

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672
7456 SENATE JUDICIARY

SB 39 Summary

SB 39, "An Act relating to the permanent fund and the Alaska Permanent Fund Corporation; and providing for an effective date."

Recent Office of Management and Budget research, the final report of the Commission on the Future of the Permanent Fund, and the Permanent Fund Board of Trustees have all identified several needed clarifications of statutory intent to ensure the legality of current Corporation practices. **Senate Bill 39** attempts to clean up many of the following inconsistencies, ambiguities and other confusing provisions currently in the statutes governing the Permanent Fund.

Language Consistency:

Currently in statute, the terms "Alaska Permanent Fund" and "Alaska Permanent Fund Corporation" are used inconsistently. The first term should refer to assets owned by the State of Alaska, and second term should refer only to the government instrumentality created to manage and invest those assets. The proposed legislation modifies AS 37.13.010 - AS 37.13.210 to use these terms correctly and consistently.

Adjustments to the Legislated List of Investments:

The Corporation is limited to investments of the types specified in statute. Unfortunately this list has not been updated to reflect the current state of financial markets. **Section 10** of SB 39 makes it possible for the Corporation to take advantage of investment opportunities in AA rated or better municipal and state bonds. This section also provides specific authorization for investments in money market instruments.

This proposal removes several investment instruments that have never been used, are not appropriate for the Fund, and have been prohibited by Board policy (page 4, lines 4-24). Neither the Permanent Fund Board, PERS, or TERS have invested in savings and loan or credit union CDs in Alaska because there are no secondary markets for

Alaskan certificates of deposits. Though the CDs are federally insured, once a savings and loan or credit union is in federal bankruptcy court, that security may be tied up for a number of years. In addition, the packages of investments are generally so small as to be undesirable on an administrative level; and there are very few savings and loans and credit unions in Alaska with AA or AAA rating.

Inflation-proofing Deposits:

Money is added to the principal of the Fund once a year to offset the loss of value of the principal due to inflation. Inflation-proofing monthly deposits to the principal from mineral lease royalties and rents could be a very complex task if each deposit were inflation-proofed at a different rate depending on when during the year it was added to the Fund. To ensure that the simplest, most conservative method of inflation-proofing is used, **Section 18** of this legislation mandates that all deposits to the principal of the Fund shall be inflation-proofed at the full annual rate. This change in statute conforms to the current practice of the Corporation.

Litigation Revenue:

The Permanent Fund has received and will probably continue to receive hundreds of millions of dollars from settlements and awards from contested leasing and royalty issues. The money received by the Fund as a result of royalty and leasing litigation has two components, the original amount owed the fund and the interest that money has garnered during the dispute. Current statutes are silent on how these individual components are to be treated by the Corporation. Auditors have differed in their opinions on how such funds should be treated.

This confusion raises two important questions that require legislative clarification: 1) Should interest earned on monies due the Permanent Fund be included in the monies deposited in the Fund when the state eventually receives the funds? and 2) If interest is deposited in the fund, should it be counted as a contribution to principal or counted as income in the year in which the money was received?

The resolution could have a serious fiscal impact on the Fund. For example, the Fund could receive as much as \$385 million in disputed rents, bonuses and royalties from the Dinkum Sands and North Slope Royalty disputes. In the years since litigation was initiated those monies have earned \$386 million in interest (source: April 1990 OMB Report as altered by 1990 Arco Settlement). If the interest income is not dedicated to the Fund, then the interest funds would be general funds available for legislative appropriation. If the interest income is

transferred to the Corporation, but is treated as income generated in the year it is received, the income picture of the Corporation for that year could be dramatically skewed, affecting dividends in that year. The four subsequent years of dividends would be affected as well because of the averaging method currently used to calculate dividends.

The final alternative, treating all interest received as contributions to principal is the course of action currently being used by the Corporation. The legislature ratified this interpretation in the FY91 Operating Budget by mandating similar treatment for any litigation settlement interest monies in FY91.

Section 1 of the proposed legislation clears up this uncertainty by ensuring that all interest on the Fund's share of any settlements or awards will be transferred to the Fund, and that both the original amount due the Fund and any interest it has garnered shall be counted as deposits to the principal of the Fund. This represents the most conservative approach to this question. It adds the greatest amount possible to the principal of the Fund and prevents unpredictable and destabilizing surges in the Corporation's earnings.

Timely Transfers from DNR:

Current law mandates the transfer of funds due the Fund from royalty and lease income from the Department of Natural Resources on a monthly basis. During the thirty-day period between transfers DNR can accumulate sizable balances of monies that will eventually be transferred to the Fund. During recent months of exceptionally high oil prices and high production these monthly transfers have been as high as \$55 million, (November of 1990).

Section 2 of this proposal changes the process so that the Fund receives a transfer whenever \$5 million dollars owed the Fund accumulates at DNR or once a month, whichever is sooner. This will allow the Fund to gain the greatest possible benefit from the monies that have been constitutionally and statutorily dedicated for that purpose.

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

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MEMORANDUM

February 7, 1991

SUBJECT: Permanent Fund Corporation (SB 39)
TO: Senator Pat Pourchot
FROM: Tamara Brandt Cook ^{TBC}
Director

Here is the sectional summary of SB 39 that you requested.

Section 1. Expands the statute setting out sources of deposits to the principal of the permanent fund to include interest earned by the state on those sources before the money is deposited into the fund.

Sec. 2. Requires that payments due to the permanent fund be paid on the day the amount due to the fund reaches at least \$5,000,000 or at least once each month.

Sec. 3. Substitutes references to the Alaska Permanent Fund Corporation with references to the fund itself.

Sec. 4. Deletes reference to assets allocated to the corporation with language requiring assets of the fund to be managed by the corporation.

Sec. 5. Replaces a reference to the board with a reference to the corporation. Substitutes a reference to the corporation with a reference to the fund itself.

Sec. 6. Substitutes a reference to the corporation with a reference to the fund itself.

Sec. 7. Substitutes a reference to the corporation with a reference to the fund itself. Deletes "Alaska Permanent" as it modifies "fund" because a definition of "fund" has been added in Sec. 24 of the bill and made applicable to the chapter. The same change is made throughout other sections of this bill.

Sec. 8. Substitutes a reference to the corporation with a reference to the fund itself.

Sec. 9. Reworded for clarity.

EXPANDED Sec. 10. Substitutes a reference to the corporation with a reference to the fund itself. Deletes certain types of investments from those the fund assets may be invested in, including investments in notes secured by mortgages on commercial property. ~~Expands~~ the specific types of investments that may be made in real estate improved by substantially rented buildings while deleting the general authority to make those investments on substantially the same terms as those specifically set out in statute. Permits investments in taxable municipal or state securities rated "AA" or better. Permits investments in certain money market or short-term investment funds.

Sec. 11. Corrects cross-references to statutes to reflect changes in Sec. 10.

Sec. 12. Deletes "Alaska Permanent" as it modifies "fund."

Sec. 13. Substitutes a reference to the corporation with a reference to the fund.

Sec. 14. Substitutes a reference to the corporation with a reference to the fund.

Sec. 15. Adds additional types of collateral that may be used as security for investments in certificates of deposit that are not of a quality that may be readily sold in a secondary market at prices reflecting fair value.

Sec. 16. Adds a new provision permitting the board to require substitution of collateral to secure investments in certificates of deposit that are not of a quality that may be readily sold in a secondary market at prices reflecting fair value.

Sec. 17. References to "corporation" are replaced with references to "fund."

Sec. 18. Makes the way the rate of inflation is determined more specific for purposes of "inflation proofing" the principal of the permanent fund.

Sec. 19. Deletes a reference to the corporation in favor of a reference to the fund itself.

Sec. 20. Deletes a reference to the corporation in favor of a reference to the fund itself.

Sec. 21. Deletes references to the corporation and substitutes reference to the fund.

Sec. 22. Adds the fund as specifically tax exempt.

Sec. 23. Specifically provides resources of the fund, as well as those of the corporation, may not be used to influence political activities.

Senator Pat Pourchot
February 5, 1991
Page 3

Sec. 24. Adds a definition of "fund" applicable to the chapter.

Sec. 25. Provides a July 1, 1991 effective date.

TBC:lmb
91-018.lmb

TO: Tamara Cook, Director
Division of Legal Services

FROM: Rod Mourant, Committee Aide
Senate Labor & Commerce Committee

RE: Senate Bill 39

DATE: February 12, 1991

Please draft a committee substitute for SB 39 incorporating the changes titled amendments two through and including six on the attachment.

The version that is being drafted has been passed out of committee and will be read across to the Senate Judiciary Committee.

RRM

ATTACHMENT

PROPOSED AMENDMENTS TO SENATE BILL NO. 39

Amendment #1: Change Sec. 5, page 2, line 31 to read:

of the corporation [BOARD] is to manage and invest the assets of the permanent fund and other funds designated by law

ALASKA: YES - LEGAL OPINION

Purpose: to recognize in the Permanent Fund Management Act that the Corporation is authorized to managed other funds (like the Alaska Science and Technology Fund) as designated by law. No change from the status quo.

Amendment #2: Change Sec. 7, page 3, lines 9-11 to read:

(a) The prudent-investor [MAN] rule shall be applied by the corporation [BOARD] in the management and investment of [ALASKA PERMANENT] fund assets. The prudent-investor [MAN] rule as applied to investments of the fund [CORPORATION] means that in making investments the corporation [BOARD] shall

Purpose: to eliminate the reference to gender in the prudent-investor rule, and to make it clear that not only the trustees but also the staff of the Corporation are bound to follow this rule. No change from the status quo.

Amendment #3: Change Sec. 17, page 9, line 8 to read:

Sec. 37.13.140. INCOME. Net income of the fund includes income of the earnings reserve account established under AS 37.13.145. Net income [CORPORATION] shall be computed

Purpose: to clarify that income of the Fund includes income of the earnings reserve account as well as income of the principal. No change from the status quo.

Amendment # 4: Replace Sec. 18, page 9, lines 14-31 with the following:

* **Sec. 18.** AS 37.13.145 is repealed and reenacted to read:

DISPOSITION OF INCOME. (a) The earnings reserve account is established as a separate account in the fund. Income from the fund shall be deposited by the corporation into the account as soon as it is received. Money in the account shall be invested in investments authorized under AS 37.13.120.

(b) At the end of each fiscal year, the corporation shall transfer from the earnings reserve account to the dividend fund established under AS 43.23.045 50 percent of the income available for distribution under AS 37.13.140. However, income earned on money awarded after trial in *State v. Amerada Hess, et. al.*, 1JU-77-847 Civ. (Superior Court, First Judicial District) shall be treated in the same manner as other income of the permanent fund, except that it is not available for distribution to the dividend fund, and shall be annually deposited into the principal of the permanent fund.

(c) After the transfer under (b) of this section, the corporation shall transfer from the earnings reserve account to the principal of the fund an amount sufficient to offset the effect of inflation on principal of the fund during that fiscal year. The corporation shall calculate the amount to transfer to the principal under this subsection by

(1) computing the average of the monthly United States Consumer Price Index for all urban consumers for each of the two previous calendar years;

(2) computing the percentage change between the first and second calendar year average; and

(3) applying that rate to the value of the principal of the fund on the last day of the fiscal year just ended.

Purpose: to rewrite AS 37.13.145: (1) to clarify original legislative intent and Corporation practice regarding the annual disposition of Fund income; (2) to bring (without substantive change) the section of law addressing the annual Permanent Fund dividend transfer from AS 43.23 into AS 37.13; and (3) to spell out the procedure used by the Corporation in the annual inflation-proofing transfer.

Although this amendment represents no change from current legislative practice, there is one minor policy change: this amendment makes it clear that the annual inflation-proofing transfer shall be made from the earnings reserve account rather than from net income as provided for in existing law.

Amendment #5: Add new Sec. 25 to read:

* Sec. 25. AS 43.23.025(a) is amended to read:

Sec. 43.23.025. Amount of dividend. (a) By October 1 of each year the commissioner shall determine the value of a permanent fund dividend for that year by

(1) determining the total amount available for dividend payments, which equals

(A) the amount of income of the Alaska permanent fund transferred to the dividend fund under AS 37.13.145(b) [AS 43.23.045(b)] during the current year;

(B) plus the unexpended and unobligated balances of prior fiscal year appropriations that lapse into the dividend fund under AS 43.23.045(d);

(C) less the amount necessary to pay dividends from the dividend fund in the current year under AS 43.23.055(3) and(7);

(D) less the amount necessary to pay dividends from the dividend fund due to eligible applicants, who, as determined by the department, filed for a previous year's dividend by the filing deadline but who were not included in a previous year's dividend computation;

(E) less appropriations from the dividend fund during the current year, including amounts to pay the costs of administering the dividend program and the hold harmless provisions of AS 43.23.075;

(2) determining the number of individuals eligible to receive a dividend payment for the current year; and

(3) dividing the amount determined under (1) of this section by the amount determined under (2) of this section.

Purpose: this is a conforming amendment to amendment #4 above.

Amendment #6: Add new Sec. 26 to read:

* Sec. 26. AS 43.23.045(b) is repealed.

Purpose: this is also a conforming amendment to amendment #4 above.

.. SUBMITTED TO SENATOR PAT POURCHOT
BY DAVID A. ROSE, EXECUTIVE DIRECTOR
ALASKA PERMANENT FUND CORPORATION
FEBRUARY 1, 1991

(c) An individual who, in claiming a permanent fund dividend, or an individual who, in certifying another person's eligibility, wilfully misrepresents, exercises gross negligence, or recklessly disregards a material fact pertaining to eligibility forfeits the dividend, is subject to a civil fine of up to \$5,000, and loses eligibility to receive the next five dividends following the forfeited dividends. The commissioner may commence proceedings in court to enforce this subsection. (§ 1 ch 102 SLA 1982; am § 3 ch 159 SLA 1988)

Revisor's notes. — Sections 9 and 10, ch. 99, SLA 1985, amend (a) and (b) of this section, and add a new (c). The amendments are effective if § 1, ch. 99, SLA 1985 is repealed (see § 25, ch. 99, SLA 1985). If the amendments become law, the section will read: "(a) In addition to any criminal penalties imposed by state law, if an individual is convicted of a crime in connection with a false statement made in a certification required under AS 43.23.015, and the conviction is not reversed, that individual forfeits all permanent fund dividends credited or paid, together with any interest credited to that individual's annuity account and is not eligible for a future permanent fund dividend.

"(b) If the commissioner determines that a cash dividend should not have been claimed by or paid to an individual, the commissioner may use all collection procedures or remedies available for collec-

tion of taxes under this title to recover the payment of a permanent fund dividend that was improperly made. A notice of an improperly paid dividend must be sent to the individual within 10 years after the improper payment. If notice is not sent within the 10-year period, proceedings may not be commenced in court for recovery of the improper payment.

"(c) If the commissioner determines that a permanent fund dividend should not have been credited to an individual's annuity account, the commissioner may, after notice and opportunity for hearing, direct the commissioner of administration to debit the individual's annuity account for the amount wrongly credited. If the credit is the fault of the individual, the debit must be made within 10 years. If the credit is the fault of the state, the debit must be made within three years."

Effect of amendments. — The 1988 amendment added subsection (c).

Sec. 43.23.040. Penalties and enforcement. [Repealed, § 22 ch 102 SLA 1982.]

Sec. 43.23.045. Dividend fund. (a) The dividend fund is established as a separate fund in the state treasury. The dividend fund shall be administered by the commissioner and shall be invested by the commissioner in the same manner as provided in AS 37.10.070.

(b) Notwithstanding any contrary provision of law, each year the commissioner shall transfer to the dividend fund 50 percent of the income of the Alaska permanent fund earned during the fiscal year ending on June 30 of the current year and available for distribution. However, income earned on money awarded after trial in State v. Amerada Hess, et al., 1JU-77-347 Civ. (Superior Court, First Judicial District) shall be treated in the same manner as other income of the Alaska permanent fund, except that it is not available for distribution to the dividend fund, and shall be annually deposited into the principal of the Alaska permanent fund.

(c) [Repealed, § 24 ch 99 SLA 1985.]

Amendment #4
Deletes (b)
from the
Revenue
Statutes
and moves
it to P.F.
Statutes
37.13.145(b)

Amendment #5

§ 43.23.020

REVENUE AND TAXATION

§ 43.23.025

state managed or disposed of permanent fund dividends received on behalf of the minor or incompetent, or an election made or not made on that individual's behalf under AS 43.23.005(d).

"(i) The permanent fund dividend application form shall be prepared to allow an applicant, other than a person who is exempt under AS 47.45.015(b), to elect to receive the dividend either in cash or as an annuity credit."

Cross references. — For voluntary contributions to Alaska Winter Olympics account, see AS 05.35.100.

Effect of amendments. — The 1989 amendment rewrote the statement of eligibility and certification of residency in subsection (b) to the extent that a detailed comparison is impracticable.

The 1989 amendment substituted "24 months" for "six months" in the first two paragraphs of the form in subsection (b).

The 1990 amendment, effective January 1, 1991, inserted "a disabled or" before "an incompetent" in subsection (d) and near the beginning of subsection (f) and inserted "disabled or" before "incompetent" near the end of subsection (f).

Sec. 43.23.020. Proof of eligibility. [Repealed, § 22 ch 102 SLA 1982.]

Sec. 43.23.025. Amount of dividend. (a) By October 1 of each year the commissioner shall determine the value of each permanent fund dividend for that year by

(1) determining the total amount available for dividend payments, which equals

(A) the amount of income of the Alaska permanent fund transferred to the dividend fund under AS 43.23.045(b) during the current year;

(B) plus the unexpended and unobligated balances of prior fiscal year appropriations that lapse into the dividend fund under AS 43.23.045(d);

(C) less the amount necessary to pay dividends from the dividend fund in the current year under AS 43.23.055(3) and (7);

(D) less the amount necessary to pay dividends from the dividend fund due to eligible applicants who, as determined by the department, filed for a previous year's dividend by the filing deadline but who were not included in a previous year's dividend computation;

(E) less appropriations from the dividend fund during the current year, including amounts to pay costs of administering the dividend program and the hold harmless provisions of AS 43.23.075;

(2) determining the number of individuals eligible to receive a dividend payment for the current year; and

(3) dividing the amount determined under (1) of this section by the amount determined under (2) of this section.

(b) For the purpose of calculating the amount of a permanent fund dividend under (a) of this section, an individual who is ineligible to receive a dividend under AS 43.23.005(d) is counted as an eligible individual whether or not the individual has applied for the dividend. (§ 1 ch 102 SLA 1982; am § 1 ch 55 SLA 1983; am § 2 ch 43 SLA 1984; am § 2 ch 57 SLA 1987; am § 2 ch 54 SLA 1988; am § 4 ch 68 SLA 1990; am § 1 ch 198 SLA 1990)

changes references to AS 37.13.14(b) to reflect new location of dividend language pursuant to amendment #4

Sec. 37.13.130. Gains and losses. [Repealed, § 13 ch 81 SLA 1982.]

Sec. 37.13.140. Income. Net income of the corporation shall be computed annually as of the last day of the fiscal year in accordance with generally accepted accounting principles, excluding any unrealized gains or losses. Income available for distribution equals 21 percent of the net income of the corporation for the last five fiscal years, including the fiscal year just ended, but may not exceed net income of the corporation for the fiscal year just ended plus the balance in the earnings reserve account described in AS 37.13.145. (§ 5 ch 18 SLA 1980; am § 8 ch 81 SLA 1982; am § 1 ch 28 SLA 1986)

Effect of amendments. — The 1986 amendment in the first sentence substituted "shall" for "must" and in the second sentence substituted "21 percent of the net income" for "the average net income" and "earnings reserve" for "undistributed income."

Sec. 37.13.145. Disposition of income. At the end of each fiscal year, an amount sufficient to offset the effect of inflation on principal of the Alaska permanent fund during that year, as measured by the change in the calendar year average United States consumer price index for all urban consumers shall be transferred from net income as defined in AS 37.13.140, excluding income on the earnings reserve account in the Alaska permanent fund, to the principal of the Alaska permanent fund for reinvestment. The balance of the income available for distribution under AS 37.13.140 shall be transferred to the earnings reserve account in the Alaska permanent fund. Money in the earnings reserve account shall be invested in investments authorized under AS 37.13.120. Income from the investment of the earnings reserve account shall be treated as an addition to that account. (§ 9 ch 81 SLA 1982; am § 2 ch 28 SLA 1986)

Cross references. — For transfer of certain income earned by the Alaska permanent fund prior to July 1, 1982, to the undistributed income account, see § 15, ch. 81, SLA 1982.

Effect of amendments. — The 1986 amendment in the first sentence substituted "the change in the calendar year average United States consumer price index for all urban consumers" for "a nationally recognized index," in the second sentence substituted "income available for distribution under" for "net income as defined in," and substituted "earnings reserve" for "undistributed income" throughout the section.

Sec. 37.13.150. Corporation budget. The revenue generated by the corporation's investments must be identified as the source of the operating budget of the corporation in the state's operating budget under AS 37.07 (Executive Budget Act). The unexpended balance of the corporation's annual operating budget does not lapse at the end of the fiscal year but shall be treated as income under AS 37.13.140. (§ 5 ch 18 SLA 1980; am § 10 ch 81 SLA 1982)

SENATE BILL NO. 39

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY SENATOR POURCHOT

Introduced:
Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the permanent fund and the Alaska Permanent Fund Corporation; and
2 providing for an effective date."

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

4 * Section 1. AS 37.13.010(a) is amended to read:

5 (a) Under art. IX, sec. 15 of the state constitution, there is established as a separate fund
6 *language consistency* the Alaska permanent fund. The [ALASKA PERMANENT] fund principal consists of

7 (1) 25 percent of all mineral lease rentals, royalties, royalty sale proceeds, net
8 profit shares under AS 38.05.180(f) and (g), and federal mineral revenue sharing payments
9 received by the state from mineral leases issued on or before December 1, 1979, and 25 percent
10 of all bonuses received by the state from mineral leases issued on or before February 15, 1980;

11 (2) 50 percent of all mineral lease rentals, royalties, royalty sale proceeds, net
12 profit shares under AS 38.05.180(f) and (g), and federal mineral revenue sharing payments
13 received by the state from mineral leases issued after December 1, 1979, and 50 percent of all
14 bonuses received by the state from mineral leases issued after February 15, 1980;

1. interest on revenue
2. litigation

(3) interest earned by the state on money described in (1) and (2) of this subsection before that money is deposited in the fund;

(4) any other money appropriated to or otherwise allocated by law to the [ALASKA PERMANENT] fund.

* Sec. 2. AS 37.13.010(b) is amended to read:

(b) Payments due the Alaska permanent fund under (a) of this section shall be made to the fund on the day the amount due to the fund reaches at least \$5,000,000 and at least once each month.

* Sec. 3. AS 37.13.020 is amended to read:

7. timely
8. transfers
from DNR

Sec. 37.13.020. FINDINGS. The people of the state, by constitutional amendment, have required the placement of at least 25 percent of all mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue sharing payments and bonuses received by the state into a permanent fund. The legislature finds with respect to the fund [ALASKA PERMANENT FUND CORPORATION] that

14. language
15. consistency

(1) the fund [CORPORATION] should provide a means of conserving a portion of the state's revenue from mineral resources to benefit all generations of Alaskans;

(2) the fund's [CORPORATION'S] goal should be to maintain safety of principal while maximizing total return;

(3) the fund [CORPORATION] should be used as a savings device managed to allow the maximum use of disposable income from the fund [CORPORATION] for purposes designated by law.

* Sec. 4. AS 37.13.030 is amended to read:

Sec. 37.13.030. PURPOSE. It is the purpose of this chapter to provide a mechanism for the management and investment of those [PERMANENT] fund assets by [ALLOCATED TO] the Alaska Permanent Fund Corporation in a manner consistent with the findings in AS 37.13.020.

* Sec. 5. AS 37.13.040 is amended to read:

Sec. 37.13.040. ALASKA PERMANENT FUND CORPORATION. There is established the Alaska Permanent Fund Corporation. The corporation is a public corporation and government instrumentality in the Department of Revenue managed by the board of trustees. The purpose of the corporation [BOARD] is to manage and invest the assets of the permanent fund

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1 [CORPORATION] in accordance with this chapter.

2 * Sec. 6. AS 37.13.110(b) is amended to read:

3 (b) If a member of the board or an employee of the corporation acquires, owns, or
4 controls an interest, direct or indirect, in an entity or project in which fund [CORPORATION]
5 assets are invested, the member shall immediately disclose the interest to the board. The
6 disclosure is a matter of public record and shall be included in the minutes of the board meeting
7 next following the disclosure.

8 * Sec. 7. AS 37.13.120(a) is amended to read:

9 (a) The prudent-man rule shall be applied by the board in the management and
10 investment of [ALASKA PERMANENT] fund assets. The prudent-man rule as applied to
11 investments of the fund [CORPORATION] means that in making investments the board shall
12 exercise the judgment and care under the circumstances then prevailing that an institutional
13 investor of ordinary prudence, discretion, and intelligence exercises in the management of large
14 investments entrusted to it not in regard to speculation but in regard to the permanent disposition
15 of funds, considering probable safety of capital as well as probable income.

16 * Sec. 8. AS 37.13.120(b) is amended to read:

17 (b) The fund [CORPORATION] assets shall only be used for income-producing
18 investments.

19 * Sec. 9. AS 37.13.120(e) is amended to read:

20 (e) The corporation may not borrow money [FUNDS] or guarantee from principal of the
21 [ALASKA PERMANENT] fund the obligations of others.

22 * Sec. 10. AS 37.13.120(g) is amended to read:

23 (g) Subject to the limitations contained in this section, the board may invest fund
24 [CORPORATION] assets at the competitive national market rates or prices that are applicable
25 to each investment only in

26 (1) obligations of, or obligations insured by or guaranteed by, the United States
27 or agencies or instrumentalities of the United States;

28 (2) obligations secured by reserves paid in by the United States or agencies or
29 instrumentalities of the United States or obligations of corporations in which the United States
30 is a shareholder or member;

31 (3) certificates of deposit and term deposits of United States domestic banks that

1 are members of the Federal Deposit Insurance Corporation and that may be readily sold in a
2 secondary market at prices reflecting fair value or that are fully secured at all times as to
3 payment of principal and interest as described in (m) of this section;

4 (4) [CERTIFICATES OF DEPOSIT AND TERM DEPOSITS OF FEDERALLY
5 CHARTERED SAVINGS AND LOAN ASSOCIATIONS IN ALASKA THAT MAY BE
6 READILY SOLD IN A SECONDARY MARKET AT PRICES REFLECTING FAIR VALUE
7 OR THAT ARE FULLY SECURED AT ALL TIMES AS TO PAYMENTS OF PRINCIPAL
8 AND INTEREST AS DESCRIBED IN (m) OF THIS SECTION;

9 (5) CERTIFICATES OF DEPOSIT AND TERM DEPOSITS OF STATE
10 CHARTERED SAVINGS AND LOAN ASSOCIATIONS IN ALASKA THAT MAY BE
11 READILY SOLD IN A SECONDARY MARKET AT PRICES REFLECTING FAIR VALUE
12 OR THAT ARE FULLY SECURED AT ALL TIMES AS TO PAYMENTS OF PRINCIPAL
13 AND INTEREST AS DESCRIBED IN (m) OF THIS SECTION;

14 (6) CERTIFICATES OF DEPOSIT AND TERM DEPOSITS OF MUTUAL
15 SAVINGS BANKS IN ALASKA THAT MAY BE READILY SOLD IN A SECONDARY
16 MARKET AT PRICES REFLECTING FAIR VALUE OR THAT ARE FULLY SECURED AT
17 ALL TIMES AS TO PAYMENTS OF PRINCIPAL AND INTEREST AS DESCRIBED IN (m)
18 OF THIS SECTION;

19 (7) FIXED-TERM CERTIFICATES OF INDEBTEDNESS OF FEDERALLY
20 INSURED CREDIT UNIONS IN ALASKA THAT MAY BE READILY SOLD IN A SECON-
21 DARY MARKET AT PRICES REFLECTING FAIR VALUE OR THAT ARE FULLY
22 SECURED AT ALL TIMES AS TO PAYMENTS OF PRINCIPAL AND INTEREST AS
23 DESCRIBED IN (m) OF THIS SECTION;

24 (8) domestic corporate debt securities that are rated AA or better by a nationally
25 recognized rating service, or nondomestic corporate debt securities of comparable quality;

26 (5) [(9)] short-term

27 (A) domestic corporate promissory notes of the highest ratings assigned
28 by a nationally recognized rating service; [,] or

29 (B) nondomestic corporate promissory notes of comparable quality, the
30 interest on which may be payable in either United States dollars or nondomestic
31 currencies;

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(6) [(10)] bankers' acceptances drawn on and accepted by United States banks each of which has a combined capital and surplus aggregating at least \$200,000,000;

(7) [(11)] repurchase agreements, the securities underlying the agreements being any of the items in (1) - (6) [(1) - (3) AND (8) - (10)] of this subsection;

(8) [(12)] THE GUARANTEED PORTION OF FEDERAL SMALL BUSINESS ADMINISTRATION LOANS;

(13) THE PORTION OF FIRST LIEN REAL ESTATE MORTGAGES GUARANTEED BY THE FEDERAL VETERANS ADMINISTRATION;

(14)] the portions of business and industrial loans made under the Rural Development Act of 1972 that are guaranteed by the Farmers Home Administration;

(9) [(15)] the guaranteed portion of Farmers Home Administration loans;

(10) [(16)] notes secured by mortgages granting a first lien on [COMMERCIAL OR] residential real estate improved by completed buildings if the mortgages are insured by a private mortgage insurance corporation that is authorized to do business in this state [ALASKA] and has combined capital and surplus aggregating at least \$20,000,000, and if loan-to-value ratios do not exceed [75 PERCENT FOR COMMERCIAL MORTGAGES AND] 90 percent [FOR RESIDENTIAL MORTGAGES]; however,

[(A) MORTGAGE INSURANCE IS NOT NECESSARY FOR COMMERCIAL LOANS HAVING LOAN-TO-VALUE RATIOS OF LESS THAN 50 PERCENT AND THE MINIMUM COVERAGE OF OTHER COMMERCIAL LOANS SHALL BE 10 PERCENT FOR THOSE HAVING A LOAN-TO-VALUE RATIO OF 50 - 60 PERCENT AND 15 PERCENT FOR THOSE HAVING A LOAN-TO-VALUE RATIO GREATER THAN 60 PERCENT BUT NO MORE THAN 75 PERCENT; AND

(B)] mortgage insurance is not necessary for residential loans having a loan-to-value ratio of less than 70 percent and the minimum coverage of other residential loans shall be 10 percent for those having a loan-to-value ratio greater than 70 percent but less than 90 percent and 20 percent for those having a loan-to-value ratio of 90 percent;

(11) [(17)] NOTES SECURED BY MORTGAGES GRANTING A FIRST LIEN ON COMMERCIAL REAL ESTATE IMPROVED BY COMPLETED BUILDINGS IF THE ORIGINATING FINANCIAL INSTITUTION RETAINS AT LEAST 25 PERCENT OF THE

deletion of non trust grade investments

high risk investments which have been prohibited by bond policy

1 MORTGAGE UNTIL MATURITY;

2 (18)] preferred and common stock of corporations incorporated in the United
3 States;

4 (12) [(19)] certificates of deposit, term deposits, or bankers' acceptances, that are
5 issued by a United States or nondomestic bank or trust company located outside of the United
6 States and are denominated in United States or nondomestic currency, if either (A) they may be
7 readily sold in a secondary market at prices reflecting fair value, or (B) the issuing bank or trust
8 company has capital, surplus, and retained earnings at the date of issue equaling at least
9 \$500,000,000; investments made under this paragraph are not subject to the collateral
10 requirements for domestic certificates under (m) of this section;

11 (13) [(20)] equity interests in, and debt obligations secured by mortgages granting
12 a first lien on, real estate improved by completed and substantially rented buildings and located
13 in the United States, if these investments are made

14 (A) in a corporation, partnership, trust, or other entity in which, at the
15 conclusion of each investment transaction, at least 60 percent of the beneficial ownership
16 interests are held by other institutional investors, and which is organized and operated for
17 the purpose of making real estate investments by a bank, insurance company, or other
18 manager of institutional funds that has had at least five years of experience in the
19 management of real estate investments of institutional investors; or

20 (B) with corporations, partnerships, trusts, or entities in which, at the
21 conclusion of each investment transaction, at least 60 percent of the beneficial
22 ownership interests in the co-investing entity or entities as a whole are held by
23 institutional investors, if

24 (i) at the time of investment the fund has no more than
25 a 40 percent beneficial ownership interest in the real estate invested in as a
26 whole;

27 (ii) the rights and obligations of the fund are
28 substantially similar to those of the other institutional investors, except for the
29 percentage interest in the property; and

30 (iii) the property is managed and operated by an entity
31 that has had at least five years of experience in the management of real estate

*more comprehensive
replacement for
language deleted
in lines 1-3
on page 7*

1 investments of institutional investors [IN CONJUNCTION WITH AND ON
2 SUBSTANTIALLY THE SAME TERMS AS AN ENTITY DESCRIBED IN (A)
3 OF THIS PARAGRAPH];

4 (14) [(21)] securities of non-domestic governments and non-domestic government
5 agencies, the principal of, or interest on, which is payable in either United States dollars or non-
6 domestic currencies;

7 (15) [(22)] securities of non-domestic corporations, including common and
8 preferred stock, whose dividends, if any, may be payable in either United States dollars or non-
9 domestic currencies;

10 (16) taxable municipal or state debt securities that are rated "AA" or better
11 by a nationally recognized rating service;

12 (17) shares in a money market or short-term investment fund that has either
13 collateral securities of a type authorized elsewhere in this section as acceptable collateral
14 or securities of similar quality to those authorized elsewhere in this section as acceptable
15 collateral.

16 * Sec. 11. AS 37.13.120(i) is amended to read:

17 (i) The [ALASKA PERMANENT] fund may at no time own more than five percent of
18 the voting stock of a corporation. Domestic stocks, except for bank and insurance company
19 stocks, must be listed at the date of purchase on an exchange registered with the Securities and
20 Exchange Commission. At the time of each investment, the aggregate investment of the fund in
21 each stated category of investment may not exceed the following stated percentage of the total
22 investments of the fund:

23 (1) mortgages under (g)(10) [(g)(16)] of this section - 15 percent;

24 (2) real estate investments under (g)(13) [(g)(20)] of this section - 15 percent;

25 (3) certificates of deposit, term deposit, or bankers' acceptances under (g)(12)
26 [(g)(15)] of this section - 20 percent;

27 (4) securities of nondomestic governments, nondomestic government agencies, and
28 nondomestic corporations under (g)(4), (14), and (15) [(g)(8), (21), AND (22)] of this section,
29 domestic corporate stocks and debt securities under (g)(4) [(g)(8)] and (11) [(18)] of this section,
30 and short-term nondomestic corporate promissory notes under (g)(5)(B) [(g)(9)(B)] of this section
31 - 50 percent.

replaced by
lines 20-31
on preceding
page

authorizes
immediate deposit
of new money
into "overnight"
vehicles with
an investment
decision IS made

1 * Sec. 12. AS 37.13.120(j) is amended to read:

2 (j) The assets of the [ALASKA PERMANENT] fund may not be used for the purchase
3 of bonds of a corporation, upon which any regular interest payment has been defaulted within
4 five years before purchase, except bonds never in default but which have been outstanding for
5 less than five years.

6 * Sec. 13. AS 37.13.120(k) is amended to read:

7 (k) The board shall establish and from time to time as necessary modify guidelines for
8 the investment of the assets of the fund [CORPORATION]. Before adoption of any guidelines
9 the guidelines shall be reported to the Legislative Budget and Audit Committee for review and
10 comment.

11 * Sec. 14. AS 37.13.120(l) is amended to read:

12 (l) The board shall invest the assets of the fund [CORPORATION] in in-state
13 investments to the extent in-state investments are available if the in-state investments

14 (1) have a risk level and expected yield comparable to alternate investment
15 opportunities; and

16 (2) are included in the list of permissible investments in (g) of this section.

17 * Sec. 15. AS 37.13.120(m) is amended to read:

18 (m) Certificates of deposit or the equivalent instruments that are not of a quality that may
19 be readily sold in a secondary market at prices reflecting fair value must be secured by a pledge
20 as collateral of

21 (1) investments authorized for the [ALASKA PERMANENT] fund under (g)(1),
22 (2), (4), or (8) - (10) [(8), OR (12) - (17)] of this section;

23 (2) [OR BY A PLEDGE AS COLLATERAL OF] obligations of the state or
24 instrumentalities of the state that are rated at least "A" by a major bond rating service and have
25 a demonstrated secondary market, which investments or obligations have value at least equal to
26 the face value of the certificate of deposit;

27 (3) the guaranteed portion of Federal Small Business Administration loans;

28 (4) the portion of first lien real estate mortgages guaranteed by the federal
29 Department of Veterans Affairs; or

30 (5) notes secured by mortgages granting a first lien on commercial or
31 residential real estate improved by completed buildings if the originating financial

1 institution retains at least 25 percent of the mortgage until maturity. [THE BOARD MAY
2 REQUIRE SUBSTITUTION OF COLLATERAL IN ORDER TO ENSURE CONTINUED
3 SATISFACTION OF THE REQUIREMENTS SET OUT IN THIS SUBSECTION.]

4 * Sec. 16. AS 37.13.120 is amended by adding a new subsection to read:

5 (n) The board may require substitution of collateral in order to ensure continued
6 satisfaction of the requirements set out in (m) of this section.

7 * Sec. 17. AS 37.13.140 is amended to read:

8 Sec. 37.13.140. INCOME. Net income of the fund [CORPORATION] shall be computed
9 annually as of the last day of the fiscal year in accordance with generally accepted accounting
10 principles, excluding any unrealized gains or losses. Income available for distribution equals 21
11 percent of the net income of the fund [CORPORATION] for the last five fiscal years, including
12 the fiscal year just ended, but may not exceed net income of the corporation for the fiscal year
13 just ended plus the balance in the earnings reserve account described in AS 37.13.145.

14 * Sec. 18. AS 37.13.145 is amended to read:

15 Sec. 37.13.145. DISPOSITION OF INCOME. (a) At the end of each fiscal year, an
16 amount sufficient to offset the effect of inflation on principal of the [ALASKA PERMANENT]
17 fund during that year [, AS MEASURED BY THE CHANGE IN THE CALENDAR YEAR
18 AVERAGE UNITED STATES CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS]
19 shall be transferred by the corporation from net income as defined in AS 37.13.140, excluding
20 income on the earnings reserve account [IN THE ALASKA PERMANENT FUND], to the
21 principal of the [ALASKA PERMANENT] fund for reinvestment. The corporation shall
calculate the amount to transfer to the principal under this subsection by determining the
average rate of inflation for the previous fiscal year as measured by the change in the
calendar year average United States Consumer Price Index for all urban consumers and
applying that rate to the value of the principal of the fund on the last day of the previous
fiscal year.

22 (b) After the transfer under (a) of this section, the [THE] balance of the income
23 available for distribution under AS 37.13.140 shall be transferred to the earnings reserve account
24 in the [ALASKA PERMANENT] fund. Money in the earnings reserve account shall be invested
25 in investments authorized under AS 37.13.120. Income from the investment of the earnings
26 reserve account shall be treated as an addition to that account.
27
28
29
30
31

*inflation - proofing
based on the 23 value
of the principal on
the last day of the
fiscal year*

1 * Sec. 19. AS 37.13.150 is amended to read:

2 Sec. 37.13.150. CORPORATION BUDGET. The revenue generated by the fund's
3 [CORPORATION'S] investments must be identified as the source of the operating budget of the
4 *language* corporation in the state's operating budget under AS 37.07 (Executive Budget Act). The
5 unexpended balance of the corporation's annual operating budget does not lapse at the end of the
6 fiscal year but shall be treated as income under AS 37.13.140.

7 * Sec. 20. AS 37.13.160 is amended to read:

8 Sec. 37.13.160. AUDITS. The Legislative Budget and Audit Committee may provide
9 *language* for an annual post audit and annual operational and performance evaluations of the fund's
10 [CORPORATION'S] investments and investment programs.

11 * Sec. 21. AS 37.13.170 is amended to read:

12 Sec. 37.13.170. REPORTS AND PUBLICATIONS. By September 30 of each year, the
13 board shall publish a report of the fund [CORPORATION] for distribution to the governor,
14 legislature, and the public. The report shall be written in easily understandable language. The
15 *language* report must include financial statements audited by independent outside auditors, a statement of
16 *language* the amount of money received by the [ALASKA PERMANENT] fund from each investment
17 during the period covered, a statement of investments of the fund [CORPORATION] including
18 an appraisal at market value, a description of fund [CORPORATION] investment activity during
19 the period covered by the report, a comparison of the fund [CORPORATION] performance with
20 the intended goals contained in AS 37.13.020, an examination of the impact of the investment
21 criteria of this chapter on the fund [CORPORATION] portfolio with recommendations of any
22 needed changes, and any other information the board believes would be of interest to the
23 governor, the legislature, and the public. The annual income statement and balance sheet of the
24 fund [CORPORATION] shall be published in at least one newspaper in each judicial district. The
25 income statement and balance sheet for the two fiscal years preceding the publication of the
26 election pamphlet under AS 15.58 shall be included in that pamphlet.

27 * Sec. 22. AS 37.13.180 is amended to read:

28 Sec. 37.13.180. TAX EXEMPTION. The corporation and the fund are [IS] exempt
29 *language* from all taxes and assessments in the state. All security instruments issued by the corporation
30 or the fund, their transfer, and their income are exempt from all taxes and assessments in the
31 state.

1 * Sec. 23. AS 37.13.190 is amended to read:

2 Sec. 37.13.190. POLITICAL ACTIVITIES. The resources of the corporation or the fund
3 may not be used to finance or influence political activities.

4 * Sec. 24. AS 37.13.210 is amended by adding a new paragraph to read:

5 (3) "fund" means the Alaska permanent fund established under art. IX, sec. 15.
6 Constitution of the State of Alaska.

7 * Sec. 25. This Act takes effect July 1, 1991.

Educational endowment

The Governor's proposed education endowment engendered lengthy comment and healthy debate before the Commission. People discussed the issues of the Permanent Fund's role, government spending in general, and specifically the level and method of funding education. This issue is now before the Legislature and this appears to be the appropriate forum for deciding upon any proposal to be placed before the voters.

Recommendation: The Commission forwards no specific recommendation on the proposed educational endowment.

Clean up the statutory language

The Legislature should re-examine all of the current statutes involving the Permanent Fund for consistency and clarity. A clear and precise definition and method of calculating net income should be adopted (in the absence of the adoption of a payout method). There appears to be less than precise use of the terms "fund", "principal", and "Corporation".

For example, A.S. 37.13.010(a) discusses the Permanent Fund and is generally cited as the statutory definition of the principal of the Fund. It is often stated that the balance in the earnings reserve account (ERA) is not part of the principal. However, a reading of A.S. 37.13.010(a)(3) and 37.13.145 "allocates" the ERA which is "in the Alaska Permanent Fund". If the ERA is not part of the "fund", i.e. principal, why are the earnings from the ERA used to calculate dividends? Also A.S. 37.13.140 addresses "net income of the corporation" and A.S. 37.13.040 discusses the "assets of the corporation", while neither of these phrases is defined.

Recommendation: The ambiguities in the existing statutes regarding the Permanent Fund should be clarified.

income for the Fund over time and, hence, lesser principal. The current inflation-proofing procedure (converting investments into cash which can then be deposited into the principal) may actually be robbing the Fund of real growth over time.

(2) Maximizing Deposits: In the past, the Corporation has calculated annual inflation-proofing requirements so as to produce the maximum possible deposit for inflation-proofing each year. The Corporation assumes that the dedicated mineral revenue deposits are included in the fund's principal for the entire fiscal year, when in fact dedicated revenue deposits into the Fund occur continuously throughout the year, and their actual inflation-proofing requirements are less than the inflation-proofing deposits made. With the statute silent on this point, the Corporation has chosen an approach unusual by accounting practices, but designed to produce maximum contributions to the fund's principal. The Corporation sought legislative approval for this approach through Legislative Budget and Audit, albeit after the fact. After one unsuccessful attempt (October 24, 1983 meeting, where action was tabled), Legislative Budget and Audit approved the methodology at its January 12, 1984 meeting. But it remains a matter of policy, not statute nor regulation, and with a different Board of Trustees or Corporation staff, the outcome could be different.

(3) Inflation-proofing Transfers: Inflation-proofing transfers used to occur automatically under AS 37.13.145, but arguably require an appropriation. In an April 11, 1979 memorandum, the Dept. of Law examined the clause concerning disposition of permanent fund income: "all income from the permanent fund shall be deposited in the general fund unless otherwise provided by law." and concluded that the clause does not exempt the fund's income from the prohibition against dedicated funds. Further, the constitution provides that "No money shall be withdrawn from the treasury except in accordance with appropriations made by law" (Art. IX, Sec. 13). Furthermore, the Alaska courts have subsequently ruled that continuing appropriations are not constitutional. The counter argument is that the statutory dedication is arguably required to achieve the basic goal for which the fund was established, i.e. provide permanence, and hence is allowable. If that argument were carried to its logical conclusion, however, then inflation-proofing would be automatically the first priority for Fund earnings, which it clearly is not. If there is ambiguity, it seems

Net Income of \$1.069 billion, minus Permanent Fund Dividends (PFD) of \$391 million, minus Inflation-Proofing of \$148 million, leaves a Net Income residual of \$530 million.

Income Available for Distribution of \$787 million, minus PFD of \$391 million, minus Inflation-Proofing of \$148 million,⁶ leaves an Income Available for Distribution residual of \$248 million.

The difference between the two residuals is \$282 million, which has since earned interest of about \$54 million, for a total of about \$335 million.

The statute calls for only the residual from "Income available for distribution" to be transferred to the earnings reserve account, or \$248 million. Instead, the entire "net income" residual of \$530 million was retained in the earnings reserve account. The statutory confusion has resulted in the disposition of over \$300 million taking place without due legislative consideration. The policy consequences are to increase the size of the dividend and keep money out of the general fund which should be there as a matter of constitutional requirement. A clarification of the statute is warranted to establish legislative intent.

Treatment of Royalty Litigation Interest Earnings - - 8(g) or Dinkum Sands and North Slope Royalty Funds

When funds placed in escrow during royalty litigation generate interest earnings, should the interest that eventually goes to the Permanent Fund be treated upon receipt by the Corporation as principal or as earnings? If the latter, the money representing the interest component would be distributable and available for appropriation. As oil revenues dwindle in the future, the availability or non-availability of royalty litigation interest earnings will have significant fiscal and possible program implications for the state. Legal proceeds from both the North Slope Royalty and Dinkum Sands cases may be large, as much as \$2.3 billion. Of that combined total, approximately \$386

⁶ The statutes do not speak to subtracting Inflation-Proofing from Income Available for Distribution, but from Net Income. The practice, however, is as represented in the example. If one relies solely on the statutory construction, the numbers never add up.

million of interest earnings would go to the Permanent Fund, along with \$385 million in principal. The table below presents maximum distributions based on the "best of all possible worlds" outcomes for the state. Noteworthy is that interest earnings now rival the principal amount in both cases.

Maximum Possible Distributions to Permanent Fund of Dinkum Sands and North Slope Royalty-related Proceeds*

Dinkum Sands

\$ 194,797,625	Bonuses	244,126,432	Bonus Interest
<u>990,991</u>	Rents	<u>1,167,879</u>	Rent Interest
\$ 195,788,616	Total Rents/Bonuses	245,294,311	Total Interest

North Slope Royalty Case

\$ 131,249,721	RIV Deficiencies	101,117,831	RIV Interest
<u>58,286,680</u>	RIK Deficiencies	<u>39,747,053</u>	RIK Interest
\$ 189,516,401	Total Deficiencies	140,864,884	Total Interest

		<u>Principal</u>	<u>Interest</u>
Dinkum Sands	\$	195,788,616	245,294,311
North Slope		<u>189,516,401</u>	<u>140,864,884</u>
Total	\$	385,305,017	386,159,195
<hr/>			
Total Permanent Fund Distributions	\$	771,464,212	

* Dinkum Sands proceeds calculations based on Minerals Management Service data of 12/31/89; North Slope Royalty proceeds calculations based on estimated deficiencies plus interest as of 3/90; Heller Partnow, and Condon.



Alaska Permanent Fund Corporation

P.O. Box 4-1000 Juneau, Alaska 99802-4100

(907) 465-2047

MEMORANDUM

DATE: April 25, 1991

TO: Senator Rick Halford
Chairman, Senate Judiciary Committee

FROM: David A. Rose 
Executive Director

SUBJECT: **Proposed Amendments to CS SB 39 (L&C)**

The following amendment is recommended by the Alaska Permanent Fund Corporation for the Committee's consideration.

Amendment #1: Change lines 5-24 of Sec. 10, page 4 to read as follows:

(4) certificates of deposit and term deposits of federally chartered savings and loan associations in Alaska [THAT MAY BE READILY SOLD IN A SECONDARY MARKET AT PRICES REFLECTING FAIR VALUE OR] that are fully secured at all times as to payments of principal and interest as described in (m) of this section;

[(5) CERTIFICATES OF DEPOSIT AND TERM DEPOSITS OF STATE CHARTERED SAVINGS AND LOAN ASSOCIATIONS IN ALASKA THAT MAY BE READILY SOLD IN A SECONDARY MARKET AT PRICES REFLECTING FAIR VALUE OR THAT ARE FULLY SECURED AT ALL TIMES AS TO PAYMENTS OF PRINCIPAL, AND INTEREST AS DESCRIBED IN (M) OF THIS SECTION;]

(6) certificates of deposit and term deposits of mutual savings banks in Alaska [THAT MAY BE READILY SOLD IN A SECONDARY MARKET AT PRICES REFLECTING FAIR VALUE OR] that are fully secured at all times as to payments of principal and interest as described in (m) of this section;

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**



Alaska Permanent Fund Corporation

P.O. Box 4-1000 Juneau, Alaska 99802-4100

(907) 465-2047

MEMORANDUM

DATE: April 25, 1991

TO: Senator Rick Halford
Chairman, Senate Judiciary Committee

FROM: David A. Rose 
Executive Director

SUBJECT: Proposed Amendments to CS SB 39 (L&C)

The following amendment is recommended by the Alaska Permanent Fund Corporation for the Committee's consideration.

Amendment #1: Change lines 5-24 of Sec. 10, page 4 to read as follows:

(4) certificates of deposit and term deposits of federally chartered savings and loan associations in Alaska [THAT MAY BE READILY SOLD IN A SECONDARY MARKET AT PRICES REFLECTING FAIR VALUE OR] that are fully secured at all times as to payments of principal and interest as described in (m) of this section;

[(5) CERTIFICATES OF DEPOSIT AND TERM DEPOSITS OF STATE CHARTERED SAVINGS AND LOAN ASSOCIATIONS IN ALASKA THAT MAY BE READILY SOLD IN A SECONDARY MARKET AT PRICES REFLECTING FAIR VALUE OR THAT ARE FULLY SECURED AT ALL TIMES AS TO PAYMENTS OF PRINCIPAL AND INTEREST AS DESCRIBED IN (M) OF THIS SECTION;]

(6) certificates of deposit and term deposits of mutual savings banks in Alaska [THAT MAY BE READILY SOLD IN A SECONDARY MARKET AT PRICES REFLECTING FAIR VALUE OR] that are fully secured at all times as to payments of principal and interest as described in (m) of this section;

(7) fixed-term certificates of indebtedness of federally insured credit unions in Alaska [THAT MAY BE READILY SOLD IN A SECONDARY MARKET AT PRICES REFLECTING FAIR VALUE OR] that are fully secured at all times as to payments of principal and interest as described in (m) of this section;

Purpose: (1) Deletes references to readily available secondary markets for certificates of deposit of Alaska savings and loan associations, mutual savings banks and credit unions because such markets do not exist. (2) Deletes reference to state-chartered savings and loan associations in Alaska because such S&Ls do not exist.

Certificates of deposit (and/or certificates of indebtedness) of federally-chartered S&Ls in Alaska, Alaska mutual savings banks and federally-chartered credit unions in Alaska would continue to be authorized investments for the Permanent Fund so long as they are fully secured as under current law.




Alaska Permanent Fund Corporation
P.O. Box 4-1000 Juneau, Alaska 99802-4100
(907) 465-2047

MEMORANDUM

DATE: February 20, 1991

TO: Senator Pat Pourchot
Co-Chairman, Senate Finance Committee

FROM: David A. Rose 
Executive Director

SUBJECT: Proposed Amendments to CS SB 39 (L&C)

First, please find attached copies of:

* A letter to me from Representative Larson dated February 15 with an attached memorandum from Milt Barker of his staff which propose two amendments to CS SB 39 (L&C).

* My response to that letter dated February 20, 1991. I have reviewed the two proposed amendments and I have no objection to them. I do not agree, however, with Mr. Barker's comment that the current method of inflation-proofing over-compensates for inflation.

* A copy of a memorandum from Bill Means of my staff addressing the issue of expanding the Corporation's authorized list of investments to allow the purchase of A-rated corporate bonds. The Corporation supports this change.

Second, I would like to request that you include a change to the Permanent Fund's Management Act to exempt completely the Corporation from the procurement code. I suggest language similar to that which you propose in SB 18 for the Alaska State Pension Corporation. The arguments that you apply to the new corporation apply to the Alaska Permanent Fund Corporation as well. I recognize this is a bit of a change from my earlier position on this matter, but my staff informs me that there are indeed good reasons for the exemption.



Alaska Permanent Fund Corporation

P.O. Box 4-1000 Juneau, Alaska 99802-4100

(907) 465-2047

MEMORANDUM

DATE: February 20, 1991

TO: Representative Ron Larson
Chairman, Legislative Budget & Audit Committee

FROM: David A. Rose *DR*
Executive Director

SUBJECT: Proposed Amendments to CS SB 39 (L&C)

I have reviewed your letter dated February 15 and the attached memorandum regarding CS SB 39 (L&C). I have no objection to the two proposed amendments. I do not agree, however, with Mr. Barker's comment that the current method of inflation-proofing over-compensates for inflation.

Proposed Amendments to
Committee Substitute for Senate Bill No. 39 (Labor and Commerce)

Amendment #1: Amend Sec. 1, page 2, lines 1 and 2 to read:

(3) interest earned on money described in (1) and (2) of this subsection while the money is held in trust, escrow, or otherwise before receipt of the money by the state;

Purpose: to avoid requiring deposit of interest earned on such money for the few days it is in the State's general fund, before transfer to the permanent fund. No change from the status quo.

Amendment #2: Amend Sec. 15, page 8, lines 26 and 27 to read:

(2) [OR BY A PLEDGE AS COLLATERAL OF] obligations of the state or instrumentalities of the state that are rated at least "A" by a major bond rating service and have a demonstrated secondary market [,WHICH INVESTMENTS OR OBLIGATIONS HAVE VALUE AT LEAST EQUAL TO THE FACE VALUE OF THE CERTIFICATE OF DEPOSIT]:

and amend Sec. 16, page 9, lines 6 and 7 to read:

(n) Investments or obligations pledged as collateral under (m) of this section must have value at least equal to the face value of the certificate of deposit. The board may require substitution of collateral in order to ensure continued satisfaction of the requirements set out in (m) of this section.

Purpose: to correct a drafting error that would otherwise narrow the applicability of the requirement that collateral equal the value of certificates of deposit. No change from the status quo.



Alaska Permanent Fund Corporation

P.O. Box 4-1000 Juneau, Alaska 99802-4100

(907) 465-2047

MEMORANDUM

DATE: February 19, 1991

TO: David A. Rose
Executive Director

FROM: *William L. Means*
William L. Means
Chief Investment Officer

SUBJECT: Investment Statutes

Alaska Statute 37.13.120(g)(8) limits investments in domestic corporate bonds to those "domestic corporate debt securities that are rated AA or better by a nationally recognized rating service...". During the past decade, the amount of those securities rated AA or higher has contracted steadily as a portion of total investment grade (BBB or better) bonds available to institutional investors. The First Boston Corporation estimates that AAA and AA rated bonds currently comprise only 42% of total investment grade bonds outstanding. That means that the Permanent Fund is excluded from 58% of the investment grade corporate bond market.

Enlarging the Permanent Fund's parameters to include A rated bonds would permit the Fund to earn a higher rate of return on its corporate bond portfolio, while participating in a significant portion of the investment grade bond market in which most pension funds and other institutional investors are quite active. In addition, the Permanent Fund would be able to purchase those bonds which would likely be candidates for bond rating upgrades during periods of economic recovery. However, while enlarging the scope of the investment statutes to include A rated bonds is to be recommended, in my opinion, BBB rated bonds should not be included since the next lower grade would put these bonds in the "junk" category.



Alaska State Legislature

HOUSE OF REPRESENTATIVES

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

Representative Ronald L. Larson
P.O. Box V
Juneau, Alaska 99811

February 15, 1991

Dave A. Rose, Executive Director
Alaska Permanent Fund Corporation
P.O. Box 4-1000
Juneau, Alaska 99802


Dear Mr. Rose,

I plan to provide the enclosed February 14, 1991 memorandum on CSSB 39 to the Budget and Audit Committee at its next meeting.

I would be happy to provide the Committee at the same time any comments you may have regarding the memorandum. In case you wish to attend the meeting, I will notify you when it is scheduled.

I would expect to offer any amendments the Committee feels are needed in the House Finance Committee.

Sincerely,


Ronald L. Larson
State Representative

RECEIVED

FEB 20 1991

ALASKA PERMANENT
FUND CORPORATION

ATTACHMENT I

AS 37.13.120 (m)

"(m) Certificates of deposit or the equivalent instruments that are not of a quality that may be readily sold in a secondary market at prices reflecting fair value must be secured by a pledge as collateral of investments authorized for the Alaska permanent fund under (g)(1), (2), (8), or (12) - (17) of this section or by a pledge as collateral of obligations of the state or instrumentalities of the state that are rated at least "A" by a major bond rating service and have a demonstrated secondary market, which investments or obligations have value at least equal to the face value of the certificate of deposit. The board may require substitution of collateral in order to ensure continued satisfaction of the requirements set out in this subsection."

"Permanent Fund Policy Issues", Division of Policy, Office of Management and Budget, April 1990, page 10 excerpt.

"(2) Maximizing Deposits: In the past, the Corporation has calculated annual inflation-proofing requirements so as to produce the maximum possible deposit for inflation-proofing each year. The Corporation assumes that the dedicated mineral revenue deposits are included in the fund's principal for the entire fiscal year, when in fact dedicated revenue deposits into the Fund occur continuously throughout the year, and their actual inflation-proofing requirements are less than the inflation-proofing deposits made. With the statute silent on this point, the Corporation has chosen an approach unusual by accounting practices, but designed to produce maximum contributions to the fund's principal. The Corporation sought legislative approval for this approach through Legislative Budget and Audit, albeit after the fact. After one unsuccessful attempt (October 24, 1983 meeting, where action was tabled), Legislative Budget and Audit approved the methodology at its January 12, 1984 meeting. But it remains a matter of policy, not statute nor regulation, and with a different Board of Trustees or Corporation staff, the outcome could be different.



Alaska State Legislature

HOUSE OF REPRESENTATIVES

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

TO: The Honorable Ron Larson
Chairman
Legislative Budget & Audit

FROM: Milt Barker ^{MB}
Investment Oversight Staff

SUBJECT: SB 39 Permanent Fund Technical Amendments

DATE: February 14, 1991

At your request, I have reviewed SB 39 and CSSB 39(L&C), relating to the permanent fund and the Alaska Permanent Fund Corporation. I offer the following comments regarding CSSB 39 (attached):

1. Section 1, page 2, lines 1 and 2.

Proposed paragraph AS 37.13.010(a)(3) provides that the permanent fund principal includes:

"interest earned by the state on money described in (1) and (2) of this subsection before that money is deposited in the fund."

This is meant to permanently establish the policy that interest earnings on amounts due the state pursuant to litigation over royalties, for example Dinkum Sands and Amerada Hess (North Slope royalty litigations), goes to permanent fund principal rather than income.

However clearer language would be:

"interest earned on money described in (1) and (2) of this subsection while the money is held in trust, escrow, or otherwise before receipt of the money by the state".

This language would avoid the possible interpretation that interest earned by the state after the receipt of such money but before deposit in the permanent fund is to be deposited in the permanent fund. Such an interpretation would deposit the few days' earnings on the money while it is in the State's general fund.

The suggested language is essentially the language used

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

400 WILLOUGHBY AVENUE
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400
FACSIMILE: (907) 586-2754

February 8, 1991

The Honorable Drue Pearce, Chair
Senate Labor and Commerce Committee
P.O. Box V
Juneau, AK 99811

Dear Senator Pearce:

Subject: SB 39, relating to the permanent fund and the Alaska Permanent Fund Corporation.

Position: The Department of Natural Resources (DNR) is not taking a position on this bill. We are, however, providing information about the bill's effects on department programs.

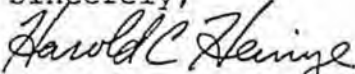
Background: The department's Division of Management is directly involved in the processing of revenues destined for inclusion in the permanent fund, as is the treasury division of the Department of Revenue, and the Department of Administration. When a vendor wires funds directly to the Philadelphia National Bank, the Department of Revenue receives a copy of the transfer, invests the funds, and enters the transaction in the Alaska State Accounting System (AKSAS). The financial services section of the DNR Division of Management determines, through an interface with the Division of Oil and Gas, the percentage of the payment (either 25% or 50%) to be deposited into the permanent fund. Division of Management staff then enters the entire payment into the department's revenue and billing system, and transfers the deposit to the general fund, the permanent fund, and the school fund. Transfers to the permanent fund are currently made twice a month (approximately the 10th and the 27th).

If the vendor sends or brings a check to DNR, staff deposits the check in the First National Bank of Anchorage. The actions described above are then taken.

We estimate this bill may require another 2 to 4 permanent fund transfers per month.

Please let me know if you would like additional information concerning the department's role in revenue transfers to the permanent fund.

Sincerely,


Harold C. Heinze

Commissioner

cc: Committee Members
Senator Pourchot
Bruce Kendall, Legislative Liaison, Office of the Governor
Lee Fisher, Commissioner, Department of Revenue
Millett Keller, Commissioner, Department of Administration

S B

4 3

SEVENTEENTH LEGISLATURE
SENATE JUDICIARY COMMITTEE BILL FILE

BILL NUMBER: CS / SB43 (HES)
ABBREVIATED TITLE: Nurse Pronounce Dead -

SPONSER: Collins ORIGINAL RECEIVED: 1-30
WRITTEN REQUEST TO SCHEDULE REC'D: _____ FROM: _____
SPONSER'S STATEMENT REC'D: 2-1 FROM: Collins
SECTIONAL ANALYSIS RQST'D: _____ FROM: _____
SECTIONAL ANALYSIS RECEIVED: _____

FISCAL NOTE (ORIGINAL)
RQST'D OF: _____ REC'D FROM: H&SS DATE: 1-30 with file -
RQST'D OF: _____ REC'D FROM: _____ DATE: _____
RQST'D OF: _____ REC'D FROM: _____ DATE: _____

FISCAL NOTE (C.S.)
RQST'D OF: _____ REC'D FROM: with File DATE: 2-1
RQST'D OF: _____ REC'D FROM: _____ DATE: _____
RQST'D OF: _____ REC'D FROM: _____ DATE: _____

FIVE DAY NOTICE GIVEN: _____ NOTICE OF HEARINGS GIVEN: _____
COMMITTEES OF REFERRAL: FIRST: Jud SECOND: _____ THIRD: _____

COMMITTEE ACTION

DATE: Feb 12 Individual Recommendations - Delivered to Sen Sen.
All Suggested To Pass -

PERSONS TO BE NOTIFIED OF HEARING

1. SPONSOR Collins
2. AGENCY H&SS
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

SEVENTEENTH LEGISLATURE
SENATE JUDICIARY COMMITTEE BILL FILE

BILL NUMBER: SB 43

ABBREVIATED TITLE: Nurses Pronounce Death -

SPONSER: Collins

ORIGINAL RECEIVED: HSS

WRITTEN REQUEST TO SCHEDULE REC'D: 2-1 FROM: Collins

SPONSER'S STATEMENT REC'D: FROM: Collins

SECTIONAL ANALYSIS RQST'D: _____ FROM: _____

SECTIONAL ANALYSIS RECEIVED: _____

FISCAL NOTE (ORIGINAL)

RQST'D OF: _____ REC'D FROM: _____ DATE: _____

RQST'D OF: _____ REC'D FROM: _____ DATE: _____

RQST'D OF: _____ REC'D FROM: _____ DATE: _____

FISCAL NOTE (C.S.)

RQST'D OF: _____ REC'D FROM: With File DATE: 2-1

RQST'D OF: _____ REC'D FROM: _____ DATE: _____

RQST'D OF: _____ REC'D FROM: _____ DATE: _____

FIVE DAY NOTICE GIVEN: _____ NOTICE OF HEARINGS GIVEN: _____

COMMITTEES OF REFERRAL: FIRST: (HSS) SECOND: _____ THIRD: _____

COMMITTEE ACTION

DATE:

PERSONS TO BE NOTIFIED OF HEARING

- 1. SPONSOR Collins
- 2. AGENCY HSS
- 3. _____
- 4. _____
- 5. _____
- 6. _____
- 7. _____
- 8. _____
- 9. _____
- 10. _____

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB43

Revision Date: _____
 Title: An Act authorizing a registered nurse to determine and pronounce death under certain circumstances.
 Sponsor: Senator Collins
 Requestor: Senate Health, Education and Social Services Committee

Department Affected: Administration
 BRU: Division of Pioneers' Benefits
 Component: Pioneers' Homes

COMPONENT SERIAL NO.

3	5		
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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
---------	---	---	---	---	---	---

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: 0

ANALYSIS: (Attach a separate page if necessary.)

This bill allows for timely notification of next of kin by registered nurses when a death occurs in a Pioneers' Home.

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

Phone: 465-4400
 Date: 2/11/91

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

Date: 2/11/91

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

REQUEST: FISCAL NOTE

Revision Date: _____ Agency Affects: Health & Social Services
 Title: Authorizing a registered nurse to determine and pronounce death BRU: State Health Services
 Sponsor: Collins by request Components: Nursing
 Requester: Senate HESS

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING: (Thousands of Dollars)

General Funds	0.0	0.0	0.0	0.0	0.0	0.0
Federal Funds						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS

Full-Time		0				
Part-Time		0				
Temporary		0				

ANALYSIS: (attach a separate page if necessary)

No fiscal impact.

Prepared By: Alfred G. Zangri
 Division: PUBLIC HEALTH
 Approved By Commissioner: Theodore Mala, M.D., MPH
 Agency: HEALTH & SOCIAL SERVICES

Phone: 465-3090
 Date: 01/28/91

Date: _____

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

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB 43

Revision Date: _____ Department Affected: Commerce & Economic Dev.
 Title: Authorizing a registered nurse to determine and pronounce death . . . BRU: Occupational Licensing
 Component: Administration

Sponsor: Senator Collins by Request
 Requestor: Senator Collins

COMPONENT SERIAL NO.

0	3	5	6
---	---	---	---

Expenditures/Revenues: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

SB 43 will allow a licensed registered nurse to make a determination and pronouncement of death under certain circumstances. No fiscal impact is anticipated.

Prepared By: Jennifer Strickler, Administrative Officer Phone: 465-2144
 Division: Occupational Licensing Date: January 25, 1991
 Approved by Commissioner: Glenn A. Olds
 Agency: Department of Commerce & Economic Development Date: January 25, 1991

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



Alaska State Legislature

SENATE

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO: Senator Rick Halford, Chairman
Senate Judiciary Committee

FROM: Senator Virginia Collins

DATE: February 5, 1991

RE: Senate Bill 43, "An Act
authorizing a registered nurse to determine and
pronounce death under certain circumstances.

In reference to the above-referenced bill, attached herewith for the Senate Judiciary Committee are the following:

1. Sponsor statement
2. A zero fiscal note from the Department of Health & Social Services
3. A zero fiscal note from the Department of Commerce & Economic Development
4. A position paper from the Department of Commerce & Economic Development SB43
5. A position paper from the Department of Commerce & Economic Development for CSSB43 (HESS)
6. A position paper from the Department of Health & Social Services
7. Frank analysis of probable supporters and possible opponents
8. Back-up which includes:
 - a. A written statement by Carol Clausson, R.N.
 - b. A letter from Division of Occupational Licensing

If you have any questions regarding the above, please do not hesitate to contact me or Marveen Palmer at 465-2828.



Official Business

Alaska State Legislature

SENATE

P.O. Box V
State Capitol
Juneau, Alaska 99811

Recd 2-1-91

MEMORANDUM

TO: Senator Rick Halford, Chairman
Senate Judiciary Committee

FROM: Senator Virginia Collins *[Signature]*

DATE: January 30, 1991

RE: Request for hearing: Senate Bill 43, "An Act
authorizing a registered nurse to determine and
pronounce death under certain circumstances.

I respectfully request that you schedule the above-referenced bill, SB 43, for hearing at your earliest convenience. A committee substitute of SB 43 was passed out of Senate HESS with 3 "do-pass" recommendations. The committee substitute made only technical changes to the bill.

Attached herewith are the following:

1. Sponsor statement
2. A zero fiscal note from the Department of Health & Social Services
3. A zero fiscal note from the Department of Commerce & Economic Development
4. A position paper from the Department of Commerce & Economic Development
5. Frank analysis of probable supporters and possible opponents
6. Back-up which includes:
 - a. A written statement by Carol Clausson, R.N.
 - b. A letter from Division of Occupational Licensing

If you have any questions regarding the above, please do not hesitate to contact me or Marveen Palmer at 465-2828. Thank you for your attention to this request.



Alaska State Legislature

SENATE

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

SPONSOR STATEMENT

Senate Bill 43

Senate Bill 43, "An Act authorizing a registered nurse to determine and pronounce death under certain circumstances.

This bill would clarify statutes and allow registered nurses to pronounce death when death is anticipated and the physician has given written authorization for the nurse to make the pronouncement. If death occurred in a health care facility, a registered nurse would be allowed to pronounce death when the physician has given written authorization and when it is in accordance with the written regulations of that facility.

This would alleviate undue stress and emotional trauma for the family of the individual who died. Currently, nurses have to wait for many hours (often 4-10 hours) until the attending physician or emergency room physician arrives to pronounce death. Until that pronouncement is made, the family is kept in turmoil while life-sustaining care is continued (such as the continuation of IV's, etc.). Not only could there be reduction of mental stress, but costs could be reduced.

Once pronouncement is made, the life-sustaining measures can cease. The physician would still be required to sign the certification of death except in certain circumstances already in statute or regulation. Those exceptions primarily address isolated areas of the bush.

Senate Bill 43 is supported by the Alaska Board of Nursing and the Alaska Nurse's Association. In a survey of 10 Providence Hospital doctors, 90% supported allowing nurses to pronounce death under these circumstances.

Approximately 14 states allow for a nurse to pronounce death under certain circumstances. Most of these laws have been enacted within the past 10 years as more nurses have become involved with the terminally ill patient.

NOTE: The Senate Hess Committee substitute reflects only technical changes.

1991 LEGISLATION
POSITION PAPER
DEPARTMENT OF ADMINISTRATION

Division Pioneers' Benefits Bill Number CSSB43 (HES)

Bill Title An act authorizing a registered nurse to determine and pronounce death under certain circumstances.

Position Statement: Explain briefly what bill does, its impacts and Department's position, i.e. a) support, b) do not support, c) neutral or d) oppose.

This is a bill that appears long overdue within the practice of long-term care nursing, because the physicians have comfortably relied on the skills of the registered nurses to determine and pronounce death. A physician is very seldom present when a resident dies and may not be readily available to complete the required documentation. The nursing staff in the homes expressed support for this bill.

This bill is also supported by the Alaska Medical Association and the Alaska Nurses' Association.

FEB 08 1991

APPROVED:

Director Barbara Bathony *B. Bathony* Division Pioneers' Benefits
print name

Signature _____ Date _____

Commissioner Millett Keller

Signature *Millett Keller* Date 2/8/91

(For more information, call Barbara Pritchett 465-2200)

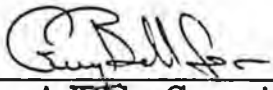
Rev. 1/23/91

CSSB 43 (HESS): An Act authorizing a registered nurse to determine and pronounce death under certain circumstances.

CSSB 43 (HESS) adds a new section to AS 08.68 which will allow registered nurses to pronounce death under certain circumstances. These circumstances include: (1) that an attending physician has documented in the person's medical or clinical record that the person's death is anticipated; (2) that upon documentation by the physician, the physician may authorize a specific registered nurse or nurses to make the death pronouncement; and (3) that nurses employed by health facilities may also pronounce death under established facility procedures.

At the November 1990 meeting of the Board of Nursing, the board endorsed the concept of nurses pronouncing death. The board believes registered nurses to be educationally and clinically prepared to pronounce death under the circumstances described. The board also believes it is in the best interests of the patient's family to have the nurse, who has been working with the family, to make the death pronouncement rather than calling paramedics and/or local law enforcement individuals into the home to pronounce death for the person who chooses to die at home.

The department's previous concern over item (f) which grants the Department of Health and Social Services the authority to adopt regulations to implement this section has been resolved and, therefore, the department supports passage of CSSB 43 (HESS).



Glenn A. Olds, Commissioner
Date: February 1, 1991

GAO/JS/dg18805D
020191c

SB 43: An Act authorizing a registered nurse to determine and pronounce death under certain circumstances.

SB 43 adds a new section to AS 08.68 which will allow registered nurses to pronounce death under certain circumstances. These circumstances include: (1) that an attending physician has documented in the person's medical or clinical record that the person's death is anticipated; (2) that upon documentation by the physician, the physician may authorize a specific registered nurse or nurses to make the death pronouncement; and (3) that nurses employed by health facilities may also pronounce death under established facility procedures.

At the November 1990 meeting of the Board of Nursing, the board endorsed the concept of nurses pronouncing death. The board believes registered nurses to be educationally and clinically prepared to pronounce death under the circumstances described. The board also believes it is in the best interests of the patient's family to have the nurse, who has been working with the family, to make the death pronouncement rather than calling paramedics and/or local law enforcement individuals into the home to pronounce death for the person who chooses to die at home.

The department also directs attention to item (f) which grants the Department of Health and Social Services the authority to adopt regulations to implement this section. Since AS 08.68 establishes qualifications for nursing licensure and is administered by the Alaska Board of Nursing in the Department of Commerce and Economic Development, the department recommends section (f) be amended to reflect the Department of Commerce and Economic Development.

With the amendment in section (f) noted above, the department supports passage of SB 43.



Glenn A. Olds, Commissioner

Date: 1-25-91

GAO/JS/dgl8805D
012591a

Committee Substitute
Senate Bill No. 43

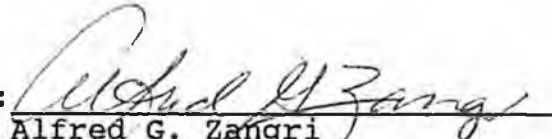
For an Act entitled: "An Act authorizing a registered nurse to determine and pronounce death under certain circumstances."

SB 43 allows Registered Nurses to determine and pronounce death in a specific set of circumstances with written prior approval of finite duration from an attendant physician.

While the Department believes that current statutes and regulations are permissive enough to allow this activity, current practice in many facilities appears to exclude RNs from determining and pronouncing death. This practice, at least in the limited context of SB43, results in unnecessary delays and could result in unnecessary and potentially life-threatening calls to EMTs.


The Department believes that SB 43, as it is currently structured, will have no impact on the Department. Since the bill addresses actual and potential problems, the Department supports its passage.

Recommended:


Alfred G. Zangri
Acting Director
Division of Public Health

Date: 2/1/91

Approved:


Theodore Mala, M.D., M.P.H.
Commissioner
Department of Health
and Social Services

Date: 2/1/91

STEVE COWPER, GOVERNOR

**DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT**

DIVISION OF OCCUPATIONAL LICENSING

*7TH FLOOR FRONTIER BLDG,
3601 C STREET, SUITE 722
ANCHORAGE, ALASKA 99503
PHONE: (907) 581-2878*

November 27, 1990

Carol Clausson
13200 Ridgeview Drive
Anchorage, Alaska 99516

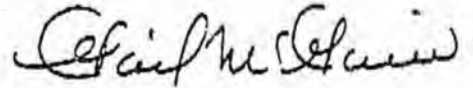
Dear Carol:

Thank you for attending the Board of Nursing Meeting on November 1, 1990, where the Board of Nursing addressed the issue of registered nurses pronouncing death.

The board did pass a motion at that meeting to support the Alaska Nurses Association's proposal for pronouncement of death by registered nurse if the death is anticipated, that is which is in the opinion of the attending physician expected due to illness, infirmity or disease. The board appreciates the information that you shared from the research which you conducted which explored the issue in other states.

Carol, you are to be commended for your efforts to pursue this issue. The Board of Nursing wishes you the best of luck in meeting your goal during the next legislative session. If we can be of any further assistance, do not hesitate to contact us.

Sincerely,



Gail M. McGill, RN
Executive Secretary
Alaska Board of Nursing

cc: Randall P. Burns, Director
Division of Occupational Licensing

Pam Ventgen, Executive Secretary
Alaska State Medical Board

1244n/mh

ANALYSIS OF SUPPORT/OPPOSITION

This bill is supported by the Alaska Nurses Association, the Alaska Board of Nursing, the Alaska Medical Association, and the Department of Health and Social Services.

No opposition is anticipated by any group.

The Alaska Nurses Association State Legislative Committee is making an effort to allow the Registered Nurse in Alaska to pronounce death under certain circumstances.

In the hospital setting, we assert that having either the attending physician or emergency room physician pronounce death can result in a delay in the pronouncement which may in turn result in a period of anxiety for the patients family. The same holds true for the Home health/Hospice setting where EMTS may pronounce. In Alaska's unique rural setting, where State Troopers may pronounce, there could be quite a delay.

This issue was voted on at the ANA Convention in March of 1990 and there were no opposing votes. The State Board of Nursing voted to endorse our efforts.

Research was conducted exploring the issue in other states. Forty states responded to our inquiry. The results were as follows: Nurses may pronounce death in fifteen states. Seventeen states do not allow for it. Six other states do not allow for it; however, attempts are being conducted to change this. Two states responses were unclear.

We propose that a Registered Nurse in the State of Alaska be permitted to pronounce death under these circumstances: if the death is an anticipated death, a death which is, in the opinion of the attending physician, expected due to illness, infirmity or disease.

Carol Clausson R.N.

ANA District I Board Member

ANA State Legislative Committee

PUBLIC OPINION MESSAGE

DEAR: SENATOR HALFORD

NAME: RENEE BUSSELL
TITLE:
ADDRESS: 8740 PIONEER DRIVE
CITY: ANCHORAGE ZIP: 99504
PHONE: 337-4600
BILL NO: SB 43
SUBJECT: NURSES DETERMINATION OF DEATH
MESSAGE: I SUPPORT AND REQUEST AN EARLY HEARING FOR SB 43.

POMID: 03110145
DATE: 01/02/04
TIME: 1:01:45
LIONAME: ANCHORAGE LIO

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SEVENTEENTH LEGISLATURE
SENATE JUDICIARY COMMITTEE BILL FILE

BILL NUMBER: SB 55

ABBREVIATED TITLE: Detention of Minors

SPONSER: Duncan ORIGINAL RECEIVED: March 11, 1991

WRITTEN REQUEST TO SCHEDULE REC'D: 4-16-91 FROM: Duncan

SPONSER'S STATEMENT REC'D: _____ FROM: _____

SECTIONAL ANALYSIS RQST'D: _____ FROM: _____

SECTIONAL ANALYSIS RECEIVED: _____

FISCAL NOTE (ORIGINAL)

RQST'D OF: _____ REC'D FROM: HSS DATE: With Bill File.

Public Safety RQST'D OF: Linda Hendricks REC'D FROM: _____ DATE: March 11, 1991

AK Juv Justice Comm RQST'D OF: Marianne Mills REC'D FROM: _____ DATE: Dec 2 '91

FISCAL NOTE (C.S.)

RQST'D OF: _____ REC'D FROM: _____ DATE: _____

RQST'D OF: _____ REC'D FROM: _____ DATE: _____

RQST'D OF: _____ REC'D FROM: _____ DATE: _____

FIVE DAY NOTICE GIVEN: _____ NOTICE OF HEARINGS GIVEN: _____

COMMITTEES OF REFERRAL: FIRST: HSS SECOND: Jud THIRD: Fin.

COMMITTEE ACTION

DATE:

_____	_____
_____	_____
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_____	_____

PERSONS TO BE NOTIFIED OF HEARING

1. SPONSOR Duncan
2. AGENCY HSS
3. _____
4. _____
5. _____
6. Marianne Mills 586-3204
7. _____
8. _____
9. _____
10. _____

3-11-91 Carl Nikol Says no fiscal impact on corrections

DATE: 3/11/91

FURTHER: Finance

DATE TURNED INTO OFFICE: 2-5-92

Judiciary Committee considered SENATE BILL NO. 55

"An Act relating to the detention and incarceration of minors."

and recommended:

- replace with ~~55~~ CS SB 55 (JUD) same title
- or adopt _____ CS _____ new title
- attached amendment(s) technical title change (HB only)
- _____ letter of intent adopted

- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to _____

ATTACHES NEW FISCAL NOTE(S):
 Dept/Date:
 fiscal note(s) _____

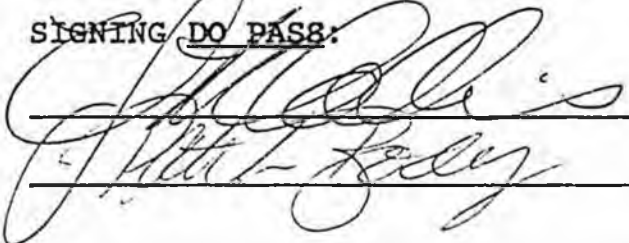
 zero fiscal note(s) _____

 appropriation-no fiscal note

APPROVES PREVIOUS:
 Dept/Date:
 fiscal note(s) _____

 zero fiscal note(s) _____

 Governor's bill w/fiscal note

SIGNING DO PASS:


OTHER RECOMMENDATIONS:

Rick Halford do pass
 Chair: Signature and Recommendation

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. SB 55

Revision Date: _____ Department Affected: Department of Law
 Title: "An Act relating to detention and incarceration of minors." BRU: Prosecution, Legal Services
 Component: All, Legal Services - Ops.
 Sponsor: Senator Duncan
 Requestor: Senate Judiciary Committee COMPONENT SERIAL NO.

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85 through 91, 93

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)
 Please see the attached analysis.

Prepared By: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: January 29, 1992
 Approved by Commissioner: Charles E. Cole, Attorney General
 Agency: Department of Law Date: January 29, 1992

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 55

This bill amends AS 47.10.130 and AS 47.10.190 to provide that minors can be detained in adult correctional facilities only for a very short duration. In such circumstances, minors must be detained in quarters separate from the quarters used to house adult prisoners so that a minor cannot communicate with or view adults who are in detention. Minors who have been waived to adult court would be exempted from these restrictions. The bill would include facilities operated by the state, a municipality, a village or another entity.

The bill should not have a direct fiscal impact on the Department of Law. However, it may have a significant impact on the Department of Corrections and the Department of Public Safety, particularly in rural areas where juvenile detention facilities are scarce. The Department of Law could incur an indirect cost, at some point in the future, defending the state against personal injury claims if the state violates the provisions of the bill. At this juncture, it is impossible to say that these claims will occur and what their cost might be.

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. CSSB 55 (JUD)

Revision Date: 02/06/92 Department Affected: Department of Corrections
 Title: "An Act relating to the... incarceration of minors." BRU: Statewide Operations
 Component: Various
 Sponsor: Senator Duncan
 Requestor: Senate Judiciary COMPONENT SERIAL NO.

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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: 0

ANALYSIS: (Attach a separate page if necessary.)

The Committee Substitute has no fiscal impact on the Department, since separation of minors waived to adult status would not be required.

Prepared By: Carl Nickel, Director *Carl Nickel* Phone: 465-3376
 Division: Administrative Services Date: 02/07/92
 Approved by Commissioner: Lloyd Hames, Commissioner *Lloyd Hames*
 Agency: Department of Corrections Date: 02/07/92

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. S.B. 55

Revision Date: 01/29/92 Department Affected: Corrections
 Title: "An Act relating to the detention and incarceration of minors." BRU: Statewide Operations
 Component: Various
 Sponsor: Senator Duncan
 Requestor: Senate Judiciary COMPONENT SERIAL NO.

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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	1,000.0	1,000.0	1,000.0	1,000.0	1,000.0	1,000.0
TRAVEL						
CONTRACTUAL	10.0	10.0	10.0	10.0	10.0	10.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	1,010.0	1,010.0	1,010.0	1,010.0	1,010.0	1,010.0
CAPITAL	5,000.0	-0-	-0-	-0-	-0-	-0-

REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	6,010.0	1,010.0	1,010.0	1,010.0	1,010.0	1,010.0
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	6,010.0	1,010.0	1,010.0	1,010.0	1,010.0	1,010.0

POSITIONS:

FULL-TIME	16	0	0	0	0	0
PART-TIME						
TEMPORARY						

Estimate of current year impact: 0

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached fiscal analysis.

Prepared By: Carl Nickel, Director *Carl Nickel* Phone: 465-3376
 Division: Administrative Services Date: 01/29/92
 Approved by Commissioner: Lloyd Hames, Commissioner *Lloyd Hames*
 Agency: Department of Corrections Date: 01/29/92

CONTINUATION OF FISCAL ANALYSIS

BILL: SB 55 "An Act relating to the detention and incarceration of minors."

The bill prohibits incarcerating juveniles in adult correctional facilities unless the minor is the subject of a petition for delinquency, in which case the time in a correctional center is limited to a maximum of six hours. This provision will not have fiscal impact on the Department of Corrections, since the current practice in adult correctional facilities is not to admit minors. In the rare instance in which a minor is held in a correctional facility pending transportation to a youth facility, the provisions of the proposed bill are followed.

The bill also provides that minors can be incarcerated in correctional facilities after a court has ordered the juvenile to be prosecuted as an adult. However, the bill requires that the minor be assigned to separate quarters from adults to preclude the minor from viewing or communicating with adult inmates. The minor must be provided separate admission, health care, hygiene, food service, recreation, and visiting opportunities.

The Department of Corrections does not have adequate facilities, nor staffing, to provide such separation. There are no minors incarcerated in the Department's adult facilities at present. However, the Department has housed minors adjudicated as adults in the past. There have only been two or three such cases per year. Because of the low numbers of such cases, it has been cost prohibitive to operate entirely separate housing and programs for the minors.

In order to completely separate minors from adults while providing the minors with services and programs required under the Clery v. Smith Final Settlement, a separate housing and program facility would have to be constructed. If such a facility could be constructed adjoining a present facility, the juvenile facility would be able to share administrative and other support staff. Although the numbers of incarcerated minors is expected to be very small, based on past experience, the custody and security levels would probably be high since most minors adjudicated as adults have committed murder. Staffing a facility with three posts, 24 hours per day, requires about 16 correctional officers. Some part-time involvement from probation/parole officers, health care workers, and other support staff would be necessary. Contractual program providers, such as education specialists, would also be necessary.

Operation of such a facility would be far from cost-efficient. If the Department could contract for housing outside Alaska, for each individual, the fiscal impact would be greatly reduced. However, minors who have been housed out-of-state in the past were placed at facilities which house young adults as well as minors.

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. S.B. 55

Revision Date: _____ Department Affected: Corrections
 Title: "An Act relating to the detention and incarceration of minors." BRU: _____
 Sponsor: Senator Duncan Component: _____
 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						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
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)

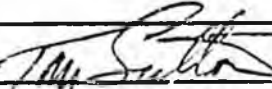
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-


POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Tom Sutton, Director  Phone: 465-3376
 Division: Administrative Services Date: 02-12-91

Approved by Commissioner: 
 Agency: Department of Corrections Date: 02-12-91

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

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB55

Revision Date: _____ Dept. Affected: Health and Social Services
 Title: "An act relating to the detention and incarceration of minors." BRU: Purchased Services
 Component: Preventive Services
 Sponsor: Senator Duncan
 Requestor: Senator Duncan **COMPONENT SERIAL NO. 0248**

Expenditures/Revenues

(Thousands of Dollars)

	FY92	FY93	FY94	FY95	FY96	FY97
OPERATING						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING:

(Thousands of Dollars)

	FY92	FY93	FY94	FY95	FY96	FY97
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

	FY92	FY93	FY94	FY95	FY96	FY97
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)

Enactment of the statutory changes proposed in SB55 would demonstrate Alaska's intent to meet the requirements of the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974. The JJDP Act of 1974 requires total and enforceable separation of children from adults when confined in the same facility and limits the placement of children in adult confinement facilities.

Prepared by: Russ Webb *Russ Webb*
 Division: Family and Youth Services
 Approved by Commissioner: Theodore A. Mala, MD, MPH *Theodore A. Mala*
 Agency: Department of Health and Social Services

Phone: 465-3170
 Date: 2/10/91
 Date: 2/25/91

Distribution (by preparer):

Legislative Finance - OMB
 Legislative Sponsor - Impacted Agency(ies)
 Requestor

ANALYSIS (cont.):

Annually, Alaska receives a federal formula grant of \$325,000 to make improvements in the juvenile justice system including better practices for the detention of children. Eligibility for that grant requires state law or regulation which limits or prohibits the confinement of children in adult correctional facilities.

Passage of this bill would enable Alaska to continue to be eligible to receive the federal formula grant. Without this grant revenue of \$325,000 it would be necessary to use state general funds to continue funding to support thirteen (13) shelters that provide alternatives to placing youth in facilities designated for the incarceration of adults.

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. CSSB 55(JUD)

Revision Date: 02/05/92 Department Affected: Public Safety
 Title: An act relating to the detention and incarceration of minors. BRU: Alaska State Troopers
 Component: Detachments
 Sponsor: Senator Duncan
 Requestor: Senate Judiciary COMPONENT SERIAL NO.

7	9	9
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EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: none

ANALYSIS: (Attach a separate page if necessary.)

See attached analysis.

Prepared By: Gayle A. Horetski Phone: 465-4322
 Division: Commissioner's Office Date: 2/5/92
 Approved by Commissioner: *Richard L. Burton* Richard L. Burton
 Agency: Department of Public Safety Date: 2/5/92

The Department of Public Safety shares with the Division of Family and Youth Services the responsibility to transport juvenile prisoners prior to their acceptance into an appropriate juvenile facility. Approximately 100 juvenile transports are conducted by the Alaska State Troopers annually, funded through the prisoner transport budget. This bill is not expected to result in any increase in the number of juvenile transports, so there should be no additional fiscal impact to the Department.

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. SB 55

Revision Date: _____ Department Affected: Public Safety

Title: An Act relating to the detention BRU: Alaska State Troopers

and incarceration of minors Component: Detachments

Sponsor: Senator Duncan

Requestor: Senate Judiciary COMPONENT SERIAL NO.

7	9	9
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EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE FUND SOURCE:	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

See attached analysis.

Prepared By: Gayle A. Horetski Phone: 465-4322

Division: Office of the Commissioner Date: 1/30/92

Approved by Commissioner: Gayle A. Horetski for Richard L. Burton

Agency: Department of Public Safety Date: 1/30/92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

The Department of Public Safety shares with the Division of Family and Youth Services the responsibility to transport juvenile prisoners prior to their acceptance into an appropriate juvenile facility. Approximately 100 juvenile transports are conducted by the Alaska State Troopers annually, funded through the prisoner transport budget. This bill is not expected to result in any increase in the number of juvenile transports, so there should be no additional fiscal impact to the Department.

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB 55

Revision Date: _____
Title: An Act relating to the detention and incarceration of minors.
Sponsor: Senator Duncan
Requestor: Senate Judiciary

Department Affected: Public Safety
BRU: Alaska State Troopers
Component: Detachments

COMPONENT SERIAL NO.

	7	9	9
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EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not Included)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
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						
FEDERAL FUNDS						
OTHER/PROG RCPT						
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 None

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: Thomas T. Stearns Phone: 465-4322
Division: Office of the Commissioner Date: 4/11/91
Approved by Commissioner: *Richard L. Burton* for Richard L. Burton
Agency: Department of Public Safety Date: 4/11/91

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

The Department of Public Safety shares with the Division of Family and Youth Services the responsibility to transport juvenile prisoners prior to their acceptance into an appropriate juvenile facility. Approximately 100 juvenile transports are conducted by the Alaska State Troopers annually, funded through the prisoner transport budget. This bill is not expected to result in any increase in the number of juvenile transports, so there should be no additional fiscal impact to the Department.



Alaska State Legislature

SENATOR JIM DUNCAN

P. O. BOX V JUNEAU, ALASKA 99811-3100
(907) 465-4766

COMMITTEES:
VICE CHAIR —
FINANCE
VICE CHAIR —
STATE AFFAIRS
RULES
BUDGET & AUDIT
ETHICS REFORM

MEMORANDUM

DATE: January 17, 1992
TO: Senator Rick Halford, Chair
Senate Judiciary Committee
FROM: Senator Jim Duncan
RE: SB 55, relating to detention and incarceration of minors.

I request that you schedule SB 55, relating to detention and incarceration of minors, for a hearing as soon as possible.

SB 55 amends state law to comply with U.S. Department of Justice requirements for complete sight and sound separation of juvenile offenders from adult prisoners when housed in the same secure facility. Currently attempts are made to separate juvenile prisoners from adults, however, in village jails they not always be successful. The potential for mental and physical harm to juveniles is great in such situations.

One option which has proven successful in small communities has been the use of "attendant care shelters" where juveniles can be detained temporarily until they can be transported to regional youth correctional facilities such as McLaughlin in Anchorage and the Johnson Youth Facility in Juneau.

In response to concerns raised by the Department of Public Safety about the logistical problems of transporting juveniles within six hours in all situations, I provide the Committee with a proposed blank committee substitute which extends the time for which a minor may be held in an adult facility if transportation is not available (See page 1, lines 11 and 12). The person responsible for detention of the minor must document the reason transportation to a juvenile facility was unavailable, and notify the appropriate officials and the Alaska court system of the lack of available transportation.

Based on this amendment, the Department of Public Safety has withdrawn its objections and supports the proposed CS. In addition, I attach a copy of a letter of support for the amended bill from the Department of Health and Social Services.

I would appreciate the scheduling of SB 55 in the Judiciary Committee as soon as possible. My staff contact on the bill is Roxanne Stewart at 465-4766.

Attachments

DISTRICT C

Alaska State Legislature



SENATOR JIM DUNCAN

P. O. Box V JUNEAU, ALASKA 99811-3100

(907) 465-4766

COMMITTEES:
FINANCE
VICE CHAIR —
HEALTH EDUCATION
& SOCIAL SERVICES
BUDGET & AUDIT
BANKING &
ECONOMIC
DEVELOPMENT

MEMORANDUM

DATE: April 15, 1991

TO: Senator Rick Halford, Chair
Senate Judiciary Committee

FROM: Senator Jim Duncan

RE: SB 55, relating to detention and incarceration of minors.

I request that you schedule SB 55, relating to detention and incarceration of minors, for a hearing as soon as possible.

SB 55 amends state law to comply with U.S. Department of Justice requirements for complete sight and sound separation of juvenile offenders from adult prisoners when housed in the same secure facility. Currently attempts are made to separate juvenile prisoners from adults, however, in village jails they not always be successful. The potential for mental and physical harm to juveniles is great in such situations.

One option which has proven successful in small communities has been the use of "attendant care shelters" where juveniles can be detained temporarily until they can be transported to regional youth correctional facilities such as McLaughlin in Anchorage and the Johnson Youth Facility in Juneau.

In response to concerns raised by the Department of Public Safety about the logistical problems of transporting juveniles within six hours in all situations, I provide the Committee with a proposed committee substitute which extends the time for which a minor may be held in an adult facility if transportation is not available. The person responsible for detention of the minor must document the reason transportation to a juvenile facility was unavailable, and notify the appropriate officials and the Alaska court system of the lack of available transportation.

Based on this amendment, the Department of Public Safety has withdrawn its objections and supports the proposed CS.

I would appreciate the scheduling of SB 55 in the Judiciary Committee as soon as possible. My staff contact on the bill is Roxanne Stewart at 465-4766.

Attachments



Alaska State Legislature

SENATOR JIM DUNCAN

P. O. BOX V JUNEAU, ALASKA 99811-3100
(907) 465-4766

COMMITTEES:
VICE CHAIR —
FINANCE
VICE CHAIR —
STATE AFFAIRS
RULES
BUDGET & AUDIT
ETHICS REFORM

MEMORANDUM

Date: March 4, 1992
To: All Senators
From: Senator Jim Duncan
Re: CS SB 55 (Judiciary), Relating to Detention and Incarceration of minors.

SB 55 amends state law to comply with U.S. Department of Justice requirements which prohibit incarceration of juvenile offenders in adult jails or lockup facilities. Currently attempts are made to separate juvenile prisoners from adults, however, in village jails they are not always successful. The potential for mental and physical harm to juveniles is great in such situations. This bill will show our good faith effort, given the problems we experience in this state with isolation and associated transportation problems, provide other options besides adult facilities for holding minors.

One option which has proven particularly successful in small communities had been the use of "attendant care shelters" where juveniles can be detained temporarily until released to their parents or transported to one of the five regional youth corrections facilities; Bethel Youth Facility, McLaughlin in Anchorage, Johnson Youth Facility in Juneau, Nome Youth Facility, or the Fairbanks Youth Facility.

The funding for Attendant Care Shelters is provided through a \$325,000 Federal Juvenile Justice Formula Grant. In FY 91 grants were made for Attendant Care Shelters in Barrow (\$25,000), Juneau (\$20,000), Ketchikan (\$24,200), Kotzebue (\$17,000), Homer, Kenai, and Seward (\$48,150), Kodiak (\$9,987), Petersburg (\$5,000), Sitka (\$11,972), Valdez (\$15,000), and Wrangell (\$5,000). A portion of the funding also goes to the UAA, Justice Center for data collection and analysis. In addition, in FY 91, \$22,392 was earmarked for Alaska Native non-profit organizations. During FY 91, 443 youths were served at 12 Attendant Care Shelters.

If we do not show a good faith effort to comply with the federal law in removing juveniles from adult jails and lockups, we will become ineligible for this continuing grant. Therefore, if we wish to keep our attendant care shelters open and use federal funds to do so, it is important to pass SB 55.

I urge your support for SB 55.

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

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

240 Main Street, Suite 500
Juneau, Alaska 99801-2101

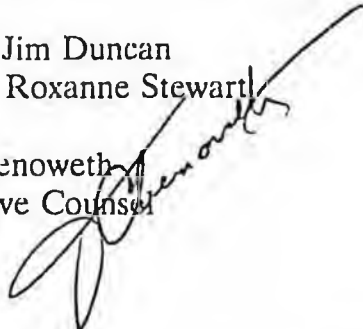
MEMORANDUM

January 16, 1992

SUBJECT: Sectional analysis, draft CS Senate Bill 55 ()
(Work Order No. 7LS-0216J, 01/02/92 draft)

TO: Senator Jim Duncan
ATTN: Roxanne Stewart

FROM: Jack Chenoweth
Legislative Counsel



This draft measure was prepared on the basis of a model intended to conform Alaska law generally to limitations imposed by key provisions of the federal Juvenile Justice and Delinquency Prevention Act of 1974, as amended. Those paragraphs of the federal Act, 42 U.S.C. 5633(a)(13) and (14), provide as follows:

(a) [To qualify the state for a formula grant under the Juvenile Justice and Delinquency Prevention Act, a state plan submitted to the federal government shall]

...
(13) provide that juveniles alleged to be or found to be delinquent and youths within the purview of paragraph (12) [of this subsection] shall not be detained or confined in any institution in which they have regular contact with adult persons incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges;

(14) provide that, [after December 8, 1985,] no juvenile shall be detained or confined in any jail or lockup for adults, except that the Administrator shall, through 1993, promulgate regulations which make exceptions with regard to the detention of juveniles accused of nonstatus offenses who are awaiting an initial court appearance pursuant to an enforceable State law requiring such appearances within 24 hours after being taken into custody (excluding weekends and holidays) provided that such exceptions are limited to areas which

(A) are outside a Standard Metropolitan Statistical Area,

(B) have no existing acceptable alternative placement available, and
(C) are in compliance with the provisions of paragraph (13);

....

Bill section 1, an uncodified provision, summarizes the general purposes of the measure, citing both the requirements of the pertinent federal Act and conditions specific to the state.

Bill section 2 substantially revises and extends the key juvenile detention/incarceration provision of current statutory law, AS 47.10.130 ^{1/}:

Proposed AS 47.10.130(a) establishes an explicit prohibition against incarceration of a minor in a correctional facility. ^{2/}

Proposed AS 47.10.130(b) carries forward without change language of the current statute assigning responsibility for notification of the minor's parent(s), guardian(s), or custodian(s) of the minor's detention.

^{1/} Current AS 47.10.130 dates from the last session of the Territorial Legislature (1957) and, in its entirety, reads as follows:

Sec. 47.10.130. DETENTION. A minor under 18 years of age who is detained pending hearing may not be incarcerated in a jail unless assigned to separate quarters so that the minor cannot communicate with or view adult prisoners convicted of, under arrest for, or charged with a crime. When a minor is detained pending hearing, the minor's parent, guardian, or custodian shall be notified immediately.

^{2/} Please appreciate that this measure depends on the cross-referenced definition of "correctional facility" as defined by AS 33.30.901, a definition of the statutes that are applicable to prison facility management. The term "correctional facility" is defined, in pertinent part, as follows:

"correctional facility" or "facility" means a prison, jail, camp, farm, half-way house, group home, or other placement designated by the commissioner for the custody, care, and discipline of prisoners; . . .

The reference to "prisoners" in the definition set out in that paragraph, generally applicable to AS 33.30, is to adult persons held in custody, for AS 33.30.901(11) defines "prisoner" as follows:

"prisoner" means a person, other than a juvenile, held under authority of state law in official detention . . .

(Emphasis added.)

Proposed AS 47.10.130(c) sets out three exceptions to the general prohibition against a minor's incarceration in a correctional facility:

- (1) minors adjudicated delinquent or held in official detention;^{3/} pending filing of a delinquency adjudication petition, the incarceration not to exceed six hours or the time necessary to arrange other transportation, whichever is shorter;
- (2) minors held pending prosecution as an adult; and
- (3) minors held in protective custody, that is, held because they are intoxicated or incapacitated by alcohol.

Proposed AS 47.10.130(d) places conditions and limitations on the holding of minors who are placed in correctional facilities under the exceptions of sec. 130(c)(1) (temporary detention pending transportation) or 130(c)(3) (protective custody detention). Those conditions and limitations include assignment to quarters separate from adults and provision of necessary services separate from the services that are provided to adults held in the correctional facility.

Proposed AS 47.10.130(e) recognizes weather related and similar delays beyond the control of the custodian by allowing an extension of the holding of a minor in temporary detention pending transportation beyond the six hour maximum in limited circumstances. At the same time, the subsection imposes specific duties on the person having responsibility for the minor's detention to document the reason for the extension and to advise the pertinent parties of the delay in transportation.

Proposed AS 47.10.130(f) authorizes extension of the holding of the minor in temporary detention pending transportation only so long as necessary to complete the necessary transportation arrangements for the minor.

For minors held in protective custody,^{4/} proposed AS 47.10.130(g) directs that the parameters of treatment and detention that are set out in AS 47.37.170(i) are made applicable to minors so held.

Bill section 3 makes correlative changes to a related juvenile detention statute, AS 47.10.190.

^{3/} Under another cross-referenced definition, "official detention" includes custody, arrest, surrender in lieu of arrest, or actual or constructive restraint under an order of a court in a criminal or juvenile proceeding, other than an order of conditional bail release. See AS 11.81.900(35).

^{4/} By law, protective custody does not constitute an arrest and no entry or other record may be made to indicate that the minor detained has been arrested or charged with a crime. However, a confidential record may be made for the administrative purposes of the facility to which the minor has been taken or which is necessary for statistical purposes. In the latter instance, the minor's name may not be disclosed. See AS 47.37.170(i).

Senator Jim Duncan

January 16, 1992

Page 4

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Because no effective date clause is included, the measure would take effect in accordance with the first sentence of article II, section 18 of the state constitution, that is, 90 days after the measure's signature into law or after its becoming law without signature.

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Chenoweth
1/2/92

CS FOR SENATE BILL NO. 55 ()
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR DUNCAN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the detention and incarceration of minors."

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

3 * Section 1. PURPOSE. The purpose of this Act is to improve the state's juvenile justice system
4 by

5 (1) ending, with minor exceptions, the practice of allowing the confinement of children
6 in adult correctional facilities, jails, prisons, and rural lock-ups, however operated, based on evidence
7 that the practice often leads to aggravated emotional problems and depression in, and suicide attempts
8 by, the children who are confined;

9 (2) conforming state law and policy relating to the confinement of children to the
10 requirements of 42 U.S.C. 5633(a)(13) and (14) (Juvenile Justice and Delinquency Prevention Act of
11 1974, as amended), taking into consideration the dislocations that may arise from distance, weather, and
12 lack of means to transport minor children to suitable places for the care and custody of minors.

13 * Sec. 2. AS 47.10.130 is repealed and reenacted to read:

14 Sec. 47.10.130. DETENTION. (a) A minor may not be incarcerated in a correctional

Proposed CS for SB 55
By Senator Duncan

1 facility that houses adult prisoners.

2 (b) When a minor is detained under this chapter, the person having responsibility for the
3 facility in which the minor is detained shall immediately notify the minor's parent, guardian, or
4 custodian of the minor's detention.

5 (c) Notwithstanding (a) of this section, a minor may be incarcerated in a correctional
6 facility

7 (1) if the minor is the subject of a petition filed with the court under this chapter
8 seeking adjudication of the minor as a delinquent minor or if the minor is in official detention
9 pending the filing of that petition; however, detention in a correctional facility under this
10 paragraph may not exceed the lesser of

11 (A) six hours; or

12 (B) the time necessary to arrange the minor's transportation to a juvenile
13 detention home or comparable facility for the detention of minors;

14 (2) if, in response to a petition of delinquency filed under this chapter, the court
15 has entered an order closing the case under AS 47.10.060(a), allowing the minor to be prosecuted
16 as an adult; or

17 (3) if the incarceration constitutes a protective custody detention of the minor that
18 is authorized by AS 47.37.170(b).

19 (d) When a minor is detained under (c)(1) or (c)(3) of this section and incarcerated in
20 a correctional facility, the minor shall be

21 (1) assigned to quarters in the correctional facility that are separate from quarters
22 used to house adult prisoners so that the minor cannot communicate with or view adults who are
23 in official detention;

24 (2) provided admission, health care, hygiene, and food services and recreation and
25 visitation opportunities separate from services and opportunities provided to adults who are in
26 official detention.

27 (e) Notwithstanding the limitation on detention set out in (c)(1) of this section, a minor
28 whose detention is authorized by (c)(1) of this section may be detained in a correctional facility
29 for more than six hours if transportation to a juvenile detention home or comparable facility for
30 the detention of minors is not available. The minor's detention for more than six hours is
31 authorized by this subsection only if the person having responsibility for the facility in which the

1 minor is detained

2 (1) documents the reason that transportation of the minor to a juvenile detention
3 home or comparable facility is not available; and

4 (2) during the minor's detention, after learning that transportation is not available,
5 promptly notifies the appropriate officials or employees of the department and the Alaska court
6 system of the lack of available transportation.

7 (f) A detention authorized by (e) of this section may not exceed the time necessary to
8 satisfy the requirement of (c)(1)(B) of this section.

9 (g) The provisions of AS 47.37.170(i) apply to a minor incarcerated in a correctional
10 facility when authorized by (c)(3) of this section.

11 (h) In this section

12 (1) "correctional facility" has the meaning given in AS 33.30.901 whether the
13 facility is operated by the state, a municipality, a village, or another entity;

14 (2) "official detention" has the meaning given in AS 11.81.900.

15 * Sec. 3. AS 47.10.190 is amended to read:

16 Sec. 47.10.190. CONDITIONS GOVERNING DETENTION. When the court commits
17 a minor to the custody of the department, except when detention in a correctional facility is
18 authorized by AS 47.10.130(c), the department shall arrange to place the juvenile in a detention
19 home [, FACILITY] or another suitable place that the department designates for that purpose. [A
20 JUVENILE DETAINED IN A JAIL OR SIMILAR INSTITUTION AT THE REQUEST OF THE
21 DEPARTMENT SHALL BE HELD IN CUSTODY IN A ROOM OR OTHER PLACE APART
22 AND SEPARATE FROM ADULTS.]