

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672  
7232 HOUSE STATE AFFAIRS

1 (2) A gift that:

2  
3 (A) is not used; and

4  
5 (B) no later than thirty (30) days after receipt, is returned to the donor or delivered to a charitable organization and  
6 is not claimed as a charitable contribution for federal income tax purposes.

7  
8 (3) A gift, devise, or inheritance from an individual's spouse, child, parent, grandparent, brother, sister, parent-in-law,  
9 brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of that individual, if the donor is not  
10 acting as the agent or intermediary for someone other than a person covered by this paragraph.

11  
12 (4) A personalized plaque or trophy with a value that does not exceed one hundred and fifty dollars (\$150).

13  
14 §304.10 "Immediate family" means an unemancipated child residing in a public official's or public employee's household,  
15 a spouse of a public official or public employee, or an individual claimed by that public official or public employee or that  
16 public official's or public employee's spouse as a dependent for tax purposes.

17  
18 §304.11 "Legislative action" includes the following:

19  
20 (1) Preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment,  
21 tabling, postponement, defeat, or rejection of a bill, resolution, amendment, motion, report, nomination, appointment, or  
22 other matter by:

23  
24 (A) the legislature; or

25  
26 (B) a member or employee of the legislature acting or purporting to act in an official capacity.

27  
28 (2) Action by the governor in approving or vetoing a bill, resolution, or other action of the legislature.

29  
30 (3) Action by the legislature in:

31  
32 (A) overriding or sustaining a veto by the governor; or

33  
34 (B) considering, confirming, or rejecting an executive appointment of the governor.

35  
36 §304.12 "Legislative official" includes:

37  
38 (1) a member, member-elect, or presiding officers of the legislature;

39  
40 (2) a member of a commission or other entity established by and responsible to the legislature, or either house of the  
41 legislature; or

42  
43 (3) a staff member to a member or member-elect of the legislature, or to a member of a commission or other entity  
44 established by and responsible to the legislature, or either house of the legislature.

45  
46 §304.13 "Lobbying" means:

47  
48 (1) influencing or attempting to influence legislative or executive action through oral or written communication;

49  
50 (2) solicitation of others to influence legislative or executive action; or

51  
52 (3) an attempt to obtain the goodwill of a legislative or executive official by non-educational activities intended to  
53 influence the official's actions.

54  
55 **Comment:**

56  
57 *There is some divergence of opinion with respect to subsection (3) of this definition. Some feel that unfettered restrictions on*  
58 *"goodwill" activities could interfere with genuinely helpful educational efforts. Most educational efforts arguably have a*  
59 *side effect of building "goodwill" among legislators, many of whom appreciate having the information. However, many*  
60 *lobbying activities can be explained away as "educational" in nature. An official invited for an afternoon of golf may be told*  
61 *in passing about a problem the lobbyist has, and have the day's activities attributed to "educational activities." Jurisdictions*  
62 *may wish to add a proviso about the activity being "reasonably intended to influence" the official, or clarify "educational*  
63 *activities" in their regulations.*  
64  
65  
66

1 *There is also some sentiment for regulating what some have termed as the "selling of access": "opening doors" or arranging*  
2 *a meeting for someone. Jurisdictions should determine whether they wish such an expansive interpretation made of their laws.*  
3 *If so, consideration should be given to making these activities more explicit in the statutory language.*  
4

5 §304.14 "Lobbyist" means an individual who:  
6

7 (1) is employed and receives payments, or who contracts for economic consideration, including reimbursement for  
8 reasonable travel and living expenses, for the purpose of lobbying;  
9

10 (2) is an individual who represents an organization, association, or other group for the purpose of lobbying;  
11

12 (3) is a sole proprietor who has a pecuniary interest in legislative or executive action; or  
13

14 (4) is a public official or public employee who lobbies.  
15

16 Comment:  
17

18 *This provision should be read in conjunction with the ethics model law provision that prohibits certain lobbying activities*  
19 *by public officials in their first year after leaving office.*  
20

21 §304.15 "Lobbyist's client" means the person in whose behalf the lobbyist influences or attempts to influence legislative  
22 or executive action.  
23

24 §304.16 "Person" means an individual, proprietorship, firm, partnership, joint venture, joint stock company, syndicate,  
25 business trust, estate, company, corporation, association, club, committee, organization, or group of persons acting in  
26 concert.  
27

28 §304.17 "Public employee" means an individual appointed to a position, including a person appointed to a position created  
29 by statute, whether compensated or not, in state [, county, or municipal] government, including members of the judiciary.  
30

31 §304.18 "Public official" means an individual elected to a state [, county, or municipal] office, or an individual who is  
32 appointed to fill a vacancy in the office. The term includes a member of the [board of regents or trustees, chancellor and vice  
33 chancellor or equivalent of the state university system, and a president of a state university].  
34

35 §304.18 "Value" means the retail cost or fair market worth of an item or items, whichever is greater.  
36

37 §306 Registration  
38

39 §306.01 Registration Requirements  
40

41 A lobbyist or lobbyist's client shall file a registration statement with the Agency within five (5) days after becoming a  
42 lobbyist or lobbyist's client.  
43

44 §306.02 Contents of Registration Statement  
45

46 A registration statement must include the following information:  
47

48 (1) The name, address, and telephone number of the lobbyist.  
49

50 (2) The name, address, and telephone number of the lobbyist's client.  
51

52 (3) The kind of business of the lobbyist's client.  
53

54 (4) The full name of the individual who controls the lobbyist's client, the partners, if any, and officers of the  
55 lobbyist's client.  
56

57 (5) The full name, address, and telephone number of each lobbyist employed by or representing the lobbyist's  
58 client.  
59

60 (6) An identification of the subject matter in which the lobbyist or lobbyist's client will engage in lobbying, including  
61 the name of the piece of legislation or name of a case or action, if known.  
62

63 (7) The name and address of a legislative or executive official who:  
64  
65  
66

1 (A) is employed by; or

2  
3 (B) has a business association with the lobbyist or the lobbyist's client.

4  
5 (8) Certification by the lobbyist or lobbyist's client that the information contained on the lobbyist registration  
6 statement is true and correct.

7  
8 (9) If the [state] is a lobbyist's client, the [state] is exempt from filing a lobbyist's client registration statement.

9  
10 Comment:

11  
12 *Additional information required in some states includes both the permanent address and office address of the lobbyist;*  
13 *identification of every bill number of a bill that is lobbied for or against; authorization of the lobbyist's client for the lobbyist*  
14 *to engage in lobbying on the lobbyist's client's behalf; and registration by the lobbyist's client.*

15  
16 *Some states also require a license or badge to be issued to registered lobbyists; specify that a licensing agency maintain a*  
17 *docket; mandate a termination form; and require an addendum to a registration statement to be filed if any changes are*  
18 *necessary.*

19  
20 **§308 Lobbyist Reporting**

21  
22 (1) A lobbyist shall file a separate report for each lobbyist's client of contributions, expenditures, and gifts with the  
23 Agency containing all contributions or expenditures that were initiated or paid by the lobbyist on behalf of each lobbyist's  
24 client during the prior calendar quarter.

25  
26 (2) Each expenditure for the purpose of lobbying must be reported by the category of the expenditure as determined.

27  
28 (3) The report must include a description of a contribution or expenditure of fifty dollars (\$50) or more in the aggregate  
29 in one (1) year initiated or made by a lobbyist to an executive or legislative official.

30  
31 (4) For each legislative or executive official or employee in whose behalf a payment of fifty dollars (\$50) or more in  
32 the aggregate in one (1) year was initiated or made by the lobbyist under subsection (3), the report must also include the:

33  
34 (A) name of the legislative or executive official in whose behalf the payment was made;

35  
36 (B) name of the person receiving the payment;

37  
38 (C) name of the person making the payment;

39  
40 (D) amount of the payment; and

41  
42 (E) date of the payment.

43  
44 (5) A report of contributions and expenditures must be filed with the Agency no later than January 31, April 30, July  
45 31, and October 31 for each preceding calendar quarter.

46  
47 (6) The report due January 31 shall include a cumulative total for the calendar year for all reportable categories.

48  
49 Comment:

50  
51 *Categories must be carefully defined to ensure that expenditures are fully and appropriately disclosed. Categories might, for*  
52 *example, include food and beverages; entertainment; compensation to the client; compensation for support personnel;*  
53 *reimbursements; research and education; communication; and travel and lodging.*

54  
55 **§310 Lobbyist's Client Reporting**

56  
57 (1) No later than January 31 and July 31 of each year, a lobbyist's client shall file a report of contributions and  
58 expenditures with the Agency. The report must contain information on all contributions or expenditures paid by the lobbyist's  
59 client during the preceding six (6) calendar months.

60  
61 (2) The report must report expenditures for the purpose of lobbying according to the following categories, including:

62  
63 (A) Salaries, fees, and retainers paid to lobbyists.

64  
65 (B) Those portions of office rent, utilities, supplies, and compensation of support personnel attributable to lobbying  
66 activities.

1 (C) Other lobbying expenditures.

2  
3 (3) For each legislative or executive official or employee in whose behalf a payment of fifty dollars (\$50) or more in  
4 the aggregate in one (1) year was initiated or made by the lobbyist's client under subsection (3), the report must also include  
5 the:

6  
7 (A) name of the legislative or executive official in whose behalf the payment was made;

8  
9 (B) name of the person receiving the payment;

10  
11 (C) name of the person making the payment;

12  
13 (D) amount of the payment; and

14  
15 (E) date of the payment.

16  
17 An expenditure previously reported by a lobbyist under §308.04 need not be reported in the report of a lobbyist's client.

18  
19 (4) Each expenditure for the purpose of lobbying must be reported by the category of the expenditure as determined.

20  
21 (5) The report must include a description of a contribution or expenditure of fifty dollars (\$50) or more in the aggregate  
22 in one (1) year initiated or made by a lobbyist to an executive or legislative official.

23  
24 (6) If the [state] is a lobbyist's client, the [state] is exempt from filing an annual report.

25  
26 (7) The report due January 31 shall include a cumulative total for the calendar year for all reportable categories.

27  
28 **§312 Exemptions**

29  
30 The registration and reporting provisions of this Act do not apply to:

31  
32 (1) (A) An elective state official;

33  
34 (B) A legislator; or

35  
36 (C) A legislative staff member;

37  
38 acting in an official capacity.

39  
40 (2) An individual who:

41  
42 (A) represents only the individual;

43  
44 (B) purports to represent only the individual;

45  
46 (C) receives no compensation or anything of value for lobbying; and

47  
48 (D) has no pecuniary interest in the legislative or executive action; and the individual's lobbying does not exceed:

49  
50 (i) [between 16 and 60] hours; or

51  
52 (ii) [between \$100 and \$1,000];

53  
54 in any calendar quarter.

55  
56 (3) An individual who:

57  
58 (A) limits lobbying solely to formal testimony before a public meeting of a legislative body, or executive agency;

59  
60 and

61  
62 (B) registers the appearance in the records of the public body.

63  
64 (4) A person whose lobbying does not exceed:

65  
66 (A) [between 16 and 60] hours; or

1 (B) [between \$100 and \$1,000];

2  
3 in any calendar quarter.

4  
5 (5) News media and employees of the news media whose activity is limited solely to the publication or broadcast of  
6 news, editorial comments, or paid advertisements that attempt to influence legislative or executive action.

7  
8 Comment:

9  
10 *This section exempts lobbying by state elective officials, but is intended to apply only to lobbying by officials on public matters*  
11 *pertinent to their official duties. While this section should be broadly interpreted, this section should not justify, e.g., an*  
12 *elective Supreme Court Clerk to lobby on a wetlands preservation bill without registering and reporting if the applicable*  
13 *thresholds are reached.*

14  
15 *Some states also exempt lobbying at the invitation of a legislative or executive official. This exemption was not included*  
16 *because of the subjectivity involved, and the difficulty in verifying such invitations. The exemption provided for legislative*  
17 *or executive officials should address some of the concerns regarding invited or required testimony.*

18  
19 *Some states also exempt bona fide religious groups, and professional bill drafting services or technical advice regarding the*  
20 *legislative process.*

21  
22 *The intent of this section is to require corporations to file statements if they exceed the applicable thresholds.*

23  
24 **§314 Prohibited Conduct**

25  
26 (1) A lobbyist, lobbyist's client, or a person acting on behalf of a lobbyist or a lobbyist's client shall not offer, solicit,  
27 initiate, facilitate, or provide to or on behalf of, a legislative official or candidate for the legislature, and a legislative  
28 official or candidate for the legislature shall not solicit or receive a:

29  
30 (A) gift;

31  
32 (B) loan, other than a loan made in the ordinary course of business by a financial institution authorized to transact  
33 business in this state at terms and interest rates generally available to a member of the public without regard to that person's  
34 status as a public official or public employee by the institution; or

35  
36 (C) campaign contribution;

37  
38 during a legislative session.

39  
40 (2) A lobbyist, lobbyist's client, or a person acting on behalf of a lobbyist or a lobbyist's client shall not offer or  
41 provide to, and an executive official shall not solicit or receive a:

42  
43 (A) gift;

44  
45 (B) loan, other than a loan:

46  
47 (i) made by a financial institution authorized to transact business in this state;

48  
49 (ii) in the ordinary course of business; or

50  
51 (C) campaign contribution;

52  
53 during the time an executive action affecting the lobbyist, lobbyist's client, or a client of either the lobbyist or the lobbyist's  
54 client is being considered by the executive official.

55  
56 (3) The prohibitions in subsections (1) and (2) do not apply to food or beverage for immediate consumption, provided  
57 the food or beverage transaction is properly reported under this Act.

58  
59 (4) A lobbyist, lobbyist's client, or a person acting on behalf of a lobbyist or a lobbyist's client shall not offer, solicit,  
60 initiate, facilitate, or provide to or on behalf of, a legislative official or candidate for the legislature or executive branch  
61 official, a gift or gifts having a value in excess of fifty dollars (\$50) in a calendar year.

62  
63 (5) A lobbyist shall not contract to receive, or accept compensation dependent upon the success or failure of a legislative  
64 or executive action.

65  
66 (6) A lobbyist shall not knowingly or willfully make or cause to be made a false statement or misrepresentation of the  
67 facts to a legislative or executive official.

1 (7) A lobbyist shall not cause the introduction of legislative or executive action for the purpose of obtaining employment  
2 to lobby in support of or in opposition to the legislative or executive action.  
3

4 (8) A lobbyist shall not serve as a treasurer for a candidate or committee.  
5

6 (9) A lobbyist shall not make a gift that would violate the provisions of [§206 of the Ethics Act].  
7

8 Comment:  
9

10 *Some states also prohibit bribery or other inducements in attempting to influence legislative action; the use or slate of lists*  
11 *of registered lobbyists for fundraising purposes; retention of an unregistered lobbyist; and the post-government employment*  
12 *as a lobbyist of certain high-ranking officials.*  
13

14 *Subsection (9) makes it illegal for a lobbyist to engage in conduct that would cause a public official or public employee to*  
15 *be in violation of the provisions of the Ethics Act.*  
16

17 **§316 Retention of Records by a Lobbyist or Lobbyist's Client**  
18

19 A lobbyist and a lobbyist's client shall preserve for a period of one year from the [date of the state statute of limitations  
20 for the activity] all accounts, bills, books, papers, receipts, and other documents and records necessary to substantiate the  
21 expenditure reports submitted under this Act.  
22

23 **§318 Termination**  
24

25 (1) A lobbyist may seek to terminate a lobbyist registration by filing a report required under §308 or §310 including  
26 information through the last day of lobbying activity.  
27

28 (2) A termination report must indicate that the lobbyist intends to use the report as the final accounting of lobbying  
29 activity.  
30

31 (3) Termination does not become effective until approved by the Agency. In determining whether the termination should  
32 become effective, the Agency shall consider the following:  
33

34 (A) Completeness and accuracy of reporting.  
35

36 (B) The likelihood that the lobbying activity will continue.  
37

38 (C) Any circumstances about the lobbyist or lobbyist's client that the Agency deems appropriate in determining  
39 whether the termination should be honored.  
40  
41  
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67

1 §500 Agency Organization and Responsibilities

2  
3 §500.01 Establishment and Composition of the Agency

4  
5 (1) The Agency is established as an independent authority.

6  
7 (2) The Agency consists of five (5) members. The members are appointed by the governor from a panel of ten (10)  
8 individuals nominated by the chief justice of the [state court of last resort]. A member of the Agency must be a citizen of  
9 the United States and a resident of this state. A member of the Agency shall not be a:

- 10  
11 (A) public official;  
12  
13 (B) public employee; or  
14  
15 (C) candidate;  
16  
17 (D) lobbyist or lobbyist's principal;

18  
19 or a member of the immediate family of such an individual while a member of the Agency.

20  
21 Comment:

22  
23 *Consideration might also be given to language that would prohibit certain classes of campaign contributors from being*  
24 *members of the Agency. Language might be drafted as follows:*

25  
26 (E) contributor within two years of appointment of more than [\$100] to:

- 27  
28 (i) the campaign committee of a person seeking election to a public office to which this Act pertains; or  
29  
30 (ii) a political party.

31  
32 (3) A member of the Agency serves a term of four (4) years. However, the initial members of the Agency serve the  
33 following terms:

- 34  
35 (A) One (1) member serves a term of one (1) year.  
36  
37 (B) One (1) member serves a term of two (2) years.  
38  
39 (C) One (1) member serves a term of three (3) years.  
40  
41 (D) Two (2) members serve a term of four (4) years.

42  
43 (4) An individual may not serve more than two (2) consecutive terms as a member of the Agency. A member of the  
44 Agency continues in office until a successor is appointed and has qualified.

45  
46 Comment:

47  
48 *To foster consistency of decisions, predictability of the Agency's treatment of matters, and institutional memory of prior*  
49 *actions, terms of at least four years are encouraged. Longer terms may also be appropriate.*

50  
51 §500.02 Election and Duties of the Chair and Vice Chair

52  
53 The chair and vice chair of the Agency are elected by a majority of the members of the Agency. The chair and vice chair  
54 serve a term of one (1) year, and may be re-elected. The chair presides at meetings of the Agency. The vice chair presides  
55 in the absence or disability of the chair.

56  
57 §500.03 Agency Meetings

58  
59 The Agency meets at the call of the chair or a majority of its members. A quorum consists of three (3) or more members.  
60 An affirmative vote of three (3) or more members is necessary for an Agency action.

61  
62 §500.04 Filling of a Vacancy

63  
64 A vacancy is filled for the remainder of an unexpired term in the same manner as an original appointment, except that  
65 the chief justice of the [state court of last resort] shall nominate two (2) individuals for gubernatorial appointment to a  
66 vacancy.  
67

1 §500.05 Removal of a Member

2  
3 The governor may remove or suspend a member of the Agency upon filing with the Agency a written finding of the  
4 member's misfeasance or malfeasance, and upon serving a copy of the written finding on the member removed or suspended.  
5

6 §500.06 Expenses for Agency Members

7  
8 A member of the Agency serves without compensation, but is afforded actual and necessary expenses incurred in the  
9 performance of duties.  
10

11 §500.07 Agency Staff

12  
13 (1) The Agency may employ and remove at its pleasure an executive director to perform its functions. The executive  
14 director shall have the responsibility for employing and removing other personnel as may be necessary.  
15

16 Comment:

17  
18 *Some jurisdictions require agencies to avail themselves of central state legal services rather than permitting the employment*  
19 *of attorneys by individual agencies. The commission established by this Act should be permitted to employ attorneys for its*  
20 *own purposes, rather than being forced to rely upon the vagaries of the state legal structure to have access to counsel. States*  
21 *might wish to expressly provide for hiring of legal help in their statutes.*  
22

23 (2) An executive director shall administer the daily business of the Agency, and perform the duties assigned by the  
24 Agency.  
25

26 (3) The Agency shall fix the compensation of its employees. The staff of the Agency is outside of the [classified state  
27 service]. A member of the staff of the Agency shall not be:

28 (A) a public official; or

29 (B) a candidate;

30 while a member of the staff of the Agency.  
31  
32

33 §500.08 Filing of Statement of Financial Disclosure

34  
35 A member and an employee of the Agency shall file a statement of financial disclosure with the Agency which shall be  
36 a public record.  
37

38 §500.09 Prohibition on Political Activity by Agency Members and Staff

39  
40 A member of the Agency and its staff shall not participate in political management or in a political campaign during the  
41 member or employee's term of office or employment. A member of the Agency and its staff shall not:

42 (1) make a financial contribution to a candidate;

43 (2) make a financial contribution to a political committee; or

44 (3) knowingly attend a fundraiser held for the benefit of a candidate or political committee.  
45  
46

47 §500.10 Prohibition on Lobbying Activity by Agency Members and Staff

48  
49 (1) A member of the Agency and its staff may not be a registered lobbyist or participate in lobbying activities that would  
50 require the individual to register as a lobbyist, unless the lobbying activities are:

51 (A) authorized by the Agency;

52 (B) conducted on behalf of the Agency; and

53 (C) permitted under state law.  
54  
55

56 §502 Agency Authority

57 §502.01 General Powers of the Agency  
58  
59  
60  
61  
62  
63  
64  
65

1 Except as expressly provided otherwise, the Agency is responsible for administering the provisions of this chapter. The  
2 Agency shall have the power and duties set forth in this Act.

3  
4 §502.02 Issuance of Advisory Opinions

5  
6 (1) The Agency may render advisory opinions concerning this Act based upon real or hypothetical circumstances, when  
7 requested in writing by:

8  
9 (A) a public official or public employee;

10  
11 (B) a former public official or former public employee; or

12  
13 (C) a person who is personally and directly involved in the matter.

14  
15 (2) An advisory opinion request by a public official or public employee concerning his or her own affairs or the affairs  
16 of a subordinate public official or employee or a potential public official or public employee shall be confidential.

17  
18 (3) An advisory opinion request by a former public official or former public employee concerning his or her own affairs  
19 shall be confidential.

20  
21 (4) An advisory opinion request by a person concerning his or her own affairs with regard to potential public service  
22 shall be confidential.

23  
24 (5) An advisory opinion shall be in writing and must be made available to the public, but in the case of a confidential  
25 advisory opinion, the identity of the person requesting the opinion and of a person whose affairs are involved in the  
26 circumstances described in the request for the advisory opinion, are confidential.

27  
28 (6) An advisory opinion shall be deemed rendered when signed by three or more Agency members subscribing to the  
29 advisory opinion.

30  
31 (7) An Agency member who agrees with the advisory opinion but for different reasons than as stated may file a written  
32 concurring opinion.

33  
34 (8) An Agency member who disagrees with the advisory opinion may file a written dissenting opinion, which will be  
35 placed at the end of the majority opinion, or at the end of a concurring opinion, if any.

36  
37 (9) Agency attorneys may issue advice either orally or in writing concerning this Act based upon real or hypothetical  
38 circumstances when requested when such advice is consistent with this Act or previous advisory opinions issued by the  
39 Agency, provided that such advice shall be confidential when an advisory opinion on the matter would be confidential.  
40 Advice so issued by Agency attorneys need not be made available to the public.

41  
42 (10) An advisory opinion requested under this section and any related internal Agency materials requested or prepared  
43 as a result of such an advisory opinion request shall be confidential.

44  
45 (11) The confidentiality of an advisory opinion may be waived either:

46  
47 (A) in writing, by the person who requested the advisory opinion; or

48  
49 (B) by majority vote of the members of the Agency, if a person makes or purports to make public the substance  
50 or any portion of an advisory opinion requested by or on behalf of the person. The Agency may, in such an event, also vote  
51 to make public the advisory opinion request and related materials.

52  
53 Comment:

54  
55 *This provision authorizes the Agency to issue advisory opinions, but leaves to the Agency's discretion the assessment of the*  
56 *appropriateness of issuing an opinion.*

57  
58 *There is considerable merit to the idea of having anyone be able to request an advisory opinion, and for having such an*  
59 *advisory opinion request and response be a matter of public record. However, allowing anyone to request an advisory opinion*  
60 *can tie up the actions of an agency with partisan- or personal-based attacks upon the actions of a public official or employee.*  
61 *Public officials or employees should be able to request advisory opinions about themselves and their subordinates, and there*  
62 *is significant sentiment for keeping these requests and responses confidential. Many feel, however, that ethics would be greatly*  
63 *fostered by giving the Agency the authority to issue a non-confidential advisory opinion to a member of the public who is*  
64 *involved in some matter involving a public official or public employee, and a state official or employee should also have the*  
65 *ability to request a public advisory opinion about another state official or employee who is not a subordinate. For example,*  
66 *a member of a state board might want to know whether another member of the board has a potential conflict of interest.*

1 *Permitting members of the public who might not have a particular interest to request an advisory opinion would serve the*  
2 *purpose of having an advisory opinion on record if, for example, a board member refused to request such an opinion with*  
3 *respect to a potential conflict that he or she might have. Ethics agencies around the nation are frequently contacted by the*  
4 *news media or members of the public regarding something that a state official or employee is doing. Without the ability to*  
5 *issue an advisory opinion to a member of the public, the agencies have a difficult time responding to these concerns. Even*  
6 *if the Agency contacts the state official or employee involved, their advice would normally be privileged or confidential, and*  
7 *thus they would have a problem responding to a member of the public or news media with respect to the particular situation.*

8  
9 *The section permitting staff attorneys to issue advice either orally or in writing, when such advice is based upon clear law*  
10 *or precedents is set forth to cover those situations in which there is not a need to issue an advisory opinion to answer a*  
11 *question.*

12  
13 *Jurisdictions should closely examine their open meetings laws to determine whether a specific exemption to such laws that*  
14 *would permit the Agency to meet in closed session to consider requests for advisory opinions is necessary.*

#### 15 §502.03 Conduct of Investigations

16  
17  
18 (1) The Agency may conduct investigations, inquiries, and hearings concerning any matter covered by this Act and  
19 certify its own acts and records.

20  
21 (2) The Agency may determine whether to:

22 (A) investigate; and

23 (B) act upon a complaint.

24  
25  
26  
27 When the Agency determines that assistance is needed in conducting investigations, or when required by law, the Agency  
28 shall request the assistance of other appropriate agencies.

#### 29 §502.04 Adoption of Rules

30  
31 The Agency shall adopt, amend, repeal, and enforce rules to implement this Act.

#### 32 §502.05 Prescription of Forms and Preservation of Documents

33  
34  
35 The Agency shall prescribe and provide forms for reports, statements, notices, and other documents required by this Act.  
36 Documents filed with the Agency as public records must be retained for at least four (4) years from the date of their receipt.

#### 37 Comment:

38  
39  
40  
41 *States should check this provision against other provisions of state law which govern retention of records. Most states have*  
42 *a general statute which covers the retention and disposition of public records.*

#### 43 §502.06 Review of Statements

44  
45 The Agency shall:

46 (1) review each statement filed in accordance with this Act for compliance with its provisions; and

47 (2) notify the individual on whose behalf the statement is filed of an omission or deficiency.

#### 48 §502.07 Access to Statements

49  
50  
51  
52 The Agency shall make statements and reports filed with the Agency available upon the written request of an individual  
53 for public inspection and copying during regular office hours. The Agency shall make copying facilities available free of  
54 charge or at a cost not to exceed actual cost. A statement may be requested by mail, and the Agency shall mail a copy of  
55 the requested statement to the individual making the request upon payment of appropriate postage costs. ..

#### 56 §502.08 Maintenance of Statements

57  
58  
59 The Agency shall compile and maintain an index of reports and statements filed with the Agency to facilitate public  
60 access to the reports and statements.

1 §502.09 Access to Information for Investigations  
2

3 The Agency may require the cooperation of a state agency, official, employee, and other person whose conduct is  
4 regulated by this Act. An individual shall make information reasonably related to an investigation available to the Agency  
5 on written request.  
6

7 §502.10 Annual Report of the Agency  
8

9 No later than [December 1] of each year, the Agency shall report to the legislature and the governor on the Agency's  
10 activities in the preceding [fiscal] year. The report must contain the names and duties of each individual employed by the  
11 Agency, and a summary of Agency determinations and advisory opinions. The Agency shall prevent disclosure of the identity  
12 of a person involved in [decisions or] confidential advisory opinions. The report may contain other information on matters  
13 within the Agency's jurisdiction and recommendations for legislation as the Agency deems desirable.  
14

15 §502.11 Publication of Information  
16

17 The Agency shall publish and make available to the persons subject to this Act and the public explanatory information  
18 concerning this Act, the duties imposed by it, and the means for enforcing it.  
19

20 §502.12 Research and Educational Outreach  
21

22 The Agency may:

- 23  
24 (1) conduct research concerning state governmental ethics; and  
25  
26 (2) implement the educational programs it considers necessary to effectuate this Act.  
27

28 §502.13 Oaths and Subpoenas  
29

30 The Agency may:

- 31  
32 (1) administer oaths and affirmations for the testimony of witnesses; and  
33  
34 (2) issue subpoenas by a vote of three or more members, subject to judicial enforcement, for the procurement of  
35 witnesses and materials relevant to the Agency's investigations, including books, papers, records, documents, or other  
36 tangible objects.  
37

38 §502.14 Local Rules  
39

40 The Agency shall issue rules governing state government [campaign finance,] conflicts of interest, financial disclosure  
41 [, and lobbyist regulation]. The rules may be adopted by a local jurisdiction or imposed upon a local jurisdiction under this  
42 Act.  
43

44 §502.15 Other Duties  
45

46 The Agency may perform the other acts, duties, and functions authorized by this Act that it deems appropriate in  
47 connection with this Act.  
48

49 §504 Complaints  
50

51 §504.01 Complaints Initiated by an Individual  
52

53 (1) The Agency shall accept from an individual, either personally or on behalf of an organization or governmental body,  
54 a verified complaint in writing that states the name of a person alleged to have committed a violation of this Act, and sets  
55 forth the particulars of the violation.  
56

57 (2) The Agency shall forward a copy of the complaint and a general statement of the applicable law with respect to the  
58 complaint to the respondent.  
59

60 (3) If the Agency determines that the complaint does not allege facts sufficient to constitute a violation of the Act, it  
61 shall dismiss the complaint and notify the complainant and the respondent. If the Agency determines that the complaint  
62 alleges facts sufficient to constitute a violation of the Act, an investigation may be conducted with respect to an alleged  
63 violation.  
64  
65

1 §504.02 Complaints Initiated by the Agency

2  
3 (1) If the Agency determines that information the Agency has received:

- 4  
5 (A) provides an adequate basis for the belief that a violation of the Act has been committed; or  
6  
7 (B) that an investigation of a possible violation is warranted;

8  
9 an investigation may be conducted with respect to an alleged violation.

10  
11 (2) If the Agency, during the course of an investigation, or upon the receipt of information finds probable cause to  
12 believe that a violation of the Act has occurred, it may, upon its own motion, make a complaint in writing, stating the name  
13 of the person who is alleged to have committed a violation of the Act, and set forth the particulars thereof. A complaint  
14 initiated by the Agency must be signed by a majority of the members of Agency.

15  
16 (3) The Agency shall forward a copy of the complaint, and a general statement of the applicable laws with respect to  
17 the complaint to the respondent.

18  
19 §504.03 Amendment of Complaints

20  
21 (1) If a verified complaint has been filed, or if the Agency has issued its own complaint, and subsequently the Agency  
22 finds probable cause to believe that a violation of the Act has occurred, other than an alleged violation in the complaint, the  
23 Agency may amend the complaint upon its own motion to include the violation.

24  
25 (2) An amended complaint issued by the Agency must be signed by a majority of the members of Agency. The Agency  
26 shall forward a copy of the amended complaint, and a general statement of the applicable laws with respect to the amended  
27 complaint to the complainant and respondent.

28  
29 §504.04 Right to Appear

30  
31 The Agency shall afford a public official or employee who is the subject of a complaint an opportunity to explain the  
32 conduct alleged to be in violation of the Act. A public official or employee who is the subject of a complaint has the right  
33 to appear and be heard [under oath] and to offer information which may tend to exonerate the public official or employee  
34 of probable cause to believe that there has been a violation of the Act.

35  
36 §504.05 Right to Request an Investigation of One's Own Conduct

37  
38 A public official or employee may request the Agency to make an investigation of the public official or employee's own  
39 conduct, or of allegations made by another individual as to the public official or employee's conduct. This request must be  
40 in writing and set forth in detail the reasons for requesting an investigation.

41  
42 §504.06 Statute of Limitations

43  
44 (1) Action may not be taken on a complaint filed more than three (3) years after the violation of the Act is alleged to  
45 have occurred.

46  
47 (2) Nothing herein shall bar proceedings against a person who by fraud or other device prevents discovery of a violation  
48 of the Act.

49  
50 §504.06 Referral of Evidence of a Violation of Law

51  
52 Notwithstanding [the provisions of a state confidentiality law], the Agency may, in its discretion, turn over to an  
53 appropriate government Agency [upon request or as a matter of course], apparent evidence of a violation of law.

54  
55 Comment:

56  
57 *This section permits the Agency to make available to an appropriate government official or agency information that may be*  
58 *used in a criminal proceeding or other breach of the law. The question that the state needs to resolve is whether this*  
59 *information should be turned over to such an entity automatically, or only after the material has been requested of the*  
60 *Agency. Automatic release of materials may promote more prosecutions, for the appropriate prosecutorial authorities may*  
61 *be unaware of certain transgressions without such notice. Release upon request would serve to reduce the burden on*  
62 *prosecutorial authorities, for they would then only be required to look into more information on the investigations that they*  
63 *had initiated.*

1 While a mandatory requirement for Agency action was considered, it was rejected as being an undue burden on the Agency  
2 with respect to both action and timing.

### 3 4 §506 Investigations and Hearings

#### 5 6 §506.01 Authorization to Conduct an Investigation

7  
8 Before the Agency may subpoena witnesses, administer oaths, take testimony, or require the production for examination  
9 of books or papers with respect to an investigation or hearing, it shall, by resolution adopted by a vote of three or more of  
10 its members, define the nature and scope of its inquiry.

#### 11 12 Comment:

13  
14 *This section requires the Agency to define the scope of a proceeding at its outset. The question that the state needs to resolve*  
15 *is whether this definition of the nature and scope of the inquiry is to be limiting or advisory. If the former, the resolution*  
16 *should be drawn as broadly as possible, or made subject to later amendment. If the latter, there should be some specificity*  
17 *to guard against the proverbial government witchhunt.*

#### 18 19 §506.02 Agency Investigatory Powers

20  
21 In an investigation or hearing conducted under this section, the Agency may do the following:

22  
23 (1) Require an individual to submit in writing verified reports and answers to questions relevant to the proceedings  
24 conducted under this section.

25  
26 (2) Administer oaths and require by subpoena the attendance and testimony of witnesses and the production of  
27 documentary evidence relating to the investigation or hearing being conducted.

28  
29 (3) Order testimony taken by deposition before an individual designated by the Agency who has the power to administer  
30 oaths, and, to compel such testimony and the production of evidence by subpoena.

31  
32 (4) Pay witnesses the same fees and mileage reimbursement paid in similar circumstances by the courts of the state.

33  
34 (5) Request and obtain from the [state department of taxation or revenue] copies of state income tax returns and access  
35 to other appropriate information regarding a person who is the subject of an investigation.

36  
37 (6) Request the respondent's attendance at a meeting [or hearing] of the Agency conducted to obtain further information  
38 from the respondent.

#### 39 40 §506.03 Enforcement of Subpoenas

41  
42 Enforcement of subpoenas issued by the Agency may be effected by written application of the Agency to a [local court]  
43 judge.

#### 44 45 §506.04 Probable Cause of Violation

46  
47 (1) At the conclusion of its investigation, the Agency shall, in preliminary written decision with findings of fact and  
48 conclusions of law, make a determination of whether probable cause exists to believe that a violation of the Act has occurred.  
49 If the Agency determines that probable cause does not exist, it shall send written notice of the determination to the respondent  
50 and the complainant. The written notice of no probable cause must be in the form of a written decision with findings of fact  
51 and conclusions of law.

52  
53 (2) If the Agency determines that there is probable cause to believe that a violation of the Act has been committed, its  
54 preliminary decision with findings of fact and conclusions of law may contain an order setting forth a date for hearing before  
55 the Agency to determine whether a violation of the Act has occurred. The order shall be served upon the respondent. The  
56 respondent is entitled to full discovery rights before a hearing is ordered, including adverse examination of witnesses who  
57 will testify at the hearing at a reasonable time before the date of the hearing.

58  
59 (3) If the Agency finds probable cause to believe that a violation of the Act has occurred, the Agency may waive further  
60 proceedings because of action the respondent takes to remedy or correct the alleged violation. The Agency shall make the  
61 remedial or corrective action taken by the respondent, the Agency's decision in light of the action to waive further  
62 proceedings, and the Agency's justification for its decision, a part of the public record.

1 §506.05 Hearing Procedures  
2

3 (1) The Agency may appoint a qualified individual as a hearing examiner. The hearing examiner must:  
4

5 (A) be a member of the bar of the state;  
6

7 (B) not be an elective official or a full-time employee of the executive or legislative branch; and  
8

9 (C) not be a member or employee of the Agency.  
10

11 (2) The hearing examiner shall conduct a hearing or rehearing under this section in accordance with the [requirements  
12 of the state administrative procedure act], except as otherwise expressly provided.  
13

14 (3) During an investigation or hearing to determine whether a violation of the Act has occurred, the respondent may  
15 be represented by counsel of the respondent's choice.  
16

17 (4) The respondent has the following rights:  
18

19 (A) To be afforded an opportunity to challenge the veracity and sufficiency of a complaint filed against the  
20 respondent.  
21

22 (B) To present witnesses, who shall be subpoenaed by the Agency to compel attendance upon the respondent's  
23 request.  
24

25 (C) To establish pertinent facts and circumstances;  
26

27 (D) To rebut or offer countervailing evidence;  
28

29 (E) To question or refute testimony or evidence, including the opportunity to confront and cross-examine an adverse  
30 witness.  
31

32 (F) To exercise fully any pretrial discovery procedure usually available in a civil action.  
33

34 (5) During an Agency hearing conducted to determine whether a violation of the Act has occurred, all evidence,  
35 including records the Agency considers, shall be fully offered and made a part of the record in the proceedings.  
36

37 (6) A person whose name is mentioned or who is otherwise identified during an Agency hearing, and who, in the  
38 opinion of the Agency, may be adversely affected as a result, may, upon the request of the person or the person's  
39 representative:  
40

41 (A) appear personally before the Agency and testify on the person's own behalf;  
42

43 (B) have a representative appear to testify; or  
44

45 (C) rebut or offer countervailing evidence.  
46

47 The Agency may permit any other person to appear and testify at a hearing.  
48

49 (7) The Agency shall not be bound by the strict rules of evidence when conducting a hearing to determine whether a  
50 violation of this Act has occurred, and the degree or quantum of proof required shall be a preponderance of the evidence.  
51

52 (8) After the conclusion of its hearing, the Agency shall, as soon as practicable:  
53

54 (A) begin deliberations on the evidence presented at the hearing; and  
55

56 (B) determine whether the respondent has violated the Act.  
57

58 (9) If a hearing officer is appointed and a majority of the members of the Agency are not present at the hearing, the  
59 Agency shall not begin deliberations until after:  
60

61 (A) the proposed decision is served upon the Agency and the parties; and  
62

63 (B) an opportunity is provided for oral arguments.  
64  
65

1 (10) A hearing to determine whether there has been a violation of the Act must be public, unless the Agency votes to  
2 hear the evidence in executive session.  
3

4 (11) A member of the Agency may administer oaths. A member of the Agency may hear testimony or receive other  
5 evidence in a proceeding before the Agency.  
6

#### 7 §506.06 Orders and Recommendations 8

9 (1) No later than [a reasonable time] after the conclusion of a hearing to determine whether a violation of the Act has  
10 occurred, the Agency shall set forth its determination in a written decision with findings of fact and conclusions of law. The  
11 Agency shall send its written decision with findings of fact and conclusions of law to the respondent and complainant.  
12

13 (2) If the Agency determines that a violation of the Act has occurred, its written decision with findings of fact and  
14 conclusions of law must contain one (1) or more of the following orders or recommendations:  
15

16 (A) In the case of a state official liable to impeachment, a recommendation to the presiding officer of each chamber  
17 of the legislature that the official be removed from office.  
18

19 (B) In the case of a public official or public employee in the [classified or unclassified] service, a recommendation  
20 to the appropriate appointing authority that the public official or public employee be censured, suspended, or removed from  
21 office or employment.  
22

23 (C) In the case of a member of the state legislature, a recommendation to the presiding officer of the appropriate  
24 chamber of the legislature that the legislator be censured, suspended, or removed from office.  
25

26 (D) In the case of a judge, a recommendation to the [state court of last resort] and to the presiding officer of each  
27 chamber of the legislature that the judge be censured, suspended, or removed from office.  
28

29 (E) An order requiring the public official or public employee to conform the official's or employee's conduct to  
30 the requirements of the Act.  
31

32 (F) An order requiring the public official or public employee to pay a civil penalty of not more than [\$2,000] for  
33 each violation of the Act. The attorney general, when requested by the Agency, shall institute proceedings to recover a fine  
34 or forfeiture incurred under this section not paid by, or on behalf of, the person against whom it is assessed.  
35

36 (G) Other recommendations or orders, including:  
37

38 (i) forfeiture of gifts, receipts or profits obtained through a violation of the Act;  
39

40 (ii) voiding of a state action obtained through a violation of the Act; or  
41

42 (iii) or a combination of the above, as necessary and appropriate, consistent with the Act.  
43

44 (3) A fine imposed by the Agency, disciplinary action taken by an appropriate authority, or a determination not to take  
45 disciplinary action made by an appropriate authority is public record.  
46

47 (4) This section does not limit the power of:  
48

49 (A) either chamber of the legislature to discipline its own members or to impeach a public official; or  
50

51 (B) of a department to discipline its officials or employees.  
52

#### 53 §506.07 Rehearings 54

55 (1) After the service upon the alleged violator by the Agency of a decision under section 506.06 containing an order  
56 or recommendation, the respondent may apply to the Agency for a rehearing with respect to a matter determined in the  
57 decision.  
58

59 (2) An application for a rehearing is governed by rules established by the Agency. The Agency may grant one (1)  
60 rehearing to a particular respondent.  
61

62 (3) An Agency order may not become effective:  
63

64 (A) before twenty (20) days after it is issued;  
65

1 (B) while an application for rehearing or a rehearing is pending; or

2  
3 (C) before ten (10) days after the application for rehearing is either denied, or the Agency has announced its final  
4 determination on rehearing.

5  
6 §506.08 Action by the Attorney General

7  
8 (1) The attorney general may recover a fee, compensation, gift, or profit received by a person as a result of a violation  
9 of the Act.

10  
11 (2) Action taken by the attorney general under this subsection must be brought no later than one (1) year after a  
12 determination of a violation of the Act.

13  
14 §506.09 Appeal

15  
16 A final action by the Agency under this Act is subject to review in accordance with the [state administrative procedure  
17 act].

18  
19 §506.10 Settlement Agreements

20  
21 A public official or employee under investigation by the Agency for a possible violation of the Act may enter into a  
22 settlement agreement with the Agency to resolve the matter to preclude further proceedings or hearings. A settlement  
23 agreement is a matter of public record.

24  
25 §506.11 Authentication of Agency Actions

26  
27 A decision or advisory opinion of the Agency must be in writing and signed by three or more members of the Agency.

28  
29 §506.12 Public Inspection of Records

30  
31 (1) Except as provided in subsection (2) below, all Agency records are open for public inspection during normal business  
32 hours.

33  
34 (2) The following Agency records are not open for public inspection:

35  
36 (A) Records obtained in connection with a request for an advisory opinion. The Agency may make records  
37 described by this subdivision public with the consent of the individual to whom the records pertain.

38  
39 (B) Records obtained or prepared by the Agency in connection with an investigation or complaint. However, the  
40 Agency shall permit inspection of the following:

41  
42 (i) Records made public in the course of a hearing.

43  
44 (ii) Verified complaints filed with the Agency.

45  
46 (iii) Complaints issued by the Agency.

47  
48 (iv) Probable cause decisions with findings of fact and conclusions of law.

49  
50 (v) Decisions with findings of fact and conclusions of law issued after a hearing.

51  
52 (vi) A determination made by the Agency regarding a rehearing.

53  
54 (vii) A settlement agreement entered into by the Agency and a respondent.

55  
56 (3) A person who makes or purports to make public the substance or a portion of a confidential advisory opinion  
57 requested by or on behalf of the person has waived the confidentiality of the request for an advisory opinion, and of a record  
58 obtained by the Agency in connection with the request for an advisory opinion.

59  
60 (4) The Agency may publicly respond to a statement or interpretation made concerning the contents of an advisory  
61 opinion or decision it has issued or is purported to have issued.

1 §506.13 Freedom from Reprisal for Disclosure of Improper Acts  
2

3 (1) A public official or public employee who reports or attempts to report to the Agency or the official's or employee's  
4 department, division, board, bureau, commission, chamber of the legislature, or other agency of the state, information  
5 concerning an action that the public official or public employee reasonably believes to involve:

- 6  
7 (A) corruption;  
8  
9 (B) unethical practices;  
10  
11 (C) violation of federal, state, or local laws or regulations;  
12  
13 (D) mismanagement;  
14  
15 (E) gross waste of public funds or resources;  
16  
17 (F) abuse of authority;  
18  
19 (G) danger to the public safety; or  
20  
21 (H) other alleged acts of impropriety;  
22

23 within a state department, division, board, bureau, commission, chamber of the legislature, or other agency of the state, may  
24 not be subject to discipline or reprisal for reporting the acts of alleged impropriety to the extent that the public official or  
25 employee is not directly responsible for the acts complained of.  
26

27 (2) A public official or employee shall not subject a person who reports to a government entity or the Agency  
28 information concerning an action the person reasonably believes is a violation of the Act, or of any order, or rule, issued  
29 by the Agency to reprisal or retaliation.  
30

31 (3) A public official or employee who is discharged, disciplined, or otherwise penalized by a government employer in  
32 violation of this section may, after exhausting all available administrative remedies, bring a civil action, no later than ninety  
33 (90) days after the date of the final administrative determination or not later than ninety (90) days after the violation,  
34 whichever is later, in [district-level] court for:

- 35  
36 (A) reinstatement to the position held at the time of the disclosure;  
37  
38 (B) payment of back wages and benefits; and  
39  
40 (C) other relief as the public official or employee may deem appropriate or necessary.  
41

42 (4) An employee found to have knowingly made a false report shall be subject to disciplinary action which may include  
43 dismissal.  
44

45 Comment:  
46

47 *An individual, particularly a public employee, should be free to speak out on issues relating to fraud, waste, and abuse in*  
48 *government without fear of retaliation through demotion, transfer, cut in pay, or an unsatisfactory performance review. This*  
49 *provision permits a public employee or any person to disclose alleged inproprieties without reprisal by the government.*  
50 *Safeguards for reinstating an employee and deterring willful misconduct through making false accusations are also included.*  
51

52 §506.16 Copy of the Act to be Furnished to Public Officials and Employees  
53

54 (1) Each public official and employee shall receive a copy of this Act [notice of amendments,] and a brochure describing  
55 the general application of the Act before January 15 of each year, from the public official or employee's department, division,  
56 board, bureau, commission, chamber of the legislature, or other agency of the state, upon assuming the duties of office or  
57 position within state government.  
58

59 (2) The [jurisdiction] may choose to assume the responsibility for the distribution of the Act for appropriate public  
60 officials and employees under subsection (1) above if it annually includes a copy of the Act with each official or employee's  
61 paycheck or statement of electronic funds transfer.  
62

1 §508 Miscellaneous Penalty Provisions

2  
3 §508.01 Forfeiture of Pension and Retirement Benefits

4  
5 (1) A public official or public employee, or a survivor, heir, successor, or estate of a public official or public employee  
6 who is convicted of a felony:

7  
8 (A) relating to; or

9  
10 (B) arising out of;

11  
12 the public official or public employee's public service may not receive the portion of pension or retirement benefits paid by  
13 a public entity and interest accrued on that portion.

14  
15 (2) A public official or public employee entering public service subsequent to the passage of this Act is deemed to have  
16 consented to this section as a condition of coverage.

17  
18 Comment:

19  
20 *Principles of fairness are at stake in the distribution of the government share of retirement or pension benefits to a public*  
21 *official or employee who has abused the public trust. Situations in Pennsylvania and Illinois have highlighted the problem*  
22 *in recent years. This section denies the government's payments (and accrued interest on the payments) to a public official or*  
23 *employee's pension or retirement plan if the official or employee's felony conviction is related to the individual's government*  
24 *service. The public official or employee is still entitled to redeem the employee's share of the contribution to the pension or*  
25 *retirement plan. A similar statute in Illinois has survived constitutional challenge.*

26  
27 §508.02 Tax Treatment of Fines and Repayments

28  
29 (1) A fine, penalty, reimbursement, or other payment ordered by the Agency or court in connection with making the  
30 government whole for a transaction improperly entered into by a public official, employee, or consultant, or a member of  
31 the immediate household of a public official, employee, or consultant does not qualify for a state or local tax credit or  
32 deduction.

33  
34 (2) The guilt or innocence of a party making a payment under subsection (1) has no effect upon the state or local tax  
35 consequences, nor does an admission or failure to admit guilt or complicity in a transaction.

36  
37 Comment:

38  
39 *A corrupt public official or employee should not be able to profit from his or her action in any manner, direct or indirect.*  
40 *Much of the language of this statute has been oriented to proscribing the direct benefits. This section and section 248 are*  
41 *devoted to keeping the wrongdoer from deriving some good from the wrongdoing. The scenario is not hypothetical; former*  
42 *Vice President Spiro T. Agnew tried to do just this.*

43  
44 §508.03 Administrative Debarment

45  
46 If the head of a department or agency of the executive branch in which a former officer or employee served finds, after  
47 notice and opportunity for a hearing, that the former officer or employee violated subsection (1), (2), or (3) of this section,  
48 the department or agency head may prohibit that person from making, on behalf of any other person (except the state), an  
49 appearance before, or with the intent to influence, an oral or written communication to the department or agency on a matter  
50 for not more than five (5) years. The disciplinary action is subject to review in an appropriate state [district level] court. A  
51 department or agency shall, in consultation with [the attorney general or the Agency], adopt rules to implement this  
52 subsection.

53  
54 §508.04 Suspension or Revocation of Lobbying Privilege

55  
56 The Agency may by a majority vote, as a result of a violation of the Lobbying Regulation Act, after a public hearing,  
57 suspend or revoke the registration privileges of a lobbyist.

58  
59 §510 Agency Duties

60  
61 Comment:

62  
63 *This section sets forth the required powers and duties of the Agency which are considered essential to the effective*  
64 *investigation of suspected or alleged violations, and enforcement of the provisions of this Act. The authority prescribed in*  
65 *this section was drafted after consideration of detailed survey responses from 30 officials charged with enforcement of*  
66 *campaign finance laws in their respective jurisdictions in the United States and Canada, and the drafter's own experience*

1 of ten years practice in this area. In broad terms, this section addresses the critical investigative and auditing functions of  
2 the Agency, and the authority necessary to enforce compliance with the registration and reporting provisions of this Act.

3  
4 **§510.01 Responsibility of the Agency**

5  
6 The Agency shall do the following:

7  
8 (1) Investigate a suspected violation of this Act on its own initiative or upon receipt of a written complaint under  
9 oath by an individual with respect to an alleged violation of this Act.

10  
11 (A) No later than seven (7) days after the Agency has received a sworn complaint, or decides to investigate on  
12 its own initiative, the Agency must acknowledge receipt of the complaint to the complainant by certified mail, where  
13 appropriate.

14  
15 (B) A complaint must be filed, or an investigation must be begun by the Agency on its own initiative, no later  
16 than four (4) years from the date that the violation is suspected or alleged to have been committed.

17  
18 **Comment:**

19  
20 *These provisions require the Agency to investigate a suspected or alleged violation of the Act on its own volition or upon the*  
21 *receipt of a properly verified complaint from an individual. This process is consistent with the authority granted to the vast*  
22 *majority of independent boards and commissions in the United States that have been established to administer and enforce*  
23 *such laws.*

24  
25 *Even in the absence of a complaint, it is essential for the Agency to begin an investigation when it possesses information that*  
26 *bears upon a possible violation of the laws. The failure to act in such circumstances may erode the public's confidence in*  
27 *the electoral process, and will surely tarnish the credibility of the Agency.*

28  
29 *The language does not specify whether a majority or extraordinary majority vote of the Agency members should be required*  
30 *to initiate an investigation in the absence of a complaint. The intent is to reserve these procedural issues for a decision by*  
31 *the Agency in the resolution of the formal regulation-making process governed by the Administrative Procedure Act of the*  
32 *particular jurisdiction. However, we recommend that a simple majority vote of the Agency members be required, rather than*  
33 *an extraordinary majority, in order to facilitate such action. The language is certainly broad enough to ensure, for example,*  
34 *that the results of staff audits may serve as the basis for a full investigation. However, the necessity for the Agency to review*  
35 *these results and adopt a motion to initiate an investigation is an important check on the discretion of its staff.*

36  
37 *By contrast, no vote by Agency members is required as a prerequisite to the investigation of a verified complaint. The oath*  
38 *requirement, coupled with penalties for false oaths that will undoubtedly exist elsewhere in the law of the jurisdiction, greatly*  
39 *deters the opportunity for fabrication of patently fraudulent charges. A sworn complaint should carry sufficient legitimacy*  
40 *to justify an investigation of the charges without requiring formal Agency approval.*

41  
42 *No further conditions are prescribed for the complaint filing process to encourage its use to address questions of propriety.*  
43 *While there was some support for a requirement that the complainant have personal knowledge of the facts recited, it was*  
44 *rejected as burdensome and because it places an unnecessary impediment to the initiation of an investigation.*

45  
46 *Written notice of receipt of a complaint must be sent to the complainant by the Agency. To prevent stale claims, a four year*  
47 *statute of limitations is placed upon the filing of complaints and commencement of investigations.*

48  
49 (2) Receive and examine each statement and report filed under the Act and determine whether it is complete and is  
50 in compliance with the provisions of the Act.

51  
52 **Comment:**

53  
54 *The Agency is required to both receive and examine the registration and financial disclosure reports filed in accordance with*  
55 *the provisions of the Act. Although a few jurisdictions assign the repository function to an official or agency that does not*  
56 *possess the audit, investigative, and enforcement functions (typically the Secretary of State or county clerks), the preferred*  
57 *approach is to combine all functions in a single independent agency that is not comprised of elected officials subject to the*  
58 *requirements of the Act.*

59  
60 *In addition to the elimination of conflicts of interests and a reduction in partisanship, both real and potential, the delegation*  
61 *of all functions to an independent entity promotes efficiency, facilitates dissemination of information to the public, and ensures*  
62 *greater compliance with the laws.*

63  
64 *Among other adverse consequences, the separation of the repository function from the audit and enforcement functions will*  
65 *increase the likelihood that those subject to the requirements of the Act will receive inconsistent advice, and diminish the*  
66 *ability of the audit and enforcement agency to review the statements and reports for compliance.*

1 *Under ideal circumstances, a more complete and detailed review (audit) should be undertaken with respect to each report*  
2 *filed. However, the practical fiscal limitations on resources available to the Agency preclude such detailed reviews in each*  
3 *instance without some overt showing of need or random desk or field audit requirement.*  
4

5 (3) Review and audit a statement or report filed under the Act:

6  
7 (A) to determine if an applicant for public funds is eligible to receive such funds and has otherwise complied  
8 with the requirements of [the public financing section of the Act];  
9

10 (B) as may be necessary to conduct a fair and complete investigation of a suspected or alleged violation of the  
11 Act commenced pursuant to subsection (1) of this section; and  
12

13 (C) in any other circumstances deemed necessary to effectuate the purposes of the Act in accordance with the  
14 regulations adopted by the Agency under the Act.  
15

16 Comment:  
17

18 *The public interest in comprehensive auditing of campaign disclosure reports is considered most significant when taxpayer*  
19 *funds are sought or used to finance a political campaign, and when the guilt or innocence of an individual or other person*  
20 *suspected of a violation is determined by the enforcement agency. Consequently, an audit is required by law only in those*  
21 *instances.*  
22

23 *The Agency's ability to conduct audits under other circumstances should not be constrained if it possesses sufficient resources*  
24 *if the circumstances are set forth in regulations promulgated by the Agency in accordance with the Administrative Procedure*  
25 *Act of the particular jurisdiction.*  
26

27 (4) (A) Impose a late filing fee, payable to the Agency, against a person who fails to file a statement or report with  
28 the Agency by a deadline set forth under the Act.  
29

30 (B) Imposition of a late filing fee shall not be an appealable matter, either to the Agency or to a court.  
31

32 (C) The Agency may, for good cause, and in accordance with procedural rules it shall adopt, waive a late filing  
33 fee required to be imposed under this subsection.  
34

35 (D) A late filing fee shall be assessed on the following basis:  
36

37 (i) A late filing fee of fifty dollars (\$50) shall be assessed against a person for failure to file a required  
38 statement or report in a timely manner.  
39

40 (ii) An additional late filing fee of ten dollars (\$10) shall be imposed for each day after the first day that a  
41 required statement or report is not filed.  
42

43 (iii) A late filing fee of one hundred dollars (\$100) shall be assessed against a person for failure to timely file  
44 a required statement or report that must be filed within thirty (30) days before a primary or general election.  
45

46 (iv) An additional late filing fee of fifty dollars (\$50) shall be imposed for each day after the first day that  
47 a required statement or report that must be filed within thirty (30) days before a primary or general election is not filed.  
48

49 (E) The total amount of late filing fees imposed and due under this subsection with respect to a single required  
50 statement or report for any one person may not exceed one thousand dollars (\$1,000).  
51

52 Comment:  
53

54 *This subsection requires the Agency to impose a late filing fee against a person who is required to file a statement or*  
55 *disclosure report, and who fails to do so by the time required by the Act.*  
56

57 *The imposition of a late filing fee is automatic, and is not appealable. The lack of an appeal ensures timely disclosure and*  
58 *prevents dilatory tactics. Automatic increases of the fee for continued delinquency are also prescribed, with the total amount*  
59 *of fees that may be assessed against any one person for the nonfiling or late filing of a single statement or report may not*  
60 *exceed \$1,000.*  
61

62 *As the statements and reports required to be filed immediately preceding an election are likely to be the most important to*  
63 *the public, the late filing fee for noncompliance is set at a higher threshold.*  
64  
65

1 *The Agency is authorized to waive any late filing fee imposed under terms of the Act, but only if the circumstances satisfy the*  
2 *criteria set forth in regulations adopted by the Agency in accordance with the Administrative Procedure Act of the jurisdiction.*  
3 *Standardized requirements for the granting of such waivers will help to ensure that the Agency is not subjected to unjustified*  
4 *criticism, or subject to claims of selective enforcement.*  
5

6 (5) Issue a finding of probable cause or no probable cause to believe that a violation of the Act has been committed.  
7

8 (A) If a finding is not issued by the Agency within one hundred and twenty (120) days after the Agency receives  
9 a complaint, an individual who resides within the jurisdiction of the office for which the candidate complained against seeks  
10 may file a civil action to enforce the provisions of the Act in the [trial] court for the jurisdiction in which the violation is  
11 alleged to have occurred. An action brought under this subsection shall have precedence for purposes of trial in the order  
12 of time filed, and over all other civil actions for any cause.  
13

14 (B) In addition to the service required for the commencement of a civil action, an individual who brings a civil  
15 action under this subsection shall, within seven (7) days after filing the action, serve a copy of the complaint on the Agency.  
16

17 The Agency shall file a motion to dismiss the civil action commenced under this section within three (3) days after its receipt  
18 of a copy of the complaint if it has issued a probable cause or no probable cause finding, and shall serve notice of its motion  
19 on all parties. The court shall hear the motion not less than three (3) nor more than seven (7) days after its filing by the  
20 Agency, and shall render a judgment on the motion at the conclusion of the hearing.  
21

22 (C) A civil action may not be filed under subsection (A) if:  
23

24 (i) the action alleges a violation against a person for failure to timely file a required statement or report;  
25

26 (ii) the Agency has:  
27

28 (a) issued a finding of probable cause or no probable cause to believe that a violation has been  
29 committed in connection with the original complaint; or  
30

31 (b) has referred evidence compiled in its investigation to the [appropriate prosecutorial authority]; or  
32

33 (iii) the violation occurred more than four years before the date the civil action is filed.  
34

35 (D) The court shall have the same powers as reserved to the Agency if the court determines that a civil violation  
36 of the Act has occurred.  
37

38 (E) A plaintiff or defendant who prevails in a civil action shall be entitled to recover attorneys fees and court  
39 costs from an opposing party, other than the Agency, if the court so decides. A successful plaintiff shall also be entitled to  
40 receive one-third (1/3) of the amount of a civil penalty and forfeiture of a contribution or expenditure ordered by the court  
41 to be paid by the defendant under subsection (A).  
42

43 (F) The Agency retains jurisdiction over the original complaint unless:  
44

45 (i) a civil action has been commenced under subsection (A) within the time required; and  
46

47 (ii) the Agency has not issued a finding of probable cause or no probable cause to believe that a violation  
48 has occurred, or has referred evidence compiled in its investigation to the [appropriate prosecutorial authority].  
49

#### 50 Comment: 51

52 *The Agency must act upon a complaint it receives. If the Agency does not act within 120 days after its receipt, an individual*  
53 *within the jurisdiction may file a complaint with the trial level court to ensure the civil enforcement of the campaign finance*  
54 *laws. While only a few jurisdictions have such a "citizen suit" provision, this check on the Agency's actions is considered*  
55 *to be an important and necessary safeguard in the enforcement process.*  
56

57 *The 120-day period provides the Agency a reasonable opportunity to act fairly upon the substantial majority of complaints*  
58 *that it receives even if its appropriated funds and dedicated resources are modest--as is the reality with respect to most entities*  
59 *which investigate and enforce campaign finance laws. The fair and expeditious resolution of these complaints is a worthy*  
60 *objective, and legislatures should adequately fund the enforcement agency to achieve this goal. If such funding is not*  
61 *provided, this time constraint will only serve to diminish the Agency's effectiveness and adversely impact upon the public's*  
62 *perception of its operations.*  
63

64 *The "citizen suit" provision is not available if the Agency has, at a minimum, issued a finding of probable cause, or the*  
65 *absence of such cause. Unless a civil action is commenced, the primary jurisdiction of the Agency is not lost if the Agency*  
66 *fails to issue a finding or make a referral to another prosecutorial authority within the 120-day period.*

1 §511 Agency Discretionary Authority

2  
3 Comment:

4  
5 *This section sets forth the Agency's discretionary authority. To ensure that the Agency can fully and effectively investigate*  
6 *alleged violations, it must have the power to issue subpoenas to compel testimony and the production of any relevant*  
7 *documents during any given stage of an investigation. Once an violation is discovered, the Agency must be able to*  
8 *expeditiously correct it, and, if appropriate, punish offenders through employment of effective sanctions to deter future*  
9 *transgressions. Various enforcement tools and options are provided to enable the Agency to effectively deal with the range*  
10 *of violations it will discover, and the particular circumstances unique to each case.*

11  
12 §511.01 In the performance of its required duties, the Agency has the authority to do the following:

13  
14 (1) Subpoena persons in connection with an investigation or hearing under procedural regulations it may adopt. A  
15 subpoena may be issued to compel attendance and testimony, and to require the production for examination of books, records,  
16 papers, computer software, or other documents or materials the Agency deems relevant to a matter under investigation or  
17 in question.

18  
19 (A) In the event of a refusal to comply with a subpoena issued pursuant to this subsection or to testify with  
20 respect to a matter upon which the person may be properly interrogated, the [trial level court of the county in which the  
21 Agency maintains its principal office], on application of the Agency, may issue an order requiring the person to comply and  
22 to testify.

23  
24 (B) Failure to obey an order of the court compelling compliance or testimony may be punished by the court as  
25 contempt.

26  
27 Comment:

28  
29 *This subsection authorizes the Agency to issue subpoenas in connection with an investigation or hearing, require the*  
30 *production of records, documents, or materials relevant to the matter in question, and compel the testimony of any person.*

31  
32 *Adequate subpoena power is considered essential to ascertain the facts and veracity of a particular complaint or investigation.*  
33 *Such authority is typically delegated to most agencies that investigate election complaints.*

34  
35 *The text requires the Agency to adopt procedural regulations concerning the issuance of subpoenas to ensure uniformity and*  
36 *compliance with the constitutional guarantees of due process. The Agency is also authorized to enforce compliance with its*  
37 *subpoena by direct action to a trial court which, in turn, is empowered to issue a contempt order in the event of*  
38 *noncompliance with the subpoena. Again, this is an essential component of the subpoena power, without which the power*  
39 *would be rendered impotent.*

40  
41 *To preclude the possibility of political interference—or even the raising of a valid claim to that effect—the Agency is permitted*  
42 *to enforce its subpoena directly in the court without the prior approval of the attorney general or similar prosecutorial*  
43 *authority.*

44  
45 (2) Issue an order requiring the custodian of financial records necessary for the Agency to complete and audit  
46 conducted under Section 170(3) to produce such records for examination.

47  
48 (A) If a person refuses to comply with such an order, the [trial level court] situated in the same [judicial district  
49 or county] where the Agency maintains its principal office may, on application of the Agency, issue an order requiring the  
50 person to comply with the Agency order; and

51  
52 (B) The failure to obey such an order may be punished by the court as contempt.

53  
54 Comment:

55  
56 *This subsection is intended to ensure that the Agency is afforded access to all financial records necessary to conduct an audit*  
57 *when required by the law and circumstances, and in the absence of a pending complaint or investigation. If the Commission*  
58 *is involved in an investigation, it can use its subpoena power to compel production of such records, which may include such*  
59 *items as bank statements, checkbook ledgers, canceled checks, deposit tickets, invoices, receipts, and the like.*  
60 *Because the enabling subpoena authority applies exclusively to investigations and hearings, it does not cover audits*  
61 *undertaken which do not result in full investigations. This provision complements the subpoena authority by permitting the*  
62 *Agency to issue an enforceable order to produce such records under the circumstances described above. This authority is both*  
63 *a logical and necessary component of the audit authority.*

1 (3) Secure voluntary compliance with the provisions of the Act through informal means of persuasion and  
2 conciliation.  
3

4 Comment:  
5

6 *The Agency should act expeditiously to correct minor discrepancies or omissions which it may discover. Formal procedural*  
7 *requirements, such as a hearing, should be viewed as a last resort, and must not interfere with the Agency's mandate to*  
8 *ensure compliance with the registration and reporting requirements of the Act. The collective experience in administration*  
9 *of these laws suggests that there are many inadvertent errors and omissions in registration and reporting that may easily be*  
10 *rectified and should not be subject to penalty. In these common and frequent circumstances, the public policy underlying these*  
11 *laws is best achieved by securing timely and complete disclosure of campaign finances.*  
12

13 (4) Consult with and request additional investigatory or audit personnel from the:

- 14 (A) office of the attorney general;  
15 (B) [local prosecutorial authority];  
16 (C) [commissioner or head of the state police or state law enforcement investigatory authority];  
17 (D) chief of a local police department;  
18 (E) state or county auditors; or  
19 (F) local [election authorities];  
20  
21  
22  
23  
24  
25  
26

27 when necessary to determine compliance with the provisions of the Act. Such assistance shall be provided to the Agency upon  
28 request.  
29

30 Comment:  
31

32 *Many of the existing agencies with the jurisdiction to administer and enforce campaign finance laws are not adequately funded*  
33 *to employ a sufficient number of auditors or investigators to properly attempt or conduct necessary audits or investigations.*  
34 *The integrity of the entire process is, however, dependent upon the proper allocation of these resources to monitor activities.*  
35

36 *Even in those jurisdictions which have provided their respective enforcement agencies with ample resources to handle*  
37 *day-to-day operations, there will be investigations or audits that require the infusion of significantly more resources than a*  
38 *typical case to complete them quickly, thoroughly, and fairly. In addition, the issues involved in a particular investigation*  
39 *or audit may have legal or financial ramifications beyond the Agency's internal expertise. The Agency must, at a minimum,*  
40 *possess the ability to marshal the resources of other law enforcement and prosecutorial entities in an effort to complete these*  
41 *investigations and audits.*  
42

43 (5) Conduct a hearing when it is deemed necessary to determine if a violation of the Act has occurred in accordance  
44 with the requirements of the [administrative procedure act] and with the regulations that the Agency shall adopt.  
45

46 (A) An opportunity for a hearing shall be provided to a respondent prior to the issuance of an order by the  
47 Agency requiring:

- 48 (i) payment of a civil penalty;  
49 (ii) return of a contribution to a contributor; or  
50 (iii) the escheat of a contribution to the state;  
51  
52  
53  
54

55 however, a hearing is not required prior to the imposition of a late filing fee imposed under Section 170 (4).  
56

57 (B) A hearing shall be preceded by written notice to the respondent of not less than ten (10) days, and must  
58 include the charges and references to the provisions of the Act that are alleged to have been committed. A respondent may  
59 waive the right to a hearing by written stipulation.  
60

61 (C) A hearing conducted pursuant to paragraph (A) of this subsection is open to the public.  
62

63 (D) A respondent at a hearing conducted pursuant to paragraph (A) of this subsection shall have all of the  
64 protections granted by the [administrative procedure act], including:  
65

- 1 (i) the right to be represented by counsel;  
2  
3 (ii) the ability to call, examine, and cross-examine witnesses; and  
4  
5 (iii) the opportunity to require production of evidence by subpoena.  
6

7 (E) A member of the Agency [or a senior judge or referee] shall act as the hearing officer for purposes of  
8 conducting the hearing. The hearing officer may be assisted by counsel to the Agency in the conduct of the hearing.  
9

10 (F) In lieu of a hearing officer, the Agency may, acting en banc, conduct the hearing.  
11

12 (G) Upon the conclusion of the hearing, the hearing officer or designee of the Agency, shall prepare a report  
13 consisting of:

- 14 (i) findings of fact;  
15  
16 (ii) conclusions of law; and  
17  
18 (iii) a recommended order.  
19

20  
21 The hearing officer may be assisted by counsel to the Agency in the preparation of this report. The report must be issued  
22 to the respondent no later than thirty (30) days after the conclusion of the hearing and submission of briefs, if any. A  
23 requirement of this paragraph may be waived by written stipulation of the complainant and the respondent.  
24

25 (H) The Agency shall, by a majority vote of a quorum of those members present:

- 26 (i) adopt;  
27  
28 (ii) modify; or  
29  
30 (iii) reject  
31

32  
33 the report of the hearing officer within thirty (30) days after its issuance to the respondent.  
34

35 (I) A decision of the Agency to

- 36 (i) adopt;  
37  
38 (ii) modify; or  
39  
40 (iii) reject  
41

42  
43 a report under this section may be appealed by the respondent to the [trial court] of the jurisdiction where the Agency  
44 maintains its principal office within the time required by the [administrative procedure act].  
45

46 **Comment:**  
47

48 *This subsection prescribes the Agency's general discretionary authority to conduct a hearing when necessary to determine*  
49 *whether a violation of the law has been committed.*  
50

51 *The hearing must be conducted in accordance with the jurisdiction's administrative procedure act to ensure compliance with*  
52 *the constitutional requirements of due process. However, an opportunity for a hearing is not required unless the Agency*  
53 *orders that a civil penalty be paid or improper contributions be forfeited to the state or refunded to donors.*  
54

55 *In instances where property is sought to be taken by the Agency, constitutional due process requires notice to the person*  
56 *whose property is subject to such an action, and an opportunity for the person to be heard at a hearing. Mandatory*  
57 *administrative hearings in other cases are not only not legally necessary, but are also generally too cumbersome and*  
58 *time-consuming to justify when the essential purpose of the law is to ensure the expeditious resolution of disputes. Due process*  
59 *requirements are satisfied by the court in circumstances when the Agency refers evidence of criminal violations to the*  
60 *appropriate criminal prosecutorial authorities, or when the Agency refers evidence requiring an injunction, quo warranto,*  
61 *or equitable relief to civil prosecutorial authorities. Consequently, an Agency hearing on such issues would be redundant.*  
62

63 *Consideration might be given to allowing a judicial appeal to be taken by a losing civil complainant after an Agency hearing,*  
64 *or to specifically permit an appeal to be taken by a respondent who merely wishes to have an issue or finding fully resolved*  
65 *after an Agency hearing.*  
66

1 (6) Issue an order against a person found to have committed a violation of the Act to cease and desist the violation.  
2

3 **Comment:**  
4

5 *This subsection authorizes the Agency to take direct enforcement action in the event a violation has been committed. The*  
6 *ability to order a cease and desist action is important to prevent the continuation of the offense. The enforcement Agency must*  
7 *be able to accomplish this directly without resort to another forum.*  
8

9 (7) Issue an order against a person found to have committed a violation of the Act to pay a civil penalty:

10 (A) not to exceed five thousand dollars (\$5,000); or

11 (B) an amount equivalent to three (3) times the amount of an unlawful contribution or expenditure;

12 whichever is greater.  
13

14  
15 Such an order may not be issued against a person without providing the person written notice and an opportunity to be heard  
16 at a hearing as required by this statute. A person may waive these rights by written stipulation. If a civil penalty is imposed  
17 upon a candidate, the Agency may order that the penalty, or any portion of the penalty, be paid from the candidate's personal  
18 funds.  
19

20  
21 **Comment:**  
22

23  
24 *The Agency must be provided with the authority to enforce its orders. The ability to directly impose significant monetary*  
25 *penalties against violators is the most potent tool for the effective enforcement of the campaign finance laws. Most existing*  
26 *enforcement agencies possess such authority, and each Agency considers this to be absolutely essential to maintain the*  
27 *integrity of the process. The threat of monetary sanctions is a deterrent to potential violators--but only if the amount of the*  
28 *penalty that may be assessed for a given violation is significant.*  
29

30 *An enforcement agency should be consistent and fair in its treatment of violations. However, in practice, a law cannot be*  
31 *drafted that addresses each circumstance--mitigating or aggravating--that may be present in the context of a particular*  
32 *violation. Consequently, the Agency should be afforded discretion to determine the amount of the penalty to be assessed in*  
33 *a particular case.*  
34

35 *Reasonable limitations on this discretion should be--and are--carefully drawn in the statute. The maximum penalty that may*  
36 *be imposed must reflect the actual amount that was given, loaned, transferred, received, or spent in violation of the law to*  
37 *provide the deterrent effect that is so critical to any penal system. In addition, no penalty should be extracted from a person*  
38 *without due process of law. Accordingly, notice and an opportunity to be heard at a hearing is required.*  
39

40 Although many states permit fines to be paid from committee funds, this is not an effective deterrent to the commission of  
41 violations. Consequently, the Agency is given discretion to assess the fine against the candidate personally.  
42

43 (8) Issue an order against a person found to have received a contribution that is prohibited, or is in excess of the  
44 limitations prescribed by this Act. Such an order may require:

45 (A) forfeiture of the prohibited contribution or the excessive portion of a contribution to the state General Fund;  
46 or  
47

48 (B) return of the prohibited contribution or the excessive portion of a contribution to the original contributor.  
49

50  
51 The Agency may not issue such an order without providing the person making the contribution and the person receiving the  
52 contribution written notice and an opportunity to be heard at a hearing as required by subsection (4) of this section. A person  
53 may waive his or her rights by consent or written stipulation.  
54

55 **Comment:**  
56

57 *In addition to the imposition of monetary civil penalties against a violator, the Agency must possess the authority to "make*  
58 *the campaign finance process whole." To ensure that this objective is accomplished, the Agency is provided with the authority*  
59 *to issue an enforceable order directing the recipient of a contribution that is in excess of the limitations or otherwise in*  
60 *violation of the substantive provisions of the law to forfeit the illegal sums to the Agency or to return them to the original*  
61 *contributor, at the Agency's discretion. Any sums collected, as in the case of civil penalties or late filing fees, must be*  
62 *deposited in the state General Fund.*  
63

64 *Both the recipient and contributor are to be afforded notice and opportunity to be heard, because both the making and the*  
65 *receipt of an improper contribution may be prosecuted under the Act.*

1 (9) (A) If an order issued by the Agency is not complied with by the person to whom it is directed, the [trial level  
2 court] where the Agency maintains its principal office shall, upon application of the Agency, issue an order requiring the  
3 person to comply with the Agency's order.  
4

5 (B) Failure to obey such a court order may be punished as contempt.  
6

7 Comment:  
8

9 *The authority of the Agency to enforce its orders by judicial intervention is essential. The ability of the court to punish by  
10 contempt a person who refuses to comply with an Agency order provides assurance that the enforcement process is effective,  
11 and serves as a further deterrence to potential wrongdoers.*  
12

13 (10) Refer evidence that a violation of the Act has been knowingly and wilfully committed to the [local or state  
14 prosecutorial authority] to determine whether criminal prosecution should be commenced against any such person.  
15

16 Comment:  
17

18 *Each jurisdiction provides for the possible criminal enforcement of violations of the campaign finance laws. Undoubtedly,  
19 there will be some cases where the violation is intentional and extremely serious, and where civil enforcement will not be  
20 adequate to punish the offender or provide suitable deterrence. Criminal enforcement is, therefore, essential.*  
21

22 *Most jurisdictions require the offender to act intentionally or with some degree of greater awareness of his or her unlawful  
23 conduct before criminal sanctions may be applied. The standard most often used to determine the presence of criminal conduct  
24 is that the person "knowingly and wilfully" violated the Act, which is incorporated in this text.*  
25

26 *The Agency, as the primary investigatory authority, must therefore be authorized to refer evidence of these criminal violations  
27 to the jurisdiction's prosecutorial authorities. Due to its experience in handling all campaign finance violations, the Agency  
28 is best equipped to initially adjudge whether the case deserves consideration for prosecution. None of the boards and  
29 commissions that have existing jurisdiction to investigate these violations also possess the authority to prosecute criminally.*  
30

31 *The needs for checks and balances, and the complexity of criminal prosecution clearly suggests that the Agency should not  
32 have the authority to maintain criminal prosecution. The same kinds of considerations strongly mitigate against removal of  
33 prosecutorial jurisdiction upon an Agency referral. Mandatory criminal prosecution, although an appealing concept, does  
34 not seem justified when measured against a variety of other compelling reasons for maintaining discretion in this area.*  
35

36 (11) (A) Refer evidence of a violation of the Act to the [local or state civil prosecutorial authority] to determine whether  
37 proceedings for:  
38

39 (i) quo warranto;

40 (ii) injunctive relief; or  
41

42 (iii) equitable relief  
43

44 should be sought.  
45  
46

47 (B) The [local or state prosecutorial authority] is authorized to commence such a proceeding by application to the  
48 [local trial level court] in the [county or district] where the Agency maintains its principal office.  
49

50 Comment:  
51

52 *Many jurisdictions permit injunctive or equitable relief to be sought from the courts to enforce compliance with campaign  
53 finance laws. These actions are ordinarily instituted by the Attorney General or similar civil prosecutorial authority after an  
54 Agency investigation. As these actions are both complex and extraordinary, the civil prosecutor should have the responsibility  
55 for them.*  
56

57 *Quo warranto proceedings are generally not applicable to violations of the campaign finance laws, however, in the most  
58 egregious circumstances where a candidate's election to office was the result of significant wilful violations of the law, quo  
59 warranto should be available to challenge the ostensible victor's right to the office.*  
60

61 **§512 Civil Penalties**  
62

63 **§512.01 Amounts of Civil Penalties**  
64

65 A person who violates a provision of this Act, except as provided in §170(4), shall be liable for a civil penalty:

1 (1) not to exceed five thousand dollars (\$5,000) per violation; or

2  
3 (2) an amount equivalent to three (3) times the amount of the total amount of an unlawful contribution or expenditure;  
4  
5 whichever is greater.

6  
7 A penalty or fee collected by the Agency shall be deposited in the state General Fund.

8  
9 §512.02 Joint and Several Liability

10  
11 If two (2) or more persons are responsible for a violation, they shall be jointly and severally liable.

12  
13 §513 Criminal Sanctions

14  
15 (1) A person who knowingly and wilfully violates a provision of the Act may be punished by:

16 (A) a fine not to exceed ten thousand dollars (\$10,000); or

17  
18 (B) imprisonment not to exceed five (5) years;

19  
20 or both.

21  
22 (2) A person who is convicted under this section shall be disqualified from holding elective public office for a period  
23 of four years from the date of conviction.

24  
25 Comment:

26  
27 *Criminal sanctions for knowing and wilful violations of the campaign finance laws exist in most jurisdictions and are essential  
28 to the effective enforcement of these laws. The range of existing criminal sanctions varies.*

29  
30 *To provide an effective deterrent to pernicious conduct, the offender ought to be subject to severe treatment. The sanctions  
31 incorporated in this section are consistent with those applicable to non-capital felonies. Some jurisdictions treat these  
32 violations as misdemeanors. The loss of voting rights which, in most jurisdictions, also results in disqualification from seeking  
33 or holding public office upon conviction of a felony is an appropriate remedy for a serious election-related offense.*

34  
35 §514 Venue

36  
37 Venue for a prosecution commenced under §513 shall be in the county or district where the campaign statement was filed,  
38 or where the offense has been alleged to have been committed.

39  
40 §515 Statute of Limitations

41  
42 A prosecution under §173 shall be commenced no later than five (5) years after the date that the violation is alleged to  
43 have been committed.

44  
45 §516 Disclosure of Complaints, Records of Agency Investigations or Audits, or Hearings

46  
47 (1) A complaint filed with the Agency is open to public inspection, and a copy of an Agency report shall be provided  
48 to any person upon request.

49  
50 (2) A record compiled or made by the Agency in an investigation pursuant to section 170(1) is confidential, and shall  
51 not be disclosed by a member or staff of the Agency until:

52 (A) the investigation is completed; and

53 (B) the Agency has issued its findings.

54  
55 (3) Notwithstanding paragraph (2) above, a record may be disclosed:

56 (A) to a respondent or subject of an investigation or the attorney for a respondent or subject of an investigation,  
57 in an attempt to conciliate or otherwise settle the matter;

58 (B) to a respondent in a hearing conducted by the Agency to determine whether the respondent has violated a  
59 provision of the Act, if authorized by the rules of discovery pertaining to such hearings that the Agency shall adopt;

1 (C) when necessary to conduct a full and fair hearing to determine whether a violation of the provision of the Act  
2 has been committed; or

3  
4 (D) to a law enforcement Agency or officer to fulfill the purposes of section 171(4).

5  
6 (4) If the Agency decides to refer evidence of a violation of the Act to the [appropriate prosecutorial authority] pursuant  
7 to §171(10), no record compiled or made by the Agency in an investigation of the violation shall be disclosed by the  
8 members or staff of the Agency to any other person until:

9  
10 (A) the [appropriate prosecutorial authority] has determined not to prosecute the matter; or

11  
12 (B) the case has been finally adjudicated in the courts;

13  
14 whichever is applicable.

15  
16 (5) A record compiled or made by the Agency in an inspection or audit of a report or statement filed in accordance with  
17 provisions of the Act is open to public inspection and shall be provided to any person upon request.

18  
19 (6) Notwithstanding paragraph (5) above, a record used by the Agency in an investigation that it has initiated is  
20 confidential, and shall not be disclosed by a member or staff of the Agency until:

21  
22 (A) the investigation is completed; and

23  
24 (B) the Agency has issued its findings.

25  
26 (7) Except in the case of a hearing conducted under §171(5)(B), a hearing conducted by the Agency is confidential  
27 unless each respondent in the hearing requests otherwise.

28  
29 (8) A final decision or findings issued by the Agency after a completed investigation is open to public inspection. The  
30 Agency shall mail a copy to the complainant and respondent within five (5) days of such a decision or findings, and provide  
31 such a decision or findings to any person upon request.

32  
33 Comment:

34  
35 *This section addresses the sensitive issues concerning disclosure of complaints, Agency investigatory and auditing records,*  
36 *hearings, and final decisions issued by the Agency.*

37  
38 *While there is a consensus for "sunshine" to reign to the greatest extent possible, there are legitimate concerns--such as the*  
39 *protection of reputations against baseless complaints--that require confidentiality of certain records and proceedings, at least*  
40 *until the Agency has made a determination of the accused's guilt or innocence. Confidentiality of investigative records is*  
41 *essential while an investigation is in progress to encourage witnesses to speak freely and truthfully, protect them against*  
42 *possible threats or coercion, and diminish the ability of the respondent to construct or fabricate defenses. Such compelling*  
43 *considerations do not exist once an investigation is completed. At that point, the public's right to know supersedes other*  
44 *possible interests.*

45  
46 *Practical concerns mitigate against confidentiality of the actual complaint. The public's perception of the Agency could be*  
47 *severely tarnished if it could not, at least, publicly acknowledge that a complaint has been filed. While a statutory gag order*  
48 *could be imposed on the Agency, it cannot silence the complainant. There is no effective means to preclude release of the*  
49 *complaint. This section attempts to strike the appropriate balance between the public's right to know and the need for secrecy*  
50 *in the investigatory process.*

HB

||

# HOUSE COMMITTEE REPORT

(7)

Date Referred: January 21, 1991

FURTHER REFERRALS: Health, Education and Social Services  
Finance

Date of Committee Action: 4-10-91

The STATE AFFAIRS Committee considered:

HB 11

HOUSE BILL NO. 11

LONGEVITY BONUS; NURSING HOME RESIDENTS

"An Act relating to qualifications for longevity bonus payments; and providing for an effective date."

**RECOMMENDATIONS:**

be replaced with CSHB 11 (STA)  the same title

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact Admin. - Pioneer Benefits

fiscal note(s) \_\_\_\_\_

zero fiscal note HSS - Assistance Pmts

zero fiscal note(s) \_\_\_\_\_

**SIGNING DO PASS:**

**SIGNING OTHER RECOMMENDATIONS:**

	Check appropriate column:	Do Not Pass	No Rec	Amend
<i>James A. ...</i>	<i>Gene ...</i>		<input checked="" type="checkbox"/>	
<i>Chris ...</i>	<i>Mike Miller</i>		<input checked="" type="checkbox"/>	
<i>Gene Rubena</i>				

*Gene Rubena*  
Chairman's Signature

FISCAL NOTE

DRAFT

BILL NO. CS HR 11

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

Revision Date: 3/8/91 Department Affected: Health & Social Services

Title: An Act Relating to Qualifications BRU: Medicaid

for Longevity Bonus Payment Component: Medicaid Facility

Sponsor: Royer Illmer

Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 0 2 3 0

Expenditures/Revenues: Thousands of Dollars

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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	(5.0)	(5.0)	(5.0)	(5.0)	(5.0)	(5.0)
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	(5.0)	(5.0)	(5.0)	(5.0)	(5.0)	(5.0)

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

REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	(2.5)	(2.5)	(2.5)	(2.5)	(2.5)	(2.5)
FEDERAL FUNDS	(2.5)	(2.5)	(2.5)	(2.5)	(2.5)	(2.5)
OTHER	0	0	0	0	0	0
TOTAL	(5.0)	(5.0)	(5.0)	(5.0)	(5.0)	(5.0)

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

See attached analysis

Prepared By: \_\_\_\_\_ Phone: 465-3355

Division: Division of Medical Assistance Date: 3-11-91

Approved by Commissioner: \_\_\_\_\_

Agency: HESS etc Date: \_\_\_\_\_

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

## CS HB 11

Reliable data that would identify the potential Alaska longevity bonus status (federally-exempt or not) of individual private nursing home patients who receive Medicaid benefits does not exist.

However, from the case data we do have, we believe that it is reasonable to assume that an average of only 5 recipients per month will meet all the following criteria:

- 1) Eligible to receive a federally-exempt bonus payment by having an open assistance and bonus recipient status prior to 1985, and
- 2) Physician-certified in a timely fashion as likely to return home within 90 days; and
- 3) Possessing other income high enough so that the total bonus payment will be applied to their cost of care, rather than being available in whole or in part to be used for home maintenance via the federal Medicaid maximum deduction for that purpose.

(It is likely that more recipients than these 5 may receive exempt bonus payments, but we assume for purposes of this cost estimate that all of these additional recipients will have a low total monthly income and a home to return to, so that they will be able to use their bonus payments as part of their maintenance deduction. Therefore, no part of their bonus payments will be applied to their cost of care.)

The bonus payment system recently began applying its retrospective eligibility rules to all its recipients. The effect of this change is that most bonus recipients who enter a nursing home will receive two months of bonus payments after admission. With this change, CS HB 11, will add only one month of new bonus payments to be contributed to the cost of care.

The FY92 cost savings to Medicaid are \$5000: 5 recipients/month x 12 months x \$250/month + 3 = \$5000; \$2,500 federal, \$2,500 state funds. For FY93 and following, we assume that the number of affected recipients will remain constant, and that the amount of the bonus will remain at \$250 per month. Therefore, the savings will remain constant in future years.

[Note: There was a fiscal note, dated 2/25/91, showing that HB 11 had a significant fiscal effect on the Medical Assistance BRU, ALB Hold-Harmless component (0231). The changes made in this CS remove all effects on the ALB Hold Harmless program.]

**FISCAL NOTE**

**STATE OF ALASKA**  
**1991 LEGISLATIVE SESSION**

**BILL NO. HB NO. 11**

Revision Date: 2-25-91 Department Affected: Health & Social Services  
 Title: An Act Relating to qualification for longevity bonus payments; and providing for an effective date BRU: Medical Assistance  
 Sponsor: Boyer Component: ALB Hold Harmless  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO 0-2-3-1

Expenditures/Revenues: Thousands of Dollars

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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	1131.0	1184.2	1239.9	1298.2	1359.2	1423.1
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	<b>1,131.0</b>	<b>1,184.2</b>	<b>1,239.9</b>	<b>1,298.2</b>	<b>1,359.2</b>	<b>1,423.1</b>

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	1131.0	1184.2	1239.9	1298.2	1359.2	1423.1
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
<b>TOTAL</b>	<b>1,131.0</b>	<b>1,184.2</b>	<b>1,239.9</b>	<b>1,298.2</b>	<b>1,359.2</b>	<b>1,423.1</b>

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

Estimate of current year impact: 282.7 General Funds

ANALYSIS: (Attach a separate page if necessary.)

See attached analysis and companion fiscal note.

Prepared By: Kimberly B. Busch Phone: 465-3355  
 Division: Medical Assistance Date: 2-25-91

Approved by Commissioner: [Signature]  
 Agency: Health and Social Services Date: 2/25/91

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

## HB 11

This fiscal note assumes HB 11 as written, without modification to exactly describe federally-exempt bonus payments. Two separate components of the Medical Assistance BRU are affected: Medicaid Facility (0230) and ALB Hold Harmless (0231).

(1) Cost Savings to Medicaid: Eligible Recipients (0230)

We estimate 97 individuals will qualify for new bonus payments, 75 of which will not lose eligibility for Medicaid. These 75 will, however, be able to contribute \$250 more per month to their cost of care, decreasing Medicaid costs by the same amount.

75 x \$250 x 3 months = \$56.3    FY91 savings  
75 x \$250 x 12 months = \$225.0    FY92 savings

For FY93 and following, annual loss of bonus recipients is assumed to be equal to the gain in new bonus recipients entering care. Savings are 50% federal, 50% state funds. No increases will occur in FY93 and future years.

(2) Cost Savings to Medicaid: Ineligible Recipients (0230)

We estimate 22 Medicaid recipients will lose eligibility by receiving bonus payments which are not federally exempt. Recipients' average gross cost of care is \$5555, which is reduced by an average contribution of \$1026 of their income to their cost of care, for a Medicaid cost of \$4529.

22 x \$4529 x 3 months = \$298.9    FY91 savings  
22 x \$4529 x 12 months = \$1195.7    FY92 savings

For FY93 and following, the number of recipients is assumed to remain constant, but the cost of care is assumed to rise at a rate 4.7% faster than their rate of income will increase.

(3) New Costs: ALB Hold Harmless (0231)

The 22 individuals losing Medicaid eligibility will move to the ALB Hold Harmless program for coverage for their total net cost of care, which, with the new bonus, will drop to \$4284 per month (\$5555 - (\$1021 + \$250) = \$4284)

22 x \$4284 x 3 months = \$ 282.7    FY91 new costs  
22 x \$4284 x 12 months = \$1,131.0    FY92 new costs

For FY93 and following, the assumptions are those of #2 above.

**FISCAL NOTE**

**STATE OF ALASKA  
1991 LEGISLATIVE SESSION**

**BILL NO. HB NO. 11**

Revision Date: 2/25/91 Department Affected: Health and Social Services  
 Title: An Act relating to qualification for longevity bonus payments; and providing for an effective date BRU: Medical Assistance  
 Sponsor: Boyer Component: Medicaid facility  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO 0-2-3-0

Expenditures/Revenues: Thousands of Dollars

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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	(1420.7)	(1477.0)	(1535.8)	(1597.4)	(1661.0)	(1729.4)
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	<b>(1420.7)</b>	<b>(1477.0)</b>	<b>(1535.8)</b>	<b>(1597.4)</b>	<b>(1661.0)</b>	<b>(1729.4)</b>

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

REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	(710.3)	(738.5)	(767.9)	(798.7)	(830.9)	(864.7)
FEDERAL FUNDS	(710.4)	(738.5)	(767.9)	(831.0)	(831.0)	(864.7)
OTHER	0	0	0	0	0	0
<b>TOTAL</b>	<b>(1,420.7)</b>	<b>(1,477.0)</b>	<b>(1,535.8)</b>	<b>(1,629.7)</b>	<b>(1,661.9)</b>	<b>(1,729.4)</b>

POSITIONS:

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

Estimate of current year impact: (305.2); (152.6) FED. (152.6) General Fund

ANALYSIS: (Attach a separate page if necessary.)

See attached analysis and companion fiscal note.

Prepared By: Kimberly S. Busch Phone: 465-3355  
 Division: Medical Assistance Date: 2-25-91

Approved by Commissioner: [Signature]  
 Agency: Health and Social Services Date: 2/25/91  
 Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impact Agency(ies).

## HB 11

This fiscal note assumes HB 11 as written, without modification to exactly describe federally-exempt bonus payments. Two separate components of the Medical Assistance BRU are affected: Medicaid Facility (0230) and ALB Hold Harmless (0231).

(1) Cost Savings to Medicaid: Eligible Recipients (0230)

We estimate 97 individuals will qualify for new bonus payments, 75 of which will not lose eligibility for Medicaid. These 75 will, however, be able to contribute \$250 more per month to their cost of care, decreasing Medicaid costs by the same amount.

75 x \$250 x 3 months = \$56.3 FY91 savings  
75 x \$250 x 12 months = \$225.0 FY92 savings

For FY93 and following, annual loss of bonus recipients is assumed to be equal to the gain in new bonus recipients entering care. Savings are 50% federal, 50% state funds. No increases will occur in FY93 and future years.

(2) Cost Savings to Medicaid: Ineligible Recipients (0230)

We estimate 22 Medicaid recipients will lose eligibility by receiving bonus payments which are not federally exempt. Recipients' average gross cost of care is \$5555, which is reduced by an average contribution of \$1026 of their income to their cost of care, for a Medicaid cost of \$4529.

22 x \$4529 x 3 months = \$298.9 FY91 savings  
22 x \$4529 x 12 months = \$1195.7 FY92 savings

For FY93 and following, the number of recipients is assumed to remain constant, but the cost of care is assumed to rise at a rate 4.7% faster than their rate of income w .1 increase.

(3) New Costs: ALB Hold Harmless (0231)

The 22 individuals losing Medicaid eligibility will move to the ALB Hold Harmless program for coverage for their total net cost of care, which, with the new bonus, will drop to \$4284 per month (\$5555- (\$1021 + \$250) = \$4284)

22 x \$4284 x 3 months = \$ 282.7 FY91 new costs  
22 x \$4284 x 12 months = \$1,131.0 FY92 new costs

For FY93 and following, the assumptions are those of #2 above.

FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

BILL NO. CS HB11

Revision Date: March 8, 1991

Title: An Act relating to qualifications for Longevity Bonus payments.

Department Affected: Administration

BRU: Division of Pioneers' Benefits

Component: Longevity Bonus Program

Sponsor: Representative Boyer

Requestor: Representative Boyer

COMPONENT SERIAL NO.

	2	6	
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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	165.0	180.0	177.0	177.0	174.0	174.0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	165.0	180.0	177.0	177.0	174.0	174.0

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

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	165.0	180.0	177.0	177.0	174.0	174.0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	165.0	180.0	177.0	177.0	174.0	174.0

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.) Cost is based on 40 new admissions over 65 years of age per month to Nursing Homes. 50% of these residents will qualify under this bill in FY 92, decreasing each year thereafter. The number eligible in the future is self limiting under this bill (in 2028 eligible residents will be at 100 years old).

Prepared by: Barbara Bathony  
Division: Pioneers' Benefits

Phone: 465-4400

Date: 3/8/91

Approved by Commissioner: Millen Keller  
Agency: Administration

Date: 3/20/91

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

FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

BILL NO. HB11

Revision Date: February 26, 1991

Title: An Act relating to qualifications for Longevity Bonus payments.

Department Affected: Administration

BRU: Division of Pioneers' Benefits

Component: Longevity Bonus Program

Sponsor: Representative Boyer

Requestor: Representative Boyer

COMPONENT SERIAL NO. 

	2	6	
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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	1,614.0	1,611.0	1,575.0	1,530.0	1,485.0	1,440.0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	<b>1,614.0</b>	<b>1,611.0</b>	<b>1,575.0</b>	<b>1,530.0</b>	<b>1,485.0</b>	<b>1,440.0</b>

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

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	1,614.0	1,611.0	1,575.0	1,530.0	1,485.0	1,440.0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
<b>TOTAL</b>	<b>1,614.0</b>	<b>1,611.0</b>	<b>1,575.0</b>	<b>1,530.0</b>	<b>1,485.0</b>	<b>1,440.0</b>

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

See attachment

Prepared by: Barbara Bathony *Barbara Bathony*  
Division: Pioneers' Benefits

Phone: 465-4400  
Date: 2/26/91

Approved by Commissioner: Millett Keller *Millett Keller*  
Agency: Administration

Date: 2/26/91

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

# Fiscal Note HB11

## Division of Pioneers Benefits February 15, 1991

This bill proposes payment of the Longevity Bonus to nursing home residents if the resident was on the program prior to October 1, 1985. Adult Public Assistance regulations allow those recipients not to declare the Longevity Bonus as income, they are exempt.

The calculation below is based on payments of \$250 per month

Residents on Medicaid and over 65 years old	262	
Private pay	45	
Total number of residents eligible in private sector at \$3,000 per resident	307	\$ 921,000
Pioneers' Home residents in nursing beds	257	
Total Pioneers' Home nursing residents on ALB as of October 1, 1985 (90%)	231	\$ 693,000
Total net cost for Pioneers Homes		\$ 693,000
TOTAL NET COST		\$ 1,614,000

\* The Pioneers' Home would expect to recoupe \$171,000 to be deposited in General Fund as additional revenue from the Pioneers' Home residents.

(In 1,000's)

	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
Private Sector Nursing Home Residents	307	307	300	290	280	270
Total cost for private sector	\$ 921.0	\$ 921.0	\$ 900.0	\$ 870.0	\$ 840.0	\$ 810.0
Pioneers' Home Nursing Residents	231	230	225	220	215	210
Total cost for PH	\$ 693.0	\$ 690.0	\$ 675.0	\$ 660.0	\$ 645.0	\$ 630.0
<b>TOTAL NET COST</b>	<b>\$1,614.0</b>	<b>\$1,611.0</b>	<b>\$1,575.0</b>	<b>\$1,530.0</b>	<b>\$1,485.0</b>	<b>\$1,440.0</b>

Suggested Amendment to House Bill 11

The Division is suggesting limiting the Longevity Bonus to nursing home recipients for the first 3 month of each nursing home placement in the State. This would cover the largest segment of the middle income Alaskan residents which are hurt by the present statute. The following is an estimate based on 40 new admission per month to nursing homes. Of these, 50% are pre 10/1/85. In July, 20 will receive \$250; in August, 40; in September through June 92, 60 people per month will receive \$250. The total cost of suggested amendment is \$165,000 for FY 92, decreasing each year thereafter.

The Division request clarification: Does this act cover persons already in nursing home or only if they enter after July 1, 1991?

d\wp\misc\hb11fn

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

BILL NO. CS HB11

Revision Date: \_\_\_\_\_ Department Affected: Health & Social Services  
 Title: "An Act relating to qualification for longevity bonus payments." BRU: Assistance Payments  
 Component: Alaska Longevity Bonus - Hold Harmless  
 Sponsor: Boyer  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

There will be a small fiscal impact on a few OAA-ALB Hold Harmless cases, but the amount is too small to forecast.

Prepared By: Jan L. Hansen *[Signature]* Phone: 465-3347  
 Division: Division of Public Assistance Date: 2/21/91  
 Approved by Commissioner: *[Signature]* Commissioner: Theodore A. Mala, MD  
 Agency: Department of Health and Social Services Date: 2/25/91

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

# Alaska State Legislature

REPRESENTATIVE  
MARK BOYER

VICE CHAIRMAN  
HOUSE FINANCE COMMITTEE



House of Representatives

FAIRBANKS

1098 LAKEVIEW TERRACE  
FAIRBANKS, ALASKA 9970  
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JUNEAU

P.O. BOX V  
STATE CAPITOL  
JUNEAU, ALASKA 99811  
(907) 465-3466

## MEMORANDUM

DATE: March 12, 1991  
TO: House State Affairs Committee Members  
FROM: Representative Mark Boyer *MB*  
RE: CSHB 11 (State Affairs)

Attached is a draft copy of a committee substitute for HB 11, which I hope will become the State Affairs CS. My staff has worked with the Department of Administration, Division of Pioneer Benefits and the Department of Health and Social Services, Divisions of Medical Assistance and Public Assistance, to iron out problems that arose in a drafting error in this legislation.

In qualifying for the longevity bonus payment, senior citizens must have met a number of requirements and criteria, at both the state and federal level. The problem arises for many elderly in meeting the federal determination of income eligibility under the Supplemental Security Income section, which is part of the Federal Social Security Act.

Prior to 1984, the longevity bonus was exempt from the determination of income eligibility at the federal level. But the federal law changed in the fall of 1984 to include the bonus as income. This put many seniors in nursing homes over the income limit allowable to qualify for Medicaid. After much discussion and research the Legislature decided that a blanket disqualification of all nursing home residents was needed to comply with this new law.

The Department of Administration has received frequent complaints from seniors about the loss of the bonus upon entering a nursing home. Approximately 600 people are affected by this law. Although, federal law allows those seniors who were on the program prior to 1985 to exclude the bonus from income calculations, when the law changed few apparently realized that this exemption existed. The state failed to acknowledge that seniors who had received a bonus

FAIRBANKS 20B

- Sponsor Statement -

prior to 1985 actually were eligible to continue receiving the payment. The Department of Administration now feels that those seniors should indeed receive the bonus and that the Legislature should consider this change this session.

At the request of Administration, I introduced HB 11 and I have worked with the Division of Pioneer Benefits to clarify the language in the proposed committee substitute. The CS would allow seniors to continue to receive a bonus for up to 3 months (90 days) after entering the nursing home. The majority of elderly entering a nursing home stay for less than 3 months. For example, a 67-year-old man may have broken his hip and been moved from the Pioneer Home side to the nursing home wing. However, this man will only be in the nursing home wing until his leg mends and then he will return to the residential wing of the home. Upon entering the nursing home wing his bonus payments stop.

Recognizing that the average stay in a nursing home was three months, the federal government recently changed the federal law to allow seniors to retain their bonus without being disqualified for other federal programs. The language in the proposed CS would bring our law into conformity with the federal statute.

I've attached copies of the new fiscal notes that would go with this committee substitute. Both the Department of Administration and the Department of Health and Social Services are in agreement that this CS is the best route to take.

Since the inception of the bonus program in 1973 the state has spent approximately \$525 million in unrestricted general fund revenue on the program. In FY90, approximately \$57 million was distributed to more than 19,000 seniors under this program. The projected cost for FY91 is \$62 million.

Income of the elderly in Alaska is substantially lower than any other age group. According to data collected by the Older Alaskans Commission, 51 percent of the elderly population had incomes of less than \$10,000 in 1984. And approximately 90 percent of senior citizens have incomes of less than \$20,000. An annual income of \$3,000 from the longevity program is an important amount to these people.

If you have any questions, please contact me or Alexis Miller of my staff at 465-3467.

*Fed. statute allows 90 day grace period*

*DoA and HSS support CS*



# House State Affairs Committee

## Representative Gene Kubina, Chair

DATE: February 27, 1991

PLACE: Capitol, Room 102

**SUBJECT OF MEETING:**

- \*HB 11 - Relating to Longevity Bonus, Nursing Home Residents
- \*HB 20 - Relating to Longevity Bonus, Nursing Home Residents
- \*HB 67 - Relating to Impoundment of Mistreated Animals

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
Gordon G. Landes	Div. of MEDICAL ASSISTANCE	PO Box H-07 JUNEAU AK	99811		465-3355	(Y) N	HB 11, SSHB 20
Curtis C. Lonas	Div. Pub. Assistance	Box H JUNEAU AK	99811	<del>3347</del>	3347	Y (N)	HB 11; HB 20
JAMES E. STEELE	DIV. PUBLIC AST.	PO BOX H-07 JUNEAU AK	99811		465-3347	Y (N)	HB 11, SSHB 20
THOMAS T. SEARNS	Public Safety	Comm's Office			465-4322	Y N	HB 67
Barbara Bathony	Dir. Pioneers Benef.				465-4400	Y N	HB 11, SSHB 20 if necessary
Margot Knuth	Dept Law	PO Box KC	99811		3428	(Y) N	HB 67
J. RON SUTCLIFFE	Dept. Law	P.O. Box KA JNU	99811		3620	(Y) N	HB 67
						Y N	
						Y N	
						Y N	
						Y N	



# House State Affairs Committee

## Representative Gene Kubina, Chair

SUBJECT OF MEETING:

DATE: Feb 27, 1992

PLACE: Capital Room 102

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
Rose Palmquist	OPAG.	303 AND ST -	9080	467 3315		<input checked="" type="checkbox"/> Y	11 & 20
						<input type="checkbox"/> Y	
						<input type="checkbox"/> Y	
						<input type="checkbox"/> Y	
						<input type="checkbox"/> Y	
						<input type="checkbox"/> Y	
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						<input type="checkbox"/> Y	
						<input type="checkbox"/> Y	

## EXPLANATION OF DISQUALIFICATION OF LONGEVITY BONUS RECIPIENTS WHO RESIDE IN NURSING HOMES

The law was amended during the 1985 session of the Alaska Legislature to make the Longevity Bonus unavailable to nursing home residents.

Following is the explanation for the passage of the law as provided in a letter dated June 21, 1985, to all nursing home residents from Joyce Munson, Director of the Division of Pioneers' Benefits:

As you may know, the legislature passed legislation this year that results in the discontinuation of the Alaska Longevity Bonus to residents of nursing homes. This exclusion applies both to residents of private nursing homes and to residents of the nursing home wings of the Pioneers' Homes. Our records show that you are such a resident; as a result, we will be unable to continue sending you bonus payments.

The decision to exclude nursing home residents from receipt of the bonus was a difficult one for the legislature, and we thought we should explain as fully as possible the reasons for this decision. The nursing home exclusion appeared to be the most equitable solution to a very difficult problem--the lesser of a number of potential evils.

Due to a special exemption in federal law, the original longevity bonus was not counted as income when determining eligibility for assistance programs such as Supplemental Social Security (SSI), Old Age Assistance (OAA) and medicaid. As a result, when needy persons received the bonus, they would not lose these other protections. After the original bonus program was found unconstitutional, federal law was changed so that the bonus must now be counted as income for these programs. This change in federal law presented an extremely dangerous problem for certain nursing home residents: If receipt of the bonus made them ineligible for medicaid, they would be unable to remain in nursing homes, but receipt of the bonus would not be nearly enough to pay for the care they needed. To aggravate the problem, the federal government determined that even if an individual eligible for the bonus chose not to apply for it, he or she nonetheless would be deemed to have received it and would therefore be ineligible for medicaid. Thus, the bonus would harm these individuals severely.

The State Special Committee on the Alaska Longevity Bonus and the legislature sought a solution to this difficult problem which would be the least harmful all the way around, but there was no perfect solution. The legislature recognized that by and large residents of nursing homes receive substantial State assistance for their care, either through State participation in medicaid in private nursing homes, or through direct support in the Pioneers' Homes. The cost of care for each recipient in these homes is between \$40,000 and \$50,000 per year. The loss of federal participation for medicaid recipients is an expense greater than the State could afford. While the legislature recognized that some individuals contribute to these

monthly rent), these contributions do not approach the full cost of care. Thus, State support of nursing home residents is high, even without the bonus.

The legislature was also aware that the bonus has historically been unavailable to certain individuals who are not living independently; those in mental institutions, and those who are incarcerated. Part of the reason for these exclusions is that the State is already contributing to the cost of supporting these individuals; another part is that the bonus is intended to assist senior Alaskans in living independently. The nursing home exclusion is an extension of these ideas.

As a result of all these considerations, the legislature concluded that the most equitable solution would be to exclude nursing home residents from receipt of the bonus. For equal protection reasons, the legislature concluded that it must deny the bonus to all nursing home residents, whether they received medicaid or not. As a result of the exclusion, the bonus cannot have the effect of disqualifying individuals from critical medical care.

We recognize that loss of the bonus may seem harsh to those of you who have received it in the past, and we regret that we are unable to continue sending it to you. However, the primary motivation of the legislature was to ensure that no one lost medical care that was critical to survival. Exclusion from the bonus program does not alter the State's dedication to ensure that each senior Alaskan is provided with the basic necessities of life. If loss of the bonus means that you are no longer able to pay the monthly rent at a Pioneers' Home, the home manager will adjust the rate with you.

If your bonus is terminated and if you are not a resident of a nursing home, please contact the program immediately.

The members of the staff of the Longevity Bonus Program have enjoyed our association and contact with you in the past. If you have questions regarding your eligibility please feel free to contact our office at 465-4416. Please let us know if your circumstances change in the future, and you again become eligible for the bonus.

Sincerely,

Division of Pioneers' Benefits

## House Bill No. 11

H-51A MAR 13 1981  
Rm 102  
Rep. Kubisa

"An Act relating to qualification for longevity bonus payments; and providing for an effective date."

Current state law prohibits the payment of Longevity Bonus payments to persons who live in nursing homes. This bill allows Longevity Bonus payments to be made to nursing home residents, if they qualified for and received Longevity Bonus payments before October 1, 1985.

There are 614 private sector nursing home residents in Alaska and 267 nursing beds that are available through Pioneers' Homes. Of the 614 nursing home residents, 523 have their cost of care paid through the Medicaid Program. 314 of these Medicaid recipients are age 65 or older. Some, but not all, of these aged Medicaid recipients would be eligible to receive Longevity Bonus payments under the provisions of this bill.

1. Nursing home residents who are Medicaid recipients and certain residents of the nursing wing of Pioneers' Homes receive no benefit from this bill.

Nursing wing residents of Pioneers' Homes who are considered destitute are required to contribute all income they receive towards their cost of care, except for \$100 which they are allowed to keep for their personal needs. There are currently 257 occupied beds in the Nursing wings of the Pioneers' Homes. 86 patients are considered to be destitute.

Nursing home residents who are Medicaid recipients are required by federal regulation to contribute all income they receive towards their cost of care, except for \$75 which they are allowed to keep for their personal needs. They would have to apply their bonus payments to their cost of care.

The 91 nursing home residents who are not Medicaid recipients and the 171 nursing wing residents of Pioneers' Homes who are not considered destitute may keep any Longevity Bonus payments they might receive under the provisions of this bill.

2. Not all the longevity bonus payments allowed under this bill are excluded by federal law in determining eligibility for nursing home Medicaid coverage.

Longevity bonus payments made before October 1, 1985 under the old 25 year residency requirement of the Alaska Longevity Bonus Program are excluded from income by federal law in determining eligibility for the Medicaid Program. However,

because of a lawsuit, the 25 year residency requirement for the longevity bonus program was replaced by a one-year residency requirement on May 1, 1984. Longevity bonus payments received under this one-year residency requirement are not excluded from income by federal law.

As written, HB No. 11 does not specify all the criteria necessary under federal law and regulations in order for Medicaid to disregard bonus payments in determining eligibility. Unless the bill or the Department of Administration state regulations for the bonus are amended to add these criteria, we believe it is very likely some of the residents receiving the proposed Bonus payments would be made ineligible for Medicaid.

The complete criteria are:

Received a bonus payment before June 1, 1984; or, if they became eligible before June 1, 1984 but prior to October 1, 1985, they meet all of the following:

(i) Received a Supplemental Security Income or Adult Public Assistance payment prior to October 1, 1985; and

(ii) Had his or her 65th birthday no later than October 1, 1985; and

(iii) Resided in Alaska on or before January 3, 1959; and

(iv) Resided continuously in Alaska for 25 years prior to October 1, 1985

If bonus payments are made to any Medicaid recipient who does not fit these exacting criteria, and that person has substantial other monthly income, the payment may produce ineligibility. Each such case qualifies for medical coverage under the Alaska Longevity Bonus hold-harmless program, so the individual would not be harmed. However, the effect of this coverage would be to replace the 50% federal Medicaid funds with 100% state general funds. Since the average monthly cost for private nursing home care is \$5,555, each new case entering the hold-harmless program could cost the State \$33,330 or more per year.

3. State expenditures would increase for each new bonus recipient. Each person processed as proposed by HB No. 11 would be required to turn the bonus over to their nursing home to help defray their loss of care. When the new bonus payment comes from state funds, it displaces federal Medicaid matching funds by reducing Medicaid payments. The Department of Administration suffers a \$250 monthly increase in expenditures, and the Department of Health and Social Services saves \$250 in Medicaid expenditures, but loses \$125 in federal

Medicaid dollars. Additionally, both departments suffer administrative costs (in three separate divisions) from issuing a new bonus payment and assuring that it is properly applied to the cost of care.

4. State expenditures would also increase for individuals who become ineligible to receive a \$75 cash payment for personal needs because they receive countable longevity bonus payments.

Certain nursing home residents who receive less than \$75 in countable income are eligible for a cash payment of up to \$30 from the federal SSI program and \$45 from the State APA program, so that they have a total of \$75 for their personal needs. If these individuals become ineligible for this cash payment from SSI and/or the APA program because they receive a countable longevity bonus payment, the State is required by law to replace this cash payment through the Alaska Longevity Bonus hold harmless program. Effectively, this means that individuals who receive a \$30 cash payment from SSI for their personal needs would have this payment replaced by a payment from the Alaska Longevity Bonus hold harmless program. However, costs for this item will be unnoticable, since only 10 people may be affected.

#### Position

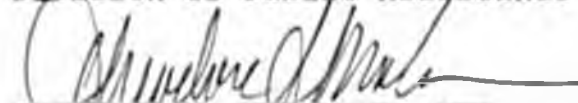
The department believes that, even if it were amended, HB No. 11 would unnecessarily add new costs to state government. Also, we believe it would not remove the strong objections elderly Alaskans have had about the inequities of the current absolute prohibition against payments to nursing home and nursing wing residents. Rather, it would substitute a new, more complex inequity, that those who meet the fine points that define federally-exempt bonuses will receive \$250 a month in payments, while someone who fails to meet them in some minor way will receive nothing. We see no benefit that would result from passage of HB No. 11.



Kimberly B. Busch, Acting Director  
Division of Medical Assistance



Jan L. Hansen, Director  
Division of Public Assistance



Theodore A. Mala, MD, MPH  
Commissioner

# STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

DIVISION OF MEDICAL ASSISTANCE

WALTER J. HICKEL, GOVERNOR

P.O. BOX H-07  
JUNEAU, ALASKA 99811-0660  
PHONE: (907) 465-3355

March 7, 1991

Representative Mark Boyer  
House of Representatives  
Capital Building, Room 411  
P. O. Box V, H/S 3100  
Juneau, Alaska 99811

Dear Mark:

We want to thank you and your staff for including us in the work session Saturday on HB 11. At that session, we promised you our assessment of the Medicaid and Medical ALB-Hold Harmless fiscal effects of the array of changes discussed.

1. If the bill were amended to exactly provide that bonus recipients in nursing homes would receive federally-exempt bonus payments (with something like the wording we suggested Saturday), the savings to Medicaid would shrink from 1,240.7 to 225.0 for FY92, simply because bonus payments that are exempt would no longer create new ineligibles. The fiscal note for the ALB-hold harmless program would therefore disappear.

The total effect from this change would be that each of the 75 private nursing home recipients who would get bonus payments under the expanded bonus program would contribute \$250 more each month to their cost of care, reducing Medicaid FY92 expenditures by a total of 225.0, 112.5 of which is federal funds.

This "savings" is somewhat deceptive, in that the total net cost to the state actually increases by 112.5, since the Department of Administration ALB payments increase by 225.0 for that group, displacing the 112.5 federal contribution to Medicaid.

2. If the bill were modified as we suggested to pay only federally-exempt bonus payments, and it were further modified to make those payments only for the first three months of nursing home residency, we expect that only 5 recipients per month, on average, would receive these payments.

The potential savings to Medicaid would be \$15,000, 5 recipients/mo x 12 months x \$250/month. However, a recent change in the ALB payment system has resulted in most members of the group from which these clients would come actually receiving two bonus checks after admission to a nursing home. The HB 11 proposed change would add

Representative Boyer

March 7, 1991

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only one more bonus check per recipient, so the total effect is only one third of \$15,000, or \$5,000. In effect, combining these two changes in a CS HB No 11 would cost the state only \$2,500 in lost federal revenue.

This estimate assumes some abbreviated eligibility test like the federal SSI program employs to continue full payments to some of its recipients who enter a nursing home for only a short time. SSI asks for a doctor's statement that the patient is likely to return home within a 3-month time. However, the SSI program has very onerous limits on when this documentation must be submitted and requires that the patient request continued payment within 10 days of admission.

If you contemplate this option, we'd urge you (or Administration) to restrict the requirements to as simple a level as possible, because we find that the "hassle maze" created by the SSI requirements clearly keeps patients who truly need continued payments to maintain their homes from qualifying.

However, as we think through the steps involved in processing ALB payments under this provision, we believe that even a simple set of requirements would still take perhaps up to 30 days to insure that payments should or should not continue.

If this is true, then this option probably contains two lesser options:

(a) Continue bonus payments for 30 or 60 days to all bonus recipients who enter a nursing home (which would have no fiscal effect on Medicaid, since two bonus checks are currently applied to our cost of care), or

(b) Immediately suspend bonus payments to all who enter nursing homes, reinstating the payment to those who will be determined to be exempt bonus recipients who are also likely to return home within three months.

In terms of keeping the bonus from displacing federal Medicaid funds, option (b) is obviously better.

3. For simplicity of administration, it may make more sense to simply continue the bonus to all exempt recipients for three months. This would probably affect an average of 9 persons per month, at \$250 per person, x 12 months, divided by 3 = \$9000, a loss of only \$4500 in federal funds.

Representative Boyer

March 7, 1991

Page -3-

4. Though it was not discussed in the work session, another option does occur to us now, which is to avoid determining exempt-bonus status altogether, and simply continue the bonus to all persons entering a nursing home, but only for three months. From a Medicaid and Hold Harmless perspective, this is not very appealing, for it would result in adding new costs to the Hold-Harmless program and in displacing more federal dollars.

Approximately 276 bonus-eligible recipients enter private nursing homes each year, approximately 110 of which would be ineligible because of bonus receipt. Medicaid savings =  $166 \times \$250$  (one month only) = \$41,500. New Hold-Harmless costs =  $110 \text{ recipients} \times \$4272$  (net cost of care/month)  $\times 1 \text{ month} = \$469,920$ . (These figures are very rough and would have to be refined if you chose to pursue this option.)

5. Some discussion surrounded the effect of making at least the nursing home bonus payments needs-based, at some high annual income level, but without any assets test. This is appealing because it insures that those who need the bonus to maintain their homes until their return are, by definition, needy. No matter how high such an income qualifier is set, any needs-based payment will be disregarded in determining Medicaid eligibility, so such a plan would not affect the Hold-Harmless program expenditures.

However, even needs-based payments must, under federal law, be applied to the cost of care, thus again producing a savings in Medicaid. This savings is in net effect a new cost to the state, since the \$250 paid in ALB state funds "drives out" \$125 in Medicaid federal matching funds. The only way to change this impediment would be to get our Congressional delegation to amend the Social Security Act in an Alaska-specific way, which I believe would be difficult at best, and might even put the current bonus exemption at risk.

I hope you find this description of various alternatives helpful. If you have any further questions about this issue, please contact Gordon Landes at 465-3355.

Sincerely,

*Kim*

Kimberly B. Busch  
Acting Director

KSB:GCL:jg

Needs based

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

P.O. Box Y, Juneau, Alaska 99811  
(907) 465-3867 or 465-2450  
FAX (907) 465-2029

Deliveries to: 240 Main Street  
Court Plaza, Room 500  
Mail Stop 3101

### MEMORANDUM

November 20, 1990

**SUBJECT:** Longevity bonus payments for nursing home residents (W.O. No. 17LS-0184)

**TO:** Representative Mark Boyer

**FROM:** Tamara Brandt Cook *TBC*  
Director  
Division of Legal Services

You have asked for a draft that would amend AS 47.45.070 to permit a resident of a nursing home to receive longevity bonus payments if the person received bonuses before October 1, 1985.

Nursing home residents were excluded from the longevity bonus because the federal government decided in 1984 that it would count the bonus as income for purposes of medicaid eligibility determinations, at least for those Alaskans who were not 65 before October 1, 1985, and did not have 25 years of state residency by that date, as was required under the original longevity bonus program. (See 42 USC 1382a(b)(2)-(B)) One result of that federal change would have been to make some older Alaskans ineligible for medicaid coverage of their nursing home costs. To protect these people, the legislature imposed a blanket disqualification of all nursing home residents under the longevity bonus program.

From a constitutional standpoint, the disqualification of nursing home residents from receiving longevity bonus payments raises an equal protection question. Looking at the longevity bonus program in isolation, without regard to medicaid eligibility, there appears to be no rational relation between the purposes of the longevity bonus program and one's status as a nursing home resident. So the existing statute may already be unconstitutional.

The next question, the one which your request poses, is whether the legislature can constitutionally carve out an exception so that some nursing home residents again

Representative Mark Boyer

November 20, 1990

Page 2

become eligible for the longevity bonus. Put another way, can the legislature discriminate against certain nursing home residents by continuing to disqualify some for the longevity bonus? That is, can the legislature discriminate against certain nursing home residents under the longevity bonus program in order to benefit them under a different program (medicaid)?

The issue appears to be a novel one. I was unable to locate any case law relating to the issue of discriminating against a class of persons in order to benefit them. Perhaps the reason there are few cases of this type is that members of such discriminated classes do not feel they are being harmed by the discrimination, and so those matters are rarely litigated. It seems to me that a legal argument can be made to support carving out an exception for the nursing home residents. Arguably, the longevity bonus program should not have to be viewed in isolation; rather, it should be seen in the context of other government programs aimed at reaching the same populations. Why, for example, shouldn't the legislature be permitted, in its wisdom, to tailor the longevity bonus program in a way that maximizes the overall benefits (state and federal) to all nursing home residents in the state? Such "discrimination" is not invidious. It is rational, well-intentioned, and consistent with the state's mandate to provide for the health and welfare of its citizens. Whether this argument would succeed is speculative, however.

The federal government, of course, will spot the subterfuge. They may take the position that the state, in withholding benefits to some nursing home residents, is discriminating unfairly against medicaid recipients, simply because they are medicaid recipients. Or the federal government could use the state's argument to justify its own treatment of Alaska nursing home residents differently from nursing home residents of other states: as soon as they are cut off from federal benefits they qualify for state benefits, so different treatment with respect to federal benefits does not amount to prohibited discrimination. The risk is that either view could provide grounds for cutting off medicaid funding to the state.

Gordon Landes of the division of medical assistance, Department of Health and Social Services, advised Mr. Ed Hein of our office some time ago that the federal government has never said in writing what would happen or how they would respond if the state attempted to discriminate against medicaid recipients in order to avoid the state's having to pick up the tab for their nursing home costs. He thought it might be worth asking them for a written opinion. I believe that it will be necessary to work in cooperation with the federal government on this legislation in order to avoid the possibility that the federal government will reduce benefits to state citizens once a bill is enacted.

## MEMORANDUM State of Alaska

TO: Frank S. Baxter  
Commissioner  
Department of Administration

DATE: August 29, 1990

FILE NO:

THRU: James J. Fox  
Deputy Commissioner

TELEPHONE: 465-4400

SUBJECT: Statute Revisions

Barbara Bathony, Director  
Division of Pioneers' Benefits

FROM: David Teal *Teal*  
Deputy Director  
Division of Pioneers' Benefits  
Department of Administration



Given the restrictive language and time frame of your memorandum regarding legislative proposals, I hesitate to submit the attached package. In my opinion, there is no "vital need" for change, but that judgment is for you to make. The package is not current and is not ready to submit to the Governor's office, but I will do all I can to meet the standards and the deadline if you believe the proposals merit consideration. I will need several days notice in order to prepare an acceptable package.

There are additional housekeeping changes which would ease the transition to proposed regulations and two additional policy changes that should be incorporated into the February 2 suggestions. The major changes are discussed below.

- 1) AS 47.45.140 states that a person who makes a false statement to receive a bonus shall be disqualified from and make restitution to the Longevity bonus program upon conviction of a misdemeanor. The program routinely disqualifies people and collects from them without prosecution. Approximately 50 recipients could be affected annually, with annual costs--in the form of foregone collections if no change is made--of as much as \$250,000. Proposal: adopt language similar to that governing Permanent Fund Dividend operations, which allows a hearing and appeal to the court, but does not require criminal prosecution.
- 2) Recipients lose the bonus upon entering a nursing home. This situation is a source of frequent complaints from about 600 affected recipients. Federal law allows those who were on the program prior to 1985 to exclude the bonus from income calculations for medical and other social benefits. Proposal: pay the bonus to nursing home residents who were on the program prior to 1985. No cost estimates have been prepared, but much of the cost can be recovered as program receipts to the Pioneers' Homes. The fiscal impact of the entire package should be positive.

Nursing ID

August 30, 1989

The Honorable Dick Eliason  
Alaska State Senator  
P.O. Box V, MS 3100  
Juneau, AK 99811  
Attn: Ms. Sandy Perry-Provost

Dear Ms. Perry-Provost:

As you requested, what follows is a written version of my telephone response to your query.

In 1985 the Longevity Bonus legislation was amended to exempt nursing home residents from receiving the Longevity Bonus. The reasons for this action goes back to the fact that the federal government now counts the bonus as available income to all Alaska residents who are at least 65 years of age when determining eligibility for assistance programs. This occurs whether or not the bonus has been applied for and resulted in the loss or reduction of certain federal benefits to some persons in need. Additionally, the "hold harmless" provision in the 1985 amendment meant that the State would pay the difference in lost or reduced Supplemental Social Security benefits, Old Age Assistance and Medicaid to persons not living in nursing homes.

The loss of Medicaid to persons in nursing homes presented a larger problem because the amount of the bonus placed recipients over the income limit for receiving Medicaid, and meant that because of cost, they would be unable to remain in the nursing home and receive the care they required.

The cost of assuming the loss of federal participation for Medicaid recipients in nursing homes was greater than the State could afford. It was therefore necessary to determine a method of precluding the federal government from counting the bonus as available income. For that reason the legislature had to make the bonus unavailable to Medicaid recipients in nursing homes. The constitutional requirement for equal protection made it necessary to exclude all people who reside in nursing homes.

wrong.  
only post  
8/31

Senator Dick Eliason, August 30, 1989, Page 2

The members of the legislature recognized that this was not the perfect solution to this difficult problem, but also recognized that residents of nursing homes generally receive substantial State assistance for their care, either by State participation in Medicaid in private nursing homes or through direct support in the Pioneers' Homes.

The legislature in the end determined that the removal of the bonus to all nursing home residents was the least harmful and most equitable solution. This decision has been questioned in each session of the legislature since it was enacted, but no other effective solution has yet come forth.

I hope this answers your question. Though it referred specifically to Ms. Thelma Boddy, the answer pertains to Ms. Boddy and all others who are similarly situated.

Contact me if you have further concerns.

Sincerely,

James H. Chase  
Administrator  
Longevity Bonus Program

*per Debra Vogt, they  
never thought of the  
loophole.*

ALASKA NURSING HOMES CENSUS

RECEIVED  
JAN 11 1991  
MEDICAL RATE  
VACANT BEDS  
ALASKA DEPARTMENT OF COMMUNITY DEVELOPMENT

FACILITY	MEDICAID PER DIEM RATE	CERTIFIED CAPACITY		MEDICAID/GRM PLACEMENTS		NON-DMA PLACEMENTS		MEDICAID RATE	VACANT BEDS	OCCUPANCY OF TOTAL BEDS	
		SNF/ICF	SWING BEDS	ICF	SNF	MEDI-CARE	OTHER			OVERALL	MEDICAID
CORDOVA HOSPITAL LTC	\$282.90	10	4	12	0	n/a	0	12		86%	86%
DENALI CENTER (Fairbanks)	200.34	101	0	38	8	7	8	61	40	60%	46%
HERITAGE PLACE (Soldotna)	207.30	45	0	21	2	4	5	32	13	71%	51%
ISLAND VIEW MANOR (Ketchikan)	237.70	46	0	18	3	2	5	28	18	61%	46%
KOTZEDUE SENIOR CITIZEN CARE CTR.	189.27	9	0	5	2	0	0	8	1	89%	89%
KODIAK ISLAND HOSPITAL LTC	217.34	19*	4	14	n/a	0	3	17	6	74%	61%
MARY KONRAD CENTER (Anchorage)	290.37	73*	0	70	n/a	n/a	2	72	1	90%	96%
OUR LADY OF COMPASSION (Anchorage)	176.59	224	0	139	46	8	27	220	4	98%	83%
PETERSBURG HOSPITAL LTC	251.18	14	4	10	0	0	2	12	6	67%	56%
QUYAANA CARE CENTER (Homer)	235.36	15*	0	15	n/a	n/a	0	15	0	100%	100%
SOURDUGH PLACE (Valdez)	207.06	16*	0	10	n/a	n/a	3	13	3	81%	63%
SOUTH PENINSULA HOSP. LTC (Homer)	234.32	18	4	14	1	n/a	2	17	5	77%	68%
ST. ANN'S NURSING HOME (Juneau)	210.62	45	0	35	7	0	1	43	2	96%	93%
WESLEYAN NURSING HOME (Seward)	164.52	65	0	40	0	n/a	6	46	20	70%	61%
WRANGELL GENERAL HOSPITAL LTC	284.80	14	4	9	1	0	2	12	6	67%	56%
<b>SWING BEDS (Acute to LTC):</b>											
CENTRAL PEN. HOSPITAL (Soldotna)	181.75	0	4	0	0	1	0	1	3	25%	0%
SEWARD GENERAL HOSPITAL	177.51	0	2	0	0	0	0	0	2	0%	0%
SITKA COMMUNITY HOSPITAL	181.75	0	2	0	0	2	0	2	0	100%	0%
VALDEZ COMMUNITY HOSPITAL	181.75	0	4	2	0	0	0	2	2	50%	50%
VALLEY HOSPITAL (Palmer)	181.75	0	4	0	0	0	1	1	3	25%	0%
<b>TOTAL:</b>			751	453	70	24	67	614	137	82%	70%

\* - beds certified ICF only.  
\*\* - includes VA, private pay, insurance, and other.

523

NOTE: Retro rate for Heritage Place effective 7/1/90.

*Karen Martz*  
KAREN MARTZ  
DIVISION OF MEDICAL ASSISTANCE (907) 561-2171  
DATE 1/9/91

3-26-91

LEGISLATOR:

Post-It™ brand fax transmittal memo 7871		# of pages: 2
To: H. St. Haines	From: LIO	
Co:	Co. Wasilla	
Dept. //	Phone: 376-8404	

We think continuing the Longevity Bonus for citizens over age 65 is helping the economy of the State to a much greater degree than most people think. When a person worked in the State and then retires and stays here, consider what he continues to buy: housing, food, clothing utilities, insurance, medical, entertainment, and transportation. They may not need the bonus, but I bet it goes back in the economy for goods and services. It really helps those over 65 that have just a small Social Security income, and makes them more independent.

The state should encourage other migrant retirees to move to the State and also put their retirement income to working in our State. Do you realize the amount these retirees are spending in the State and they are not taking any one's jobs--they leave the jobs to the young. Another saving to the State is the fact that retirees don't need new schools which is one of the biggest costs in the State and community.

Enclosed is a copy an of article from "Retirement Life" Jan. 1990, the magazine of retired Federal Employees. This shows the loss to Alaska and other States because the workers retire out of the State. It also shows the big gainers and that some are going out of there way to gain recent retirees as they help the economy of these States.

We think the State should look at the whole picture of the Longevity Bonus, not just what the State spends but also what it receives in, the boost in the economy from the retirees income, which in turn helps all citizens of the State of Alaska.

Sincerely,

*V. Clifford Darnell*  
V. Clifford Darnell

Bonnie Jo Darnell  
*Bonnie Jo Darnell*

PH: 373-3110

P.O. Box 870166; Wasilla, Ak. 99687

# Retirement Life

**NARFE** FOR FEDERAL RETIREES & EMPLOYEES

JANUARY 1990

## Retirees Are Migrating South . . . and West At a Cost to Older Population Centers

An independent study shows that migrating retirees have a greater economic impact than originally thought.

Charles Longino, Jr. of the University of Miami and William Crown of Brandeis University report that between 1985 and 1990 the south and west will benefit markedly from an increase in retiree population. Their findings, published in the October issue of *American Demographic Magazine*, conclude, "Because of this good news, many states are gearing up to compete for out-of-state retirees."

The study shows that retirees stimulate local economy, and that this stimulation more than offsets the cost of any additional social services. "For most of the communities that receive them, retired migrants are pure gold," the researchers state.

They estimate that in 1990, the average retirement household will spend

\$20,000, with housing—including heat, air conditioning and furniture—as the largest expense. Transportation, food, personal care, health care and insurance are included in this figure.

Not surprising is the fact that Florida stands to gain the most from the retiree influx. An estimated \$5 billion increase is projected for the five-year study period. Arizona is a distant second, with an estimated increase of \$1 billion. Texas (+\$570 million), North Carolina (+\$250 million) and Arkansas (+\$247 million) round out the top five.

New York will suffer the greatest loss, with a decrease of \$2.8 billion. Retiree migration will also negatively impact Illinois (-\$1.2 billion), Ohio (-\$735 million), Michigan (-\$692 million) and Pennsylvania (-\$569 million).

These figures are derived from

computations based on the 1980 Census. Longino and Crown considered the incomes of all those age 60 and over who relocated between 1975 and 1980, and, projecting the same rate of migration, adjusted the income rate to reflect that of 1985 through 1990.

The researchers predict a more competitive environment among states eager to increase retiree population. Quality of life—especially cost of living, climate, crime rate and social activities—are the main thrust of most campaigns.

Jane Burbour, spokeswoman for the North Carolina Division of Aging, comments in the *Charlotte Observer*, "Years ago, the state did not make any overt effort to attract retirees. Actually, we welcome them now because they add significant income to the state."

## As Retirees Migrate, Which States Gain, Which Lose?

A state-by-state rundown of the net gain and loss, measured in millions of dollars, expected from the movement of older migrants from 1985 to 1990:

GAINERS		LOSERS	
State	Amount	State	Amount
Florida	\$5,095	Virginia	-\$4
Arizona	\$1,016	Kentucky	-\$23
Texas	\$570	South Dakota	-\$26
North Carolina	\$250	North Dakota	-\$28
Arkansas	\$247	Wyoming	-\$28
Oregon	\$188	Nebraska	-\$31
South Carolina	\$172	Rhode Island	-\$34
Nevada	\$170	Louisiana	-\$35
Georgia	\$168	Alaska	-\$41
Washington	\$166	Montana	-\$46
New Mexico	\$137	West Virginia	-\$58
California	\$132	Kansas	-\$87
Tennessee	\$65	Missouri	-\$88
Alabama	\$57	Minnesota	-\$115
Mississippi	\$44	Wisconsin	-\$102
Hawaii	\$45	Iowa	-\$134
New Hampshire	\$38	District of Columbia	-\$135
Maine	\$33	Connecticut	-\$220
Utah	\$28	Maryland	-\$235
Oklahoma	\$18	Indiana	-\$236
Colorado	\$16	Massachusetts	-\$334
Idaho	\$9	New Jersey	-\$517
Delaware	\$5	Pennsylvania	-\$569
Vermont	\$4	Michigan	-\$692
		Ohio	-\$735
		Illinois	-\$1,232
		New York	-\$2,873

(b) In determining the income of an individual (and his eligible spouse) there shall be excluded—

(1) subject to limitations (as to amount or otherwise) prescribed by the Secretary, if such individual is a child who is, as determined by the Secretary, a student regularly attending a school, college, or university, or a course of vocational or technical training designed to prepare him for gainful employment, the earned income of such individual;

(2)(A) the first \$240 per year (or proportionately smaller amounts for shorter periods) of income (whether earned or unearned) other than income which is paid on the basis of the need of the eligible individual, and

(B) monthly (or other periodic) payments received by any individual, under a program established prior to July 1, 1973 (or any program established prior to such date but subsequently amended so as to conform to State or Federal constitutional standards), if (i) such payments are made by the State of which the individual receiving such payments is a resident, (ii) eligibility of any individual for such payments is not based on need and is based solely on attainment of age 65 or any other age set by

P.L. 81-171, "Housing Act of 1949", §521(a)(1)(B), (C), and (E), Vol. II, p. 325; and P.L. 89-117, "Housing and Urban Development Act of 1965", §101, Vol. II, p. 546.

See P.L. 95-433, [Yakima Indian Nation or Apache Tribe of the Mescalero Reservation], §2, with respect to exclusion from income and resources of certain judgment funds; Vol. II, p. 694.

See P.L. 95-498, [Pueblo of Santa Ana Indians, New Mexico], §6, with respect to an income and resources exclusion applicable to the Pueblo of Santa Ana Indians, New Mexico; Vol. II, p. 695.

See P.L. 95-499, [Pueblo of Zia, New Mexico Indians], §6, with respect to an income and resources exclusion applicable to the Pueblo of Zia Indians, New Mexico; Vol. II, p. 696.

See P.L. 95-557, "Housing and Community Development Amendments of 1978", §410(b), Vol. II, p. 696, with respect to exclusion from income of services (but not of wages) provided to a public housing resident or to a resident of a housing project assisted under the "Housing Act of 1959" (P.L. 86-372, §202; Vol. II, p. 473).

See P.L. 97-35, Title XXVI, "Low-Income Home Energy Assistance Act of 1981", §2605(f), with respect to exclusion from income and resources of home energy assistance payments or allowances; Vol. II, p. 730.

See P.L. 98-432, "Shoalwater Bay Indian Tribe—Dexter-by-the-Sea Claim Settlement Act", §5(e), with respect to exclusion from income and resources of certain judgment funds; Vol. II, p. 783.

See P.L. 98-500, "Old Age Assistance Claims Settlement Act", §8, with respect to exclusion from income and resources of certain judgment funds; Vol. II, p. 784.

See P.L. 98-602, Title I, [Wyandotte Tribe of Oklahoma], §106(d), with respect to exclusion from income and resources of certain funds distributed per capita; Vol. II, p. 785.

See P.L. 99-130, [Mdewakanton and Wahpekute Eastern or Mississippi Sioux], §8, with respect to exclusion from income and resources of certain funds; Vol. II, p. 786.

See P.L. 99-146, [Chippewas of Lake Superior], §6(b), with respect to exclusion from income and resources of certain funds; Vol. II, p. 786.

See P.L. 99-264, "White Earth Reservation Land Settlement Act of 1985", §16, with respect to exclusion from income and resources of certain judgment funds; Vol. II, p. 793.

See P.L. 99-346, "Saginaw Chippewa Indian Tribe of Michigan Distribution of Judgment Funds Act", §6(b), with respect to exclusion from income and resources of certain judgment funds; Vol. II, p. 813.

See P.L. 99-377, [Chippewas of the Mississippi], §4(b), with respect to exclusion from income and resources of certain judgment funds; Vol. II, p. 814.

See P.L. 100-139, "Cow Creek Band of Umpqua Tribe of Indian Distribution of Judgment Funds Act of 1987", §4(h)(6), with respect to exclusion of benefits as basis for denial of eligibility; Vol. II, p. 842.

See P.L. 100-383, [An Act to implement recommendations of the Commission on Wartime Relocation and Internment of Civilians], §§105(f)(2) and 206(d)(2), with respect to exclusion from income and resources of certain payments to certain individuals; Vol. II, p. 901.

See 31 U.S.C. 3803(c)(2)(C), with respect to benefits not affected by P.L. 100-383; Vol. II, p. 167.

See P.L. 100-407, "Technology-Related Assistance for Individuals with Disabilities Act of 1988", §103, with respect to the effect of financial assistance under that Act; Vol. II, p. 902.

See P.L. 100-409, "Federal Land Exchange Facilitation Act of 1988", §5, with respect to the effect of this Act on P.L. 92-203 or P.L. 96-487; Vol. II, p. 904.

See P.L. 100-411, [Land Claims of Coushatta Tribe of Louisiana], §2(d)(3)(B), with respect to the effect of per capita payments; Vol. II, p. 904.

See P.L. 100-581, [Indian Reorganization Act Amendments], §§501, 502(b)(1), and 503, with respect to exclusion from income and resources of certain judgment funds; Vol. II, p. 918.

the State and residency in such State by such individual, and (iii) on or before September 30, 1985, such individual (D first becomes an eligible individual or an eligible spouse under this title, and (II) satisfies the twenty-five-year residency requirement of such program as such program was in effect prior to January 1, 1983;

(3XA) the total unearned income of such individual (and such spouse, if any) in a month which, as determined in accordance with criteria prescribed by the Secretary, is received too infrequently or irregularly to be included, if such income so received does not exceed \$20 in such month, and (B) the total earned income of such individual (and such spouse, if any) in a month which, as determined in accordance with such criteria, is received too infrequently or irregularly to be included, if such income so received does not exceed \$10 in such month;

(4XA) if such individual (or such spouse) is blind (and has not attained age 65, or received benefits under this title (or aid under a State plan approved under section 1002 or 1602) for the month before the month in which he attained age 65), (i) the first \$780 per year (or proportionately smaller amounts for shorter periods) of earned income not excluded by the preceding paragraphs of this subsection, plus one-half of the remainder thereof, (ii) an amount equal to any expenses reasonably attributable to the earning of any income, and (iii) such additional amounts of other income, where such individual has a plan for achieving self-support approved by the Secretary, as may be necessary for the fulfillment of such plan,

(B) if such individual (or such spouse) is disabled but not blind (and has not attained age 65, or received benefits under this title (or aid under a State plan approved under section 1402 or 1602) for the month before the month in which he attained age 65), (i) the first \$780 per year (or proportionately smaller amounts for shorter periods) of earned income not excluded by the preceding paragraphs of this subsection, (ii) such additional amounts of earned income of such individual (for purposes of determining the amount of his or her benefits under this title and of determining his or her eligibility for such benefits for consecutive months of eligibility after the initial month of such eligibility), if such individual's disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, as may be necessary to pay the costs (to such individual) of attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Secretary in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions, except that the amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe, (iii) one-half of the amount of earned income not excluded after the application of the preceding provisions of this subparagraph, and (iv) such additional amounts of other income, where such individual has a plan for achieving self-support approved by the Secretary, as may be necessary for the fulfillment of such plan, or

(b) In determining the income of an individual (and his eligible spouse) there shall be excluded—

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See P.L. 99-264, "White Earth Reservation Land Settlement Act of 1985", §16, with respect to exclusion from income and resources of certain judgment funds; Vol. II, p. 793.

See P.L. 99-346, "Saginaw Chippewa Indian Tribe of Michigan Distribution of Judgment Funds Act", §6(b), with respect to exclusion from income and resources of certain judgment funds; Vol. II, p. 813.

See P.L. 99-377, [Chippewas of the Mississippi], §4(b), with respect to exclusion from income and resources of certain judgment funds; Vol. II, p. 814.

See P.L. 100-139, "Cow Creek Band of Umpqua Tribe of Indian Distribution of Judgment Funds Act of 1987", §4(h)(6), with respect to exclusion of benefits as basis for denial of eligibility; Vol. II, p. 842.

See P.L. 100-383, [An Act to implement recommendations of the Commission on Wartime Relocation and Internment of Civilians], §§105(f)(2) and 206(d)(2), with respect to exclusion from income and resources of certain payments to certain individuals; Vol. II, p. 901.

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See P.L. 100-407, "Technology-Related Assistance for Individuals with Disabilities Act of 1988", §105, with respect to the effect of financial assistance under that Act; Vol. II, p. 902.

See P.L. 100-409, "Federal Land Exchange Facilitation Act of 1988", §5, with respect to the effect of this Act on P.L. 92-293 or P.L. 96-487; Vol. II, p. 904.

See P.L. 100-411, [Land Claims of Coushatta Tribe of Louisiana], §2(d)(3)(B), with respect to the effect of per capita payments; Vol. II, p. 904.

See P.L. 100-581, [Indian Reorganization Act Amendments], §§501, 503(b)(1), and 503, with respect to exclusion from income and resources of certain judgment funds; Vol. II, p. 918.

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(3)(A) the total unearned income of such individual (and such spouse, if any) in a month which, as determined in accordance with criteria prescribed by the Secretary, is received too infrequently or irregularly to be included, if such income so received does not exceed \$20 in such month, and (B) the total earned income of such individual (and such spouse, if any) in a month which, as determined in accordance with such criteria, is received too infrequently or irregularly to be included, if such income so received does not exceed \$10 in such month;

(4)(A) if such individual (or such spouse) is blind (and has not attained age 65, or received benefits under this title (or aid under a State plan approved under section 1002 or 1602) for the month before the month in which he attained age 65), (i) the first \$780 per year (or proportionately smaller amounts for shorter periods) of earned income not excluded by the preceding paragraphs of this subsection, plus one-half of the remainder thereof, (ii) an amount equal to any expenses reasonably attributable to the earning of any income, and (iii) such additional amounts of other income, where such individual has a plan for achieving self-support approved by the Secretary, as may be necessary for the fulfillment of such plan,

(B) if such individual (or such spouse) is disabled but not blind (and has not attained age 65, or received benefits under this title (or aid under a State plan approved under section 1402 or 1602) for the month before the month in which he attained age 65), (i) the first \$780 per year (or proportionately smaller amounts for shorter periods) of earned income not excluded by the preceding paragraphs of this subsection, (ii) such additional amounts of earned income of such individual (for purposes of determining the amount of his or her benefits under this title and of determining his or her eligibility for such benefits for consecutive months of eligibility after the initial month of such eligibility), if such individual's disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, as may be necessary to pay the costs (to such individual) of attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Secretary in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions, except that the amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe, (iii) one-half of the amount of earned income not excluded after the application of the preceding provisions of this subparagraph, and (iv) such additional amounts of other income, where such individual has a plan for achieving self-support approved by the Secretary, as may be necessary for the fulfillment of such plan, or

HB

20

# HOUSE COMMITTEE REPORT

(7)

Date Referred: February 4, 1991

FURTHER REFERRALS: Health, Education and Social Services  
Finance

Date of Committee Action: 4-17-91

The STATE AFFAIRS Committee considered:

SSHB 20

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 20

LONGEVITY BONUS/NURSING HOME RESIDENTS

"An Act relating to qualifications for longevity bonus payments; and providing for an effective date."

RECOMMENDATIONS:

be replaced with

PS 55 HB 20 (STA)

the same title

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact Admin - Long. Bonus

fiscal note(s) \_\_\_\_\_

zero fiscal note HSS - Medical Assistance

zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

Signature	Check appropriate column:	Check appropriate column:		
		Do Not Pass	No Rec	Amend
<u>Gene Kubera</u>				
<u>Tommy [unclear]</u>				
<u>Dana [unclear]</u>				
<u>[unclear]</u>				
<u>Mike Miller</u>				
<u>[unclear]</u>				

Gene Kubera  
Chairman's Signature

FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

BILL NO. SSHB No. 20

Revision Date: 2/25/91 Department Affected: Health and Social Services  
 Title: An Act Relating to Qualifications for longevity bonus payments; and providing for an effective date BRU: Medicaid  
 Component: Medicaid Facilities  
 Sponsor: Sharp  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO 0-2-3-0

Expenditures/Revenues: Thousands of Dollars

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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	0.00	0.00	0.00	0.00	0.00	0.00

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0.00	0.00	0.00	0.00	0.00	0.00

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

See attached note

Prepared By: Kimberly B. Busch Phone: 465-3355  
 Division: Medical Assistance Date: 2-25-91

Approved by Commissioner: [Signature]  
 Agency: Health and Social Services Date: 2/25/91  
 Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, QMB, & Impact Agency(ies).

## SS HB 20

SSHB 20 would have no effect on the Medicaid budget, nor would it affect expenditures in the longevity bonus hold-harmless program (0231), as no bonus payment would be made to persons whose cost of care was being paid in whole or in part by Medicaid.

Industry sources estimate that there may be about 31 private pay individuals in private (non-Pioneers' Homes) nursing homes at any given point. From data about Medicaid recipients, we would reason that at least half of these may meet the age and residency requirement of the bonus program. Presumably, monthly bonus income would assist them in meeting the costs of their care or continuing premiums for a private long-term-care insurance policy. However, the costs of nursing home care are so high in comparison to the bonus payment that we do not anticipate that bonus income would reduce Medicaid expenditures by noticeably delaying a private pay patients' entry into the Medicaid program.

**FISCAL NOTE**

**STATE OF ALASKA**  
**1991 LEGISLATIVE SESSION**

**BILL NO. SSHB 20**

Revision Date: February 18, 1991

Department Affected: Administration

Title: LB Qualifications

BRU: Longevity Bonus, Pioneers' Benefits

Component: Grants

Sponsor: Representative Sharp

Requestor: Representative Sharp

COMPONENT SERIAL NO. 

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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	\$84.0	\$84.0	\$84.0	\$84.0	\$84.0	\$84.0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	\$84.0	\$84.0	\$84.0	\$84.0	\$84.0	\$84.0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	\$84.0	\$84.0	\$84.0	\$84.0	\$84.0	\$84.0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
<b>TOTAL</b>	\$84.0	\$84.0	\$84.0	\$84.0	\$84.0	\$84.0

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)  
 See attached.

Prepared by: Barbara Bathony *Barbara Bathony*  
 Division: Pioneers' Benefits

Phone: 465-4400  
 Date: February 18, 1991

Approved by Commissioner: Millett Keller *Millett Keller MK*  
 Agency: Administration

Date: 2/26/91

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

# Fiscal Note

## Sponsor Substitute HB 20

February 17, 1991

There are 28 nursing home residents qualified under the sponsor substitute HB 20 in FY 91. This information was collected via a telephone survey of private long-term care facilities conducted February 1991. These 28 nursing home residents are non-medicaid, non-medicare, non-veterans, but their cost is paid for entirely by private pay or by insurance policies. It is estimated that about 80% of the private pay residents are 65 years old and over. (80% of 36 residents equals 28 Alaskans qualified under this bill)

The cost of adding 28 nursing home residents to the program is \$84,000 for FY 92, and will be slowly decreasing thereafter.

(in 1,000s)

	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
Number of Nursing Home residents	28	28	28	28	28	28
Cost of Longevity Bonus	\$84.0	\$84.0	\$84.0	\$84.0	\$84.0	\$84.0

The above calculation does not include the residents of the Pioneers' Homes or the Sourdough unit in Harborview, Valdez. Residents in these facilities do not pay full cost of care.

The division questions if this bill is constitutional.

PRIVATE PAY/INSURANCE RESIDENTS IN NURSING HOMES  
FY 91

Facility	Number of Private/Insurance Pay Residents
Island View Manor	5
Kodiak Island Nursing Home	3
Petersburg Hospital	5
South Peninsula Hospital	1
St. Ann's Nursing Home	3
Wesleyan Nursing Home	8
Denali Center	7
Our Lady of Compassion Care Center	4
Nome	0
Kotzebue	0
<b>TOTAL</b>	<b>36</b>

Telephone survey conducted by the Division of Pioneers' Benefits on February 13-14, 1991.

# Alaska State Legislature

REPRESENTATIVE  
**BERT SHARP**

DISTRICT 20

MEMBER  
FINANCE COMMITTEE

FINANCE SUBCOMMITTEES  
GOVERNOR  
FISH AND GAME  
LABOR



FAIRBANKS  
1101 N CUSHMAN  
FAIRBANKS ALASKA 99701  
(907) 452-7885/7886

WHILE IN JUNEAU  
PO BOX V  
STATE CAPITOL  
JUNEAU ALASKA 99811  
(907) 465-3004/3018

## House of Representatives

### MEMORANDUM

TO: Representative Kubina  
Chairman, State Affairs Committee

FROM: Representative Bert Sharp *BMS*

DATE: February 6, 1991 *BMS*

SUBJ: Committee Hearing Request, SSHB20

I respectfully request that a hearing be scheduled on SSHB20, relating to qualifications for longevity bonus payments.

SSHB20 would correct the law change of 1985, which made all nursing home residents ineligible for longevity bonus payments. It would allow the few nursing home residents who are paying privately for the cost of care at a home to qualify for and receive their longevity bonus payments if they meet the age and residency requirements.

The Department of Administration has told me that a fiscal note is forthcoming and should be available prior to any scheduled hearing.



REPRESENTING  
GOLDEN HEART  
OF ALASKA

Box 71932  
Fairbanks, 99707

Representative Bert Sharp  
Alaska State Legislature  
Box V, Juneau 99811

February 7, 1991

Dear Bert:

Thanks for sending me a copy of HB 20 last week. I really appreciate your work in attempting to correct an injustice affecting those oldtimers who are paying their own way.

In case it will help to support your work, I'll recap my experience with this quirk in the longevity program -- I don't expect that you can remember the details of our conversation some months ago. Basically, I was shocked when Mom said Dad's monthly bonus was cut off automatically when he entered Denali Center in March of 1989. Frankly, I couldn't and didn't believe it, since they were paying their own way, and not getting federal or state assistance. (My understanding was that Denali Center told Mom the bonus would be terminated, and that she didn't get an official letter from the State, but I might be wrong.)

At that time the family was in a turmoil, facing the crisis of making a major change and hardly in a position to combat a bureaucratic nightmare on top of everything else. Dad's health -- the onset of Alzheimer's -- had been deteriorating for four, six, or more years. What had appeared to be normal forgetfulness at age 90 slowly changed into something more serious, until the Alzheimer's was finally diagnosed in '88 or so. Mom did well caring for him for several years, but his increasing incapacity to assist eventually brought her to the point of admitting he needed to move to a home where he could get more assistance. (I would note that the home health care and other assistance were a great help, and prolonged the move to a full-time care facility.)

Even though he'd been a resident of Alaska for over 60 years (and served Governor Hickel as the first manager of the Fairbanks Pioneer Home, c. 1967 - 1971) he was unable to get into the local Home, or others throughout the State. Although she considered placing him in a nursing home Outside, in large due to costs, Mom felt it best to try to keep him here among friends and family. Hence the move to Denali Center.

The cost there was \$175.00 per day, and he was ineligible for Medicare or Medicaid (whichever) because Alzheimer's isn't a "covered" illness. Looking back, the next eight months were pretty much a nightmare as the illness progressed. I did make some local inquiries as to why the longevity had been cut off, but remained unsatisfied with the answers. Had the State, or even the federal government, been assisting the folks financially, it would not have seemed so unreasonable for them to have lost the \$250 per month. Throughout those months until he

died in November, 1989, the folks paid all the bills -- totaling around \$40,000 or more.

By early 1990 I had read the law and so on, but still couldn't understand why entry into any nursing home, even without any governmental assistance, meant the loss of the longevity bonus. I finally called Juneau and spoke with Mr. David Teal, who convincingly confirmed that the Legislature had in fact amended the program in that way several years ago. He also suggested that a simple change in the wording would restore the benefits, at least in some cases. That led to our conversation, when you advised you were already aware of the situation and hoped to be able to correct it.

In many respects this is a matter of principle. When you're looking at a daily cost of \$175 or monthly expense of \$5,250, the \$250 longevity bonus seems almost insignificant. But that's \$3000 per year, and better than nothing. Mainly, there's a psychological blow in losing the bonus, at a time when the individuals involved are suffering enough.

From what I recall of the conversation with Mr. Teal, the correcting language would only restore the bonus to a limited group of people. Otherwise, the intricacies of Medicaid/Medicare would serve to defeat the purpose of the financial increase. The fact that only a few people would be helped can be viewed positively, as the correction would thus not impose a major burden on the State treasury.

In closing, I strongly believe that people who are in nursing homes (especially privately operated homes) paying their own way and not eligible for other federal or State subsidy, should be entitled to the longevity bonus. Thanks again for your efforts on behalf of those oldtimers who may benefit from a technical change in the law.

Sincerely,

*Jim Moody*



# House State Affairs Committee

## Representative Gene Kubina, Chair

**DATE:** February 27, 1991

**PLACE:** Capitol, Room 102

**SUBJECT OF MEETING:**  
 \*HB 11 - Relating to Longevity Bonus, Nursing Home Residents  
 \*HB 20 - Relating to Longevity Bonus, Nursing Home Residents  
 \*HB 67 - Relating to Impoundment of Mistreated Animals

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
GORDON G. LANDER	Div. of MEDICAL ASSISTANCE	PO Box H-07 JUNEAU AK	99811		465-3355	(N)	HB 11, SSHB 20
CURTIS C. LOMAS	Div. Pub. Assistance	Box H JUNEAU AK	99811	<del>3347</del>	3347	Y (N)	HB 11; HB 20
JAMES E. STEELE	DIV. PUBLIC ASST.	PO BOX H-07 JUNEAU AK	99811		465-3347	Y (N)	HB 11, SSHB 20
THOMAS T. SEARNS	Public Safety	Comm. Office			465-4322	Y N	HB 67
Barbara Bathony	Dir. Pioneer's Benef.				465-4400	Y N	if necessary HB 11, SSHB 20
Margot Knuth	Dept. Law	PO Box KC	99811		3428	(Y) N	HB 67
J. RON SUTCLIFFE	Dept. Law	P.O. Box KA JUNO	99811		3620	(Y) N	HB 67
						Y N	
						Y N	
						Y N	
						Y N	



# House State Affairs Committee

## Representative Gene Kubina, Chair

SUBJECT OF MEETING:

DATE: Feb 27, 1992

PLACE: Capital Room 102

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
Pose Palmquist	OPAG.	303 6th St -	9080	467 3315		<input checked="" type="checkbox"/>	N	11 & 20
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	



# House State Affairs Committee

## Representative Gene Kubina, Chair

DATE: April 17, 1991

PLACE: Capitol, Room 102

**SUBJECT OF MEETING:**

HB 20 - Relating to Longevity Bonus, Nursing Home Residents  
 HB 122 - Relating to Qualifications for Longevity Bonus

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
SUSAN LANDES	Div. of MEDICAL ASSISTANCE	PO BOX H-07 TUNEAU	99511		465-3355	Y <input checked="" type="radio"/> N	AVAILABLE FOR 20/122 QUESTIONS RE MEDICAID/ALB
Barbara Bathony	Div. of Pioneers B.	Box CL	99511		465-4400	Y <input checked="" type="radio"/> N	available for questions
Mary Lou Mennel	AARP	805 Kool Belt	99801	586-2568		Y <input checked="" type="radio"/> N	
P. one Palmquist	O.P.T.G.	Box 8702 94 Wauville	99607	376-2274		<input checked="" type="radio"/> Y N	HB 20
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	



# House State Affairs Committee

## Representative Gene Kubina, Chair

DATE: April 17, 1991

PLACE: Capitol, Room 102

**SUBJECT OF MEETING:**

- \*HB 55 - Relating to Approp: Budget Reserve Fund
- \*HJR 37 - Relating to Alaska/Siberia Lend-Lease Program
- \*HB 257 - Relating to Alaska Highway Commem-

orative Medallion

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
Jeff Morrison	DMVA	PO Box L Juneau	99811		465-4600	(Y)	N	Questions on FN for HB 257
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	