 4: Sets out the summary administrative procedure to be followed by the commissioner of public safety.

(a) Limits value of seized property that can be seized administratively to \$100,000 (unless it is a conveyance),

(1) requires the commissioner to send notice to persons having an interest in the property,

(2) requires the commissioner to publish notice in a newspaper for three weeks and sets out what must be contained in the published notice,

(b) requires a person claiming the property to respond within 20 days and also submit a bond,

(c) sets out the amount and type of the bond to be submitted,

(d) provides that if the bond is satisfactory, the commissioner shall terminate the administrative proceeding and within 20 days commence the civil proceeding against the property. Provides that if the bond is not satisfactory, a reasonable time must be allowed for corrections.

(e) makes it clear that the filing of a bond does not entitle the claimant to the property.

(f) if the property is not claimed, the commissioner shall declare the property forfeited and notify the custodian of the property.

Section 5: Sets out notice requirements for circumstances under which the forfeiture proceeding is not done administratively, such as going to court.

Section 6: Adds a provision that proceeds from the sale of forfeited property shall be returned to the political subdivision of the state that seized the property.

Seizure

MORE THAN \$100,000

CIVIL COURT PROCEEDING

Inventory & Appraisal
Less than \$100,000
OR a conveyance

Summary Administrative Proceeding

Notice to Persons and Parties
Notice in Paper 4x2 WK
File 3 WKS

20 days

Response from interested parties with bond and sureties

NO response

TO COURT

Declared Forfeit

SPB 462

Prepared by Sen. Stump's Office

5-1354B
Utermohle
2/29/88

Original sponsors: Sturgulewski, Uehling,
Fischer and Rodey

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 462 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to seizure and forfeiture of proper-
7 ty in cases involving controlled substances."

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

9 * Section 1. AS 17.30.110 is amended to read:

10 Sec. 17.30.110. ITEMS SUBJECT TO FORFEITURE. The following may
11 be forfeited to the state or a municipality, except as provided in
12 AS 17.30.126:

13 (1) a controlled substance that [WHICH] has been manufact-
14 ured, distributed, dispensed, acquired, or possessed in violation of
15 this chapter or AS 11.71;

16 (2) raw materials, products, and equipment that [WHICH] are
17 used or intended for use in manufacturing, distributing, compounding,
18 processing, delivering, importing, or exporting a controlled substance
19 that [WHICH] is a felony under this chapter or AS 11.71;

20 (3) property that [WHICH] is used or intended for use as a
21 container for property described in (1) or (2) of this section;

22 (4) a conveyance, including but not limited to aircraft,
23 vehicles, or vessels, that [WHICH] has been used or is intended for
24 use in transporting or in any manner in facilitating the transporta-
25 tion, sale, receipt, possession, or concealment of property described
26 in (1) or (2) of this section in violation of a felony offense under
27 this chapter or AS 11.71; however,

28 (A) a conveyance may not be forfeited under this
29 paragraph if the owner of the conveyance establishes, by a

1 preponderance of the evidence, at a hearing before the court as
2 the trier of fact, that use of the conveyance in violation of
3 this chapter or AS 11.71 was committed by another person and that
4 the owner was neither a consenting party nor privy to the viola-
5 tion;

6 (B) a forfeiture of a conveyance encumbered by a valid
7 security interest at the time of seizure is subject to the inter-
8 est of the secured party if the secured party establishes, by a
9 preponderance of the evidence, at a hearing before the court as
10 the trier of fact, that use of the conveyance in violation of
11 this chapter or AS 11.71 was committed by another person and that
12 the secured party was neither a consenting party nor privy to the
13 violation;

14 (5) books, records, and research products and materials,
15 including formulas, microfilm, tapes, and data, that [WHICH] are used
16 in violation of this chapter or AS 11.71;

17 (6) money, securities, negotiable instruments, or other
18 things of value used in financial transaction: derived from activity
19 prohibited by this chapter or AS 11.71; [AND]

20 (7) a firearm that [WHICH] is visible, carried during, or
21 used in furtherance of a violation of this chapter or AS 11.71; and

22 (8) real property, including interests in real property and
23 appurtenances and improvements to real property, that is used or
24 intended for use to commit, or to facilitate the commission of, a
25 felony offense under this chapter or AS 11.71; however

26 (A) real property may not be forfeited under this
27 paragraph if the owner of the real property establishes, by a
28 preponderance of the evidence, at a hearing before the court as
29 the trier of fact, that use of the real property in violation of

1 this chapter or AS 11.71 was committed by another person and that
2 the owner was neither a consenting party nor privy to the vio-
3 lation;

4 (B) a forfeiture of real property encumbered by a
5 valid security interest at the time of seizure is subject to the
6 interest of the secured party if the secured party establishes,
7 by a preponderance of the evidence, at a hearing before the court
8 as the trier of fact, that use of the real property in violation
9 of this chapter or AS 11.71 was committed by another person and
10 that the secured party was neither a consenting party nor privy
11 to the violation.

12 * Sec. 2. AS 17.30.112 is amended to read:

13 Sec. 17.30.112. PROCEEDINGS RESULTING IN FORFEITURE. (a) Prop-
14 erty listed in AS 17.30.110 may be forfeited to the state or a munic-
15 ipality upon the order of the commissioner of public safety or a chief
16 of police in a summary administrative forfeiture proceeding under
17 AS 17.30.115, [EITHER] upon conviction of the defendant of a violation
18 of this chapter or AS 11.71, or upon judgment of a court in a separate
19 civil proceeding in rem.

20 (b) Within 20 days after property is seized under AS 17.30.114,
21 the commissioner of public safety or a chief of police, whoever is in
22 custody of the property, shall

23 (1) cause a summary administrative forfeiture proceeding to
24 be commenced under AS 17.30.115;

25 (2) commence a civil proceeding in rem under AS 17.30.116;

26 or

27 (3) release the property, unless the property is subject to
28 AS 17.30.126.

29 (c) A [THE] court may order a forfeiture in the in rem

1 proceeding if it finds that an item specified in AS 17.30.110 was used
2 during or in aid of a violation of this chapter or AS 11.71. [(b)]
3 It is not a defense in an in rem proceeding brought under this chapter
4 [SECTION] that a criminal proceeding has resulted in a conviction or
5 conviction of a lesser offense for a violation of this chapter or
6 AS 11.71.

7 * Sec. 3. AS 17.30.114 is amended to read:

8 Sec. 17.30.114. SEIZURE AND CUSTODY OF PROPERTY. (a) Property
9 listed in AS 17.30.110 may be seized by a peace officer upon an order
10 issued by a court having jurisdiction over the property upon a showing
11 of probable cause that the property may be forfeited under AS 17.30.-
12 110. Seizure without a court order may be made if

13 (1) the seizure is incident to a valid arrest or a search
14 under a valid search warrant;

15 (2) the property subject to seizure has been the subject of
16 an earlier judgment in favor of the state or a municipality in a
17 criminal proceeding or civil proceeding in rem under this chapter or
18 AS 11.71; or

19 (3) there is probable cause that the property was used, is
20 being used, or is intended for use, in violation of this chapter or AS
21 11.71 and the property is easily movable; property seized under this
22 paragraph may not be held for more than 48 hours without a court order
23 obtained to continue its detention.

24 (b) Property taken or detained under (a) of this section shall
25 be held in the custody of either the commissioner of public safety or
26 a municipal law enforcement agency [AUTHORIZED BY THE COMMISSIONER OF
27 PUBLIC SAFETY TO RETAIN CUSTODY OF PROPERTY LISTED IN AS 17.30.110]
28 subject only to disposition under procedures set out in this chapter
29 [THE ORDERS AND DECREES OF THE COURT HAVING JURISDICTION OVER ANY

1 FORFEITURE PROCEEDINGS]. If property is seized under this chapter,
2 the commissioner of public safety or a [AN AUTHORIZED] municipal law
3 enforcement agency may

4 (1) place the property under seal;

5 (2) remove the property to a place designated by the court;

6 or

7 (3) take custody of the property and remove it to an appro-
8 priate location for disposition in accordance with law.

9 (c) Within 10 days after a seizure under AS 17.30.110 - 17.30.-
10 138 [AS 17.30.110 - 17.30.126], the commissioner of public safety or
11 the chief of police shall make an inventory of any property seized,
12 including controlled substances, and shall appraise the value of any
13 items seized other than controlled substances.

14 * Sec. 4. AS 17.30 is amended by adding a new section to read:

15 Sec. 17.30.115. SUMMARY ADMINISTRATIVE FORFEITURE PROCEEDING.

16 (a) If the appraised value of seized property is \$100,000 or less or
17 if the seized property is a conveyance subject to forfeiture under
18 AS 17.30.110(4), the official who has custody of seized property may
19 commence a summary administrative forfeiture proceeding by

20 (1) giving notice of the forfeiture proceeding to persons
21 known to have an interest in the property or who are ascertainable
22 from official registration numbers, licenses, or other state, federal,
23 or municipal numbers on the property; and

24 (2) publishing notice of the proceeding in a newspaper of
25 general circulation in the judicial district where the seizure was
26 made, or if no newspaper is published in that judicial district, in a
27 newspaper published in the state and distributed in that judicial
28 district; the notice shall be published once each week during three
29 consecutive calendar weeks; the notice must

1 (A) describe the property seized, including motor and
2 serial numbers, if any;

3 (B) state the time, place, and cause of seizure; and

4 (C) state that a person claiming an interest in the
5 property shall, within 20 days from the date of the first publi-
6 cation of the notice, file with the official a claim to the
7 property and a bond in the proper amount.

8 (b) A person claiming property subject to a proceeding under
9 this section shall submit a claim and a bond to the official within 20
10 days after the date of first publication of the notice required under
11 this section.

12 (c) The bond with satisfactory sureties shall be in the amount
13 of \$2,500 or 10 percent of the appraised value of the property, which-
14 ever is lower, but not less than \$250. The bond shall be in cash,
15 certified check, or satisfactory sureties. The bond shall be rendered
16 to the state or municipality, as appropriate, with sureties approved
17 by the official and conditioned that in the event of judicial forfei-
18 ture of the property the obligor shall pay from the bond all costs and
19 expenses of the civil proceeding in rem.

20 (d) When the claim and bond are received, the official shall
21 determine that the claim and bond are in proper form and the sureties
22 are satisfactory. If the claim and bond are satisfactory, the offi-
23 cial shall terminate the proceeding and commence a civil proceeding in
24 rem under AS 17.30.116. Notwithstanding AS 17.30.112(b), the official
25 shall commence the civil proceeding in rem within 20 days after the
26 timely and satisfactory claim and bond are filed. If the claim and
27 bond are not satisfactory when first received, a reasonable time for
28 correction of the claim and bond may be allowed. If satisfactory
29 corrections are not made to the claim and bond within a reasonable

1 time, the official may proceed as though the claim and bond had not
2 been tendered.

3 (e) The filing of a timely and satisfactory claim and bond
4 terminates the summary administrative forfeiture proceeding, but does
5 not entitle the claimant to possession of the property.

6 (f) If a timely and satisfactory claim and bond are not filed
7 within the time required under this section, the official shall
8 declare the property forfeited. The official shall execute a declara-
9 tion of forfeiture.

10 (g) In this section

11 (1) "commissioner of public safety" includes an employee of
12 the Department of Public Safety designated by the commissioner to
13 conduct summary administrative forfeiture proceedings;

14 (2) "official" means the commissioner of public safety or
15 chief of police who has custody of seized property.

16 * Sec. 5. AS 17.30.116(a) is amended to read:

17 (a) If an item of property seized is appraised at more than
18 \$100,000, or the commissioner of public safety or chief of police in
19 custody of seized property elects to commence a civil proceeding in
20 rem against property appraised at \$100,000 or less or against a con-
21 veyance, or a summary administrative forfeiture proceeding is ter-
22 minated upon the timely and satisfactory filing of a claim and bond,
23 [WITHIN 20 DAYS AFTER A SEIZURE UNDER AS 17.30.110 - 17.30.126,] the
24 commissioner of public safety or chief of police shall, by certified
25 mail, notify any person known to have an interest in an item with an
26 appraised value of \$500 or more, or who is ascertainable from official
27 registration numbers, licenses, or other state, federal, or municipal
28 numbers on the item, of the pending forfeiture action. Additionally,
29 the commissioner of public safety or chief of police shall publish

1 notice of forfeiture action of an item valued at \$500 or more in a
2 newspaper of general circulation in the judicial district in which the
3 seizure was made, or if no newspaper is published in that judicial
4 district, in a newspaper published in the state and distributed in
5 that judicial district. The notice shall be published once each week
6 during four consecutive calendar weeks. The requirements of this
7 subsection do not apply to the forfeiture of controlled substances
8 which have been manufactured, distributed, dispensed, or possessed in
9 violation of this chapter or AS 11.71, regardless of their value.

10 * Sec. 6. AS 17.30.120 is amended to read:

11 Sec. 17.30.120. PETITION FOR SALE OF SEIZED ITEM. A claimant
12 may petition the court for sale of an item before final disposition of
13 court proceedings. The court shall grant a petition for sale upon a
14 finding that the sale is in the best interests of the state or munic-
15 ipality, whichever is in custody of the property, and the preservation
16 and maintenance of the item seized. Proceeds from the sale plus
17 interest to the date of final disposition of the court proceedings
18 become the subject of the forfeiture action.

19 * Sec. 7. AS 17.30.122 is amended to read:

20 Sec. 17.30.122. STATE DISPOSAL OF FORFEITED PROPERTY. Property
21 forfeited to the state under AS 17.30.110 - 17.30.138, [AS 17.30.110 -
22 17.30.126] other than controlled substances, shall be disposed of by
23 the commissioner of administration in accordance with applicable law.
24 The commissioner of administration may

25 (1) destroy property harmful to the public;

26 (2) sell the property and use the proceeds for payment of
27 all proper expenses of the proceedings for forfeiture and sale, in-
28 cluding expenses of seizure, custody, and court costs; proceeds re-
29 maining from the sale of the property after expenses are paid shall be

1 deposited in the general fund;

2 (3) take custody of the property and authorize its use in
3 the enforcement of this chapter or AS 11.71, or transfer it to another
4 agency of the state or a political subdivision of the state for a use
5 in furtherance of the administration of justice;

6 (4) take custody of the property and remove it for disposi-
7 tion in accordance with law;

8 (5) forward the property [IT] to the Drug Enforcement
9 Administration of the United States Department of Justice for disposi-
10 tion; or

11 (6) transfer ownership of an aircraft to the Alaska Wing,
12 Civil Air Patrol.

13 * Sec. 8. AS 17.30.126(a) is amended to read:

14 (a) A controlled substance manufactured, possessed, transferred,
15 sold, or offered for sale in violation of this chapter or AS 11.71 is
16 contraband and must be seized and summarily forfeited to the state.
17 The commissioner of public safety or the commissioner's designee,
18 including a municipal law enforcement agency [AUTHORIZED UNDER AS 17.-
19 30.114(b) OF THIS SECTION TO RETAIN CUSTODY OF CONTROLLED SUBSTANCES],
20 is responsible for the disposal of controlled substances which have
21 been forfeited. The controlled substances shall be disposed of in
22 accordance with procedures and requirements prescribed by the commis-
23 sioner.

24 * Sec. 9. AS 17.30 is amended by adding a new section to article 2 to
25 read:

26 Sec. 17.30.138. DEFINITIONS. In AS 17.30.110 - 17.30.138

27 (1) "chief of police" means the head of a law enforcement
28 agency of a municipality;

29 (2) "municipality" means a municipality that has adopted an

1 ordinance under AS 29.35.135 providing for summary administrative
2 forfeiture proceedings to be conducted by the municipality's chief of
3 police.

4 * Sec. 10. AS 29.10.200 is amended by adding a new paragraph to read:

5 (49) AS 29.35.135 (forfeiture of property under AS 17.30)

6 * Sec. 11. AS 29.35 is amended by adding a new section to read:

7 Sec. 29.35.135. FORFEITURE OF PROPERTY UNDER AS 17.30. (a) The
8 governing body may adopt an ordinance authorizing the chief of police
9 to conduct a summary administrative forfeiture proceeding under
10 AS 17.30 for forfeiture of property seized by the municipal law
11 enforcement agency in cases involving controlled substances.

12 (b) Property forfeited to the municipality under AS 17.30.110 -
13 17.30.138 shall be disposed of by the municipality under applicable
14 law and ordinance. The municipality may

15 (1) destroy property harmful to the public;

16 (2) sell the property and use the proceeds for payment of
17 all proper expenses of the proceedings for forfeiture and sale, in-
18 cluding expenses of seizure, custody, and court costs;

19 (3) take custody of the property and authorize its use in
20 the enforcement of AS 11.71 or AS 17.30 or for a use in the adminis-
21 tration of justice;

22 (4) take custody of the property and remove it for disposi-
23 tion under law; or

24 (5) forward it to the Drug Enforcement Administration of
25 the United States Department of Justice for disposition.

S B

499

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of waived 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER:

**FISCAL NOTE(S) ATTACHED ✓ **
IN ACCORDANCE WITH AS 24.08.035
(see below)

4/6/88

DATE TURNED INTO OFFICE 4-11-88

Mr. President:

STATE AFFAIRS

Committee considered SB 499

establishing February 8 as 'Elizabeth Peratrovich Day'."

and recommended:

replace with CS SB 499 (SA) same title
 attached amendment(s) and new title

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted and attached

** Committee attached or adopted fiscal note(s)
 zero fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Signature]
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]

[Signature]
Chairman Signature and recommendation

Committee Backup Attached

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: SB 499
PUBLISH DATE: 4-06-88

FISCAL NOTE

REQUEST:

Revision Date: _____
Tide: "An Act establishing February 8 as 'Elizabeth Peratrovich Day'."
Sponsor: Rules Committee
Requestor: _____
Agency Affected: _____
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Senate State Affairs Committee Phone: 465-4522
Division: _____ Date: 4-11-88
Approved by Senator Mitch Abood Date: 4-11-88
Agency: Senate State Affairs Committee

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Cramer
4/11/88

Original sponsor: Rules Committee

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 499 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing February 16 as 'Elizabeth
7 Peratrovich Day'."

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

9 * Section 1. FINDINGS. The Alaska Native Brotherhood and Alaska Native
10 Sisterhood had fought for three years to eliminate the racial discrimina-
11 tion that was evident in Alaska during the first part of the 20th century.
12 Alaska Natives were barred from some public facilities and segregated from
13 non-Natives in other public facilities. Elizabeth Peratrovich, then Grand
14 President of the Alaska Native Sisterhood, worked tirelessly in support of
15 House Bill No. 14, the first legislation in the territory to prohibit
16 racial discrimination in public accommodations. Her testimony in support
17 of H.B. 14 before the territorial Senate overcame the unfavorable predispo-
18 sition that existed in the legislature. The bill passed the territorial
19 Senate on February 8, 1945, and was signed into law by the governor of the
20 territory, Ernest Gruening, on February 16, 1945.

21 * Sec. 2. AS 44.12 is amended by adding a new section to read:

22 Sec. 44.12.065. ELIZABETH PERATROVICH DAY. Elizabeth
23 Peratrovich Day is established on February 16 of each year to honor
24 Elizabeth Peratrovich, past Grand President of the Alaska Native
25 Sisterhood, for her courageous, unceasing efforts to eliminate dis-
26 crimination and bring about equal rights in Alaska. Elizabeth
27 Peratrovich Day may be observed by suitable observances and exercises
28 by civic groups and the public.
29