

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672
7695 SENATE STATE AFFAIRS

249

SENATE BILL NO. 135, by Senator DUNCAN. Relates to the state personnel system, and membership on the Public Employees' Retirement Board. Makes the following changes to state law:

—Amends AS 39.25.040 (State Personnel Act. Director of Personnel) to provide that the director of personnel will be appointed by the personnel board (currently the director is appointed by the commissioner of administration), and will be responsible to the board. The director will have to have at least five years of professional working experience in the field of personnel administration (currently the director has to have at least *three* years of *practical* working experience in the field of personnel administration). Adds language to allow the personnel board to establish additional qualifications for the personnel director, and to provide that the director serves at the pleasure of the personnel board.

—Amends AS 39.25.060 (State Personnel Act. Personnel Board) by increasing the membership on the personnel board from three to five members. Adds language to provide: "...The board shall contain a representative from management, labor, the public, minority groups, and the rural areas of the state. Each member of the board must be supportive of the merit principles of employment, and have demonstrated an interest in public administration and the development of efficient methods of employing personnel and administering personnel systems...."

Also changes language to provide that no more than three members of the board can be members of the same political party.

—Amends AS 39.25.130(a) and (c) (Extension of Partially Exempt and Classified Services) to allow the personnel board, upon written recommendation of the *director of personnel* (currently upon written recommendation of the commissioner of administration) to extend the partially exempt service to include any position in the classified service which involves principal responsibility for determination of policy.

—Amends AS 39.25.140(a) (Amendment of Personnel Rules) to require the director of personnel to prepare and submit proposed amendments to the personnel rules to the personnel board (currently changes have to be submitted to the commissioner of administration).

Amends AS 39.25.140(g) to require the personnel board to hold one or more public hearings on a proposed amendment. The hearings will have to permit public participation from around the state in person or by telephone or teleconference. Current law says the board, if requested to do so "...may hold a public hearing on a proposed amendment."

—Amends sections of AS 39.25.150 (Personnel Rules. Scope of the Rules) and AS 39.25.153 (Departmental Personnel Officers) by removing reference to the commissioner of administration.

—Amends AS 39.35.030(b) (Public Employees' Retirement System of Alaska. Public Employees Retirement Board) to provide that the three members of the retirement board who are also members of the state personnel board be "designated by the chair of the personnel board"

—Amends AS 44.21.920 (State Government. Department of Administration. Duties of Department) to require the department to "... (8) administer a statewide personnel program, including central personnel services as directed by the personnel board such as recruitment, examination, position classification, and pay administration;..."

—Repeals AS 39.25.140(b) (State Personnel Act. Personnel Rules. Amendment of Personnel Rules) subsection (b) states: "(b) The commissioner of administration shall review the amendments and submit them to the personnel board."

If enacted, the bill becomes law January 1, 1992.

Introduced February 20, 1991 and referred to State Affairs; Finance.



March 1, 1991

SB 135

Senate State Affairs Committee
Senator Pat Rodey, Chairman
Senator Jim Duncan, Vice-Chairman
Committee Members

Dear Senator Duncan:

Public Employees Local 71 strongly supports SB-135. There is a definite need for increased protection of the merit system and SB-135 addresses the needs very well.

1. The Personnel Board should be given the authority to appoint the Director of the Division of Personnel, thereby removing this appointment from the political arena.
2. A broader cross section of Personnel Board members insulates the Board from political influence.
3. The Personnel Board carries "statewide" responsibilities in dealing with proposed changes to the personnel rules and therefore, should be obligated to statewide public hearings on any proposed changes.

We urge the State affairs Committee to pass SB-135. Thank you.

Sincerely,

Don Rouleau, Business Representative

DON VALESKO
BUSINESS MANAGER

VALERIE K. BAFFONE
SECRETARY/TREASURER

HEADQUARTERS

2510 Arctic Blvd.
Anchorage, Alaska 99503

200 Wendell, Room 205
Fairbanks, Alaska 99701

710 W. 9th Street
Juneau, Alaska 99801



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7-LS0738ND ✓
Ford
2/27/91

**CS FOR SENATE BILL NO. 136 (STATE AFFAIRS)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION**

BY THE SENATE STATE AFFAIRS COMMITTEE

**Offered:
Referred:**

Sponsor(s): SENATOR SHULTZ

A BILL

FOR AN ACT ENTITLED

**1 "An Act relating to display of Alaska Highway commemorative registration plates; and
2 providing for an effective date."**

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

**4 * Section 1. Notwithstanding AS 28.10.171, a person may remove a registration plate attached to the
5 front of a motor vehicle owned by the person, if the person replaces the registration plate with an Alaska
6 Highway 50-year commemorative registration plate and attaches the commemorative registration plate
7 in the same manner as a registration plate issued under AS 28.10. A commemorative registration plate
8 authorized by this Act may be displayed until January 1, 1993.**

9 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB-136

Revision Date: _____ Department Affected: Public Safety
 Title: Alaska Highway Commemorative BRU: Motor Vehicles
Registration Plates Component: _____
 Sponsor: Shultz
 Requestor: Sen. State Affairs 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					

CAPITAL	0					
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REVENUE	0					
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0					

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: NA

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Senate State Affairs Committee Phone: 465-4522
 Division: Alaska Legislature Date: 2-27-91
 Approved by Senator Pat Rodey *Pat Rodey*
 Agency: Chair, Senate State Affairs Committee Date: 2-27-91

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



Alaska State Legislature

SENATOR DICK SHULTZ

P.O. Box V
Juneau, Alaska 99811
(907) 465-4940
Home: P.O. Box 487
Tok, Alaska 99780

Member
Finance Committee
Transportation Committee
Special Committee on Oil & Gas

Senate
District J

MEMORANDUM

District 17

ALCAN BORDER
ANDERSON
BIG DELTA
BOUNDARY
CANTWELL
CHICKEN
CHISTOCHINA
CLEAR
COPPER CENTER
DELTA JUNCTION
DENALI PARK
DOT LAKE
DRY CREEK
EAGLE
EAGLE VILLAGE
GAKONA
GLENNALLEN
GULKANA
HEALY
HEALY LAKE
KENNY LAKE
MENDELTONA
MENTASTA LAKE
NABESNA
NELCHINA
NENANA
NORTHWAY
PAXSON
SLANA
TANACROSS
TAZLINA
TETLIN
TOK
TOLSONA
TONSINA

TO: ALL SENATORS
FROM: SENATOR DICK SHULTZ
DATE: FEBRUARY 19, 1991
RE: 1992 COMMEMORATIVE REGISTRATION PLATES

I am introducing legislation to allow Alaskan motorists to display "1992" commemorative registration plates on the front of their vehicles. Unfortunately, even though supportive, the Commissioner of Public Safety does not have the statutory authority to allow anything but the standard registration plates to be displayed.

The Yukon Territories are allowing the "92 celebration" plates to be used and they are most impressive. It is proving to be a very efficient, and cost effective method of promotion.

The bill will allow a one time exception through the end of 1992 at which time standard plates will once again be required. It is important to also note this waiver does not authorize removal of standard plates for any reason other than the display of the "1992" plates.

Your support for this 1992 celebration event is greatly appreciated.

District 18

BADGER ROAD
EIELSON/MOOSE CREEK
NEWBY
NORTH POLE
PLACK
RICHARDSON
SALCHA



Official Business

Alaska State Legislature

SENATE

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

Senate State Affairs Committee

SB-136 An Act relating to display of Alaska Highway commemorative plates; and providing for an effective date.

Legislation amends existing law (AS 28.10.171) to permit Alaskan motorists to display the "1992" commemorative plate relative to the 50th Anniversary of the Alaska Highway jointly celebrated by Alaska and the Yukon Territory. Current state law does not permit display of any other plate except Alaska license plates and does not provide the Commissioner of Public Safety with authority to permit commemorative plates.

Plates are purchased for \$10 and may be displayed ONLY on the front of the vehicle. Proceeds go to the Great Alaska Highway Society to help support highway anniversary events.

All plates may be displayed until January 1, 1992.

There is a zero fiscal note.

Summary

SB

146



Alaska State Legislature

Senator Curt Menard




While in Session:
P.O. Box V
Juneau, Alaska
99811
(907)465-2679

Interim:
165 E. Parks
Highway
Wasilla, Alaska
99687
(907)373-2878

Senate
District
E

DATE: March 4, 1991

TO: Senator Pat Rodey, Chair
Senate State Affairs Committee

FROM: Senator Curt Menard 

RE: SB 146, relating to limited driving privileges for a person whose driver's license is suspended for failure to have motor vehicle liability insurance.

Thank you for your interest in scheduling SB 146 relating to limited driving privileges.

The bill allows the Department of Motor Vehicles a range of flexibility in granting limited licenses to persons whose license has been suspended for failure to have liability insurance. SB 146 adds medical purposes or severe hardship on the person's family as reasons for which a limited license may be granted. Current law allows a limited license for work purposes only.

This legislation applies only to licenses suspended for failure to have motor vehicle liability insurance. It does not apply to license revocation or suspension for any other offense, such as accumulation of points, DWI, or failure to provide proof of financial responsibility.

Although the legislation provides additional purposes for which a limited license may be granted, the same restrictions remain:

- . Proof that insurance has been obtained (SR 22) and
- . The license has not been suspended two or more times in the preceding 10 years.

If you have any questions prior to the hearing, please give me a call. I would appreciate your favorable consideration on this measure.



FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB 146

Revision Date: _____
Title: An Act relating to limited
driving privileges. . .
Sponsor: _____
Requestor: _____

Department Affected: Public Safety
BRU: Motor Vehicles
Component: Driver Services

COMPONENT SERIAL NO.

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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)

No fiscal impact anticipated.

Prepared by: Juanita Hensley, Chief
Division: Division of Motor Vehicles

Phone: 465-4335
Date: 3/4/91

Approved by Commissioner: *Richard L. Burton*
Agency: Department of Public Safety

Richard L. Burton
Date: 3/4/91

Distribution (by preparer): L _____ OMB, & Impacted Agency(ies)

BILL NO: SB 146

DATE: 3/6/91

TITLE: Limited Licenses for
Mandatory Insurance

CONTACT: Juanita Hensley
465-4335

POSTION PAPER / DEPARTMENT OF PUBLIC SAFETY

This bill requires the Department to issue a "limited license" to persons whose licenses are suspended for not having motor vehicle liability insurance. Under this bill, limited licenses could be issued for "medical reasons, to avoid family hardship, or for work purposes".

The Department's position is that the wording "to avoid a family hardship" is too broad, and should be deleted. The bill does not give any guidance as to what "a family hardship" is. Any family which would be inconvenienced by losing the services of an adult driver would feel that they are experiencing a hardship. Suspension of a drivers license is a punitive sanction, imposed because the motorist violated state law. There isn't much point in suspending a driver's license for not having motor vehicle insurance if an individual can be issued a limited license to drive for any reason.

The Department supports this bill with the recommended amendment.



Richard L. Burton
Commissioner

3-2-91

To Whom it May Concern:

I support the new bill Curt Menard has introduced.

I am a single father (7 years) of an 11 year old boy. I lost my license because of an uninsured accident, which was not my fault.

I received a limited license to go to and from work. However, this license does not permit me to go to the store, post office or bank.

Because I live in the Mat-Su Valley, where city transit is non-existent and postal service is not available, not to mention grocery stores which are 5 miles away, I have no choice but to break this law nearly daily.

I was stopped recently by the Alaska Troopers coming from the post office. I was ticketed for violation of my limited license. Now I face a mandatory 10 days in jail and another years suspension.

When I get out I'm sure I will be ticketed again.

The law, the way it stands, has made a common criminal out of me.

Sincerely,
Craig S. Ness



Palmer Police Department

433 SOUTH VALLEY WAY
PALMER, ALASKA 99643



RONALD L. OTTE
CHIEF OF POLICE

PHONE (907) 743-4811

TO: Senator Curt Menard

FROM: Ron Otte
Chief of Police - Palmer

DATE: March 4, 1991

RE: SB 146
"Limited driving privileges for a person whose driver's
license is suspended for failure to have liability insurance."

ATTENTION: Lola Young

I have reviewed the proposed amendments to AS 28.22.041 (c). I have no objections and, in fact, would support the concept of allowing limited driving privileges for medical reasons to avoid family hardship once a person has filed proof of financial responsibility. SB 146 provides balance and common sense when legitimate human needs dictate.

FAX #		NO OF PAGES
TO:	1	
DEPT:		
FROM:		

Palmer PD Phone 743-4811
Fax 743-2314

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159

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB 159

Revision Date: _____

Department Affected: Administration

Title: An Act relating to the Alaska Longevity Bonus payment; and providing for an effective date.

BRJ: Division of Pioneers' Benefits

Sponsor: Senate Rules Committee

Component: Longevity Bonus

Requestor: Senate Rules Committee

COMPONENT SERIAL NO.

2	6		
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	(7,326.0)	(2,682.2)	2,616.6	2,718.5	2,415.1	2,209.1
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	(7,326.0)	(2,682.2)	2,616.6	2,718.5	2,415.1	2,209.1

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	(7,326.0)	(2,682.2)	2,616.6	2,718.5	2,415.1	2,209.1
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	(7,326.0)	(2,682.2)	2,616.6	2,718.5	2,415.1	2,209.1

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.)

The FY 92 budget submission for the Longevity Bonus program reflects already the first year reduction of \$7,326.0. The attached spreadsheet shows the cost of the program through the year 2000 if proposed changes are not made and also show cumulative and regulatory savings through year 2000.

Prepared by: Barbara Bathony *Barbara Bathony*
Division: Director

Phone: 465-4400
Date: 3-4-91

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

Date: 3/27/91

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

SB 159

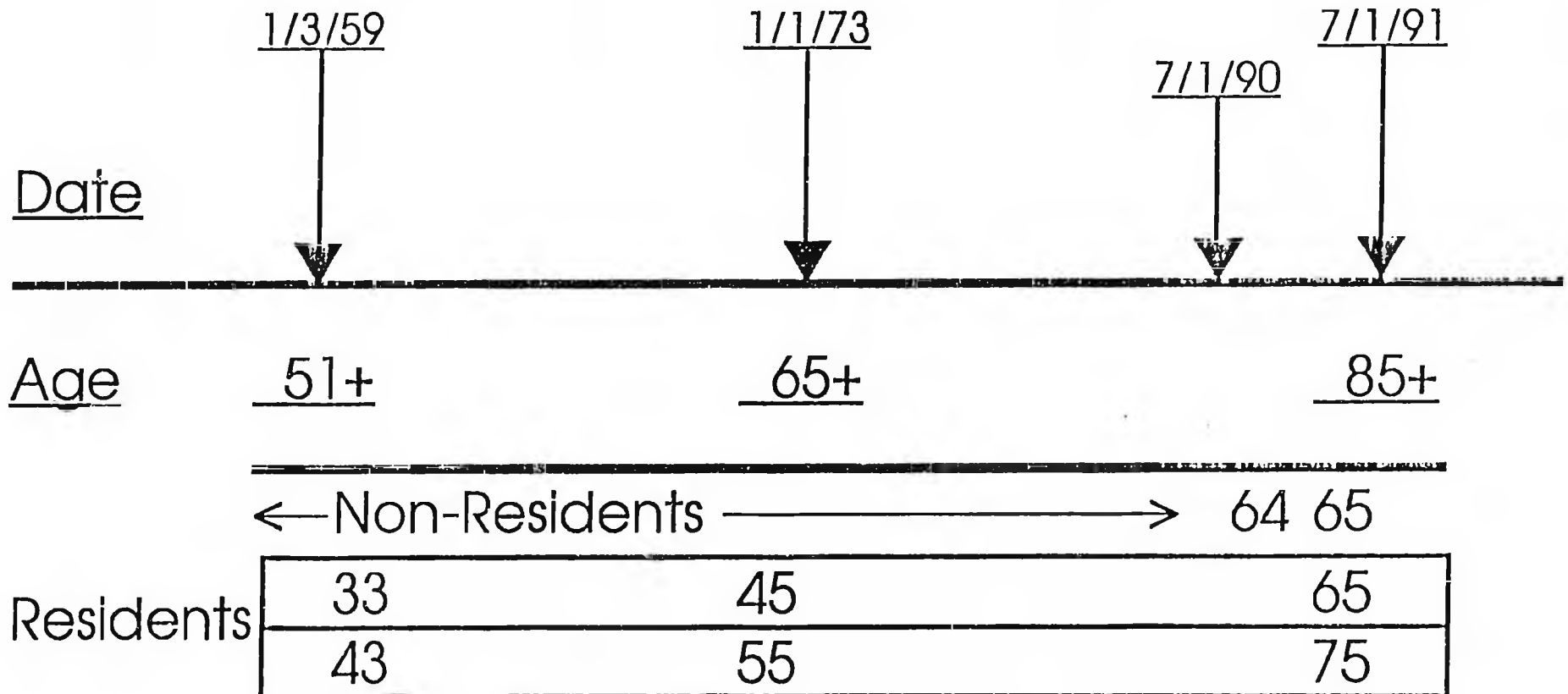
Longevity Bonus Program
February 28, 1991

Year	Current Program	Regulatory Savings Current Program	Current Program with Regulatory Savings	Governor's Proposed 67/\$237.50	Regulatory Savings 67/\$237.50	Governor's Proposed with Reg. Savings	Net Savings 67/\$237.50
1991	\$61,060,000			\$61,060,000			
1992	\$65,447,500	\$2,800,000	\$62,647,500	\$56,621,025	\$1,300,000	\$55,321,025	\$7,326,475
1993	\$67,619,507	\$2,700,000	\$64,919,507	\$53,935,313	\$1,300,000	\$52,635,313	\$12,284,194
1994	\$70,897,839	\$2,700,000	\$68,197,839	\$56,551,875	\$1,300,000	\$55,251,875	\$12,945,964
1995	\$74,179,015	\$2,700,000	\$71,479,015	\$59,170,374	\$1,200,000	\$57,970,374	\$13,508,641
1996	\$77,204,292	\$2,600,000	\$74,604,292	\$61,585,547	\$1,200,000	\$60,385,547	\$14,218,745
1997	73,673	\$2,500,000	\$77,473,673	\$63,794,647	\$1,200,000	\$62,594,647	\$14,879,026
1998	751,583	\$2,400,000	\$80,351,583	\$66,009,243	\$1,200,000	\$64,809,243	\$15,542,340
1999	\$85,523,806	\$2,300,000	\$83,223,806	\$68,221,091	\$1,100,000	\$67,121,091	\$16,102,715
2000	\$88,045,819	\$2,100,000	\$85,945,819	\$70,232,362	\$1,100,000	\$69,132,362	\$16,813,457
Cumulative Savings							\$123,621,557

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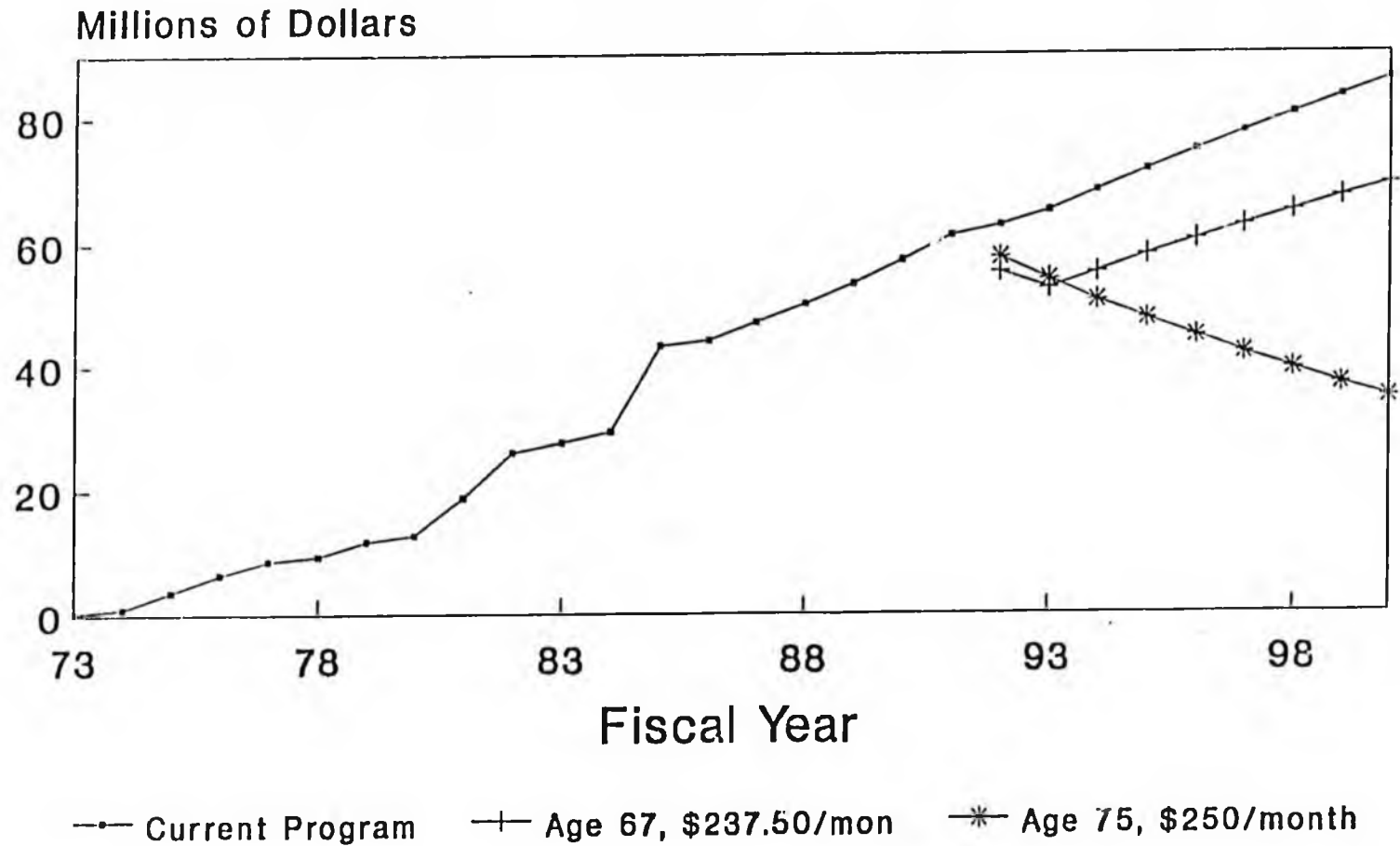
Longevity Bonus Program

Who was the program designed for?



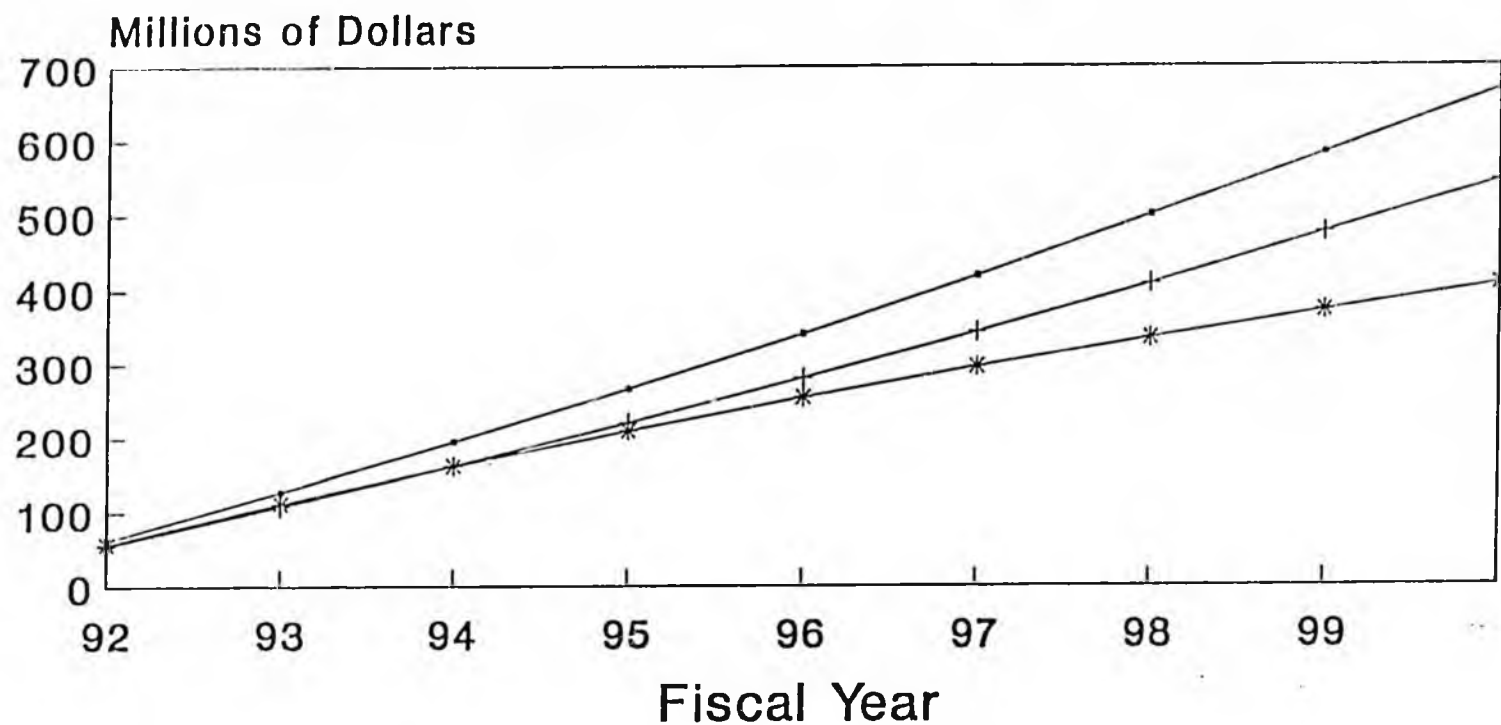
Longevity Bonus Program

Annual Dollars, 1973 - 2000



Longevity Bonus Program

Cumulative Dollars, 1992 - 2000



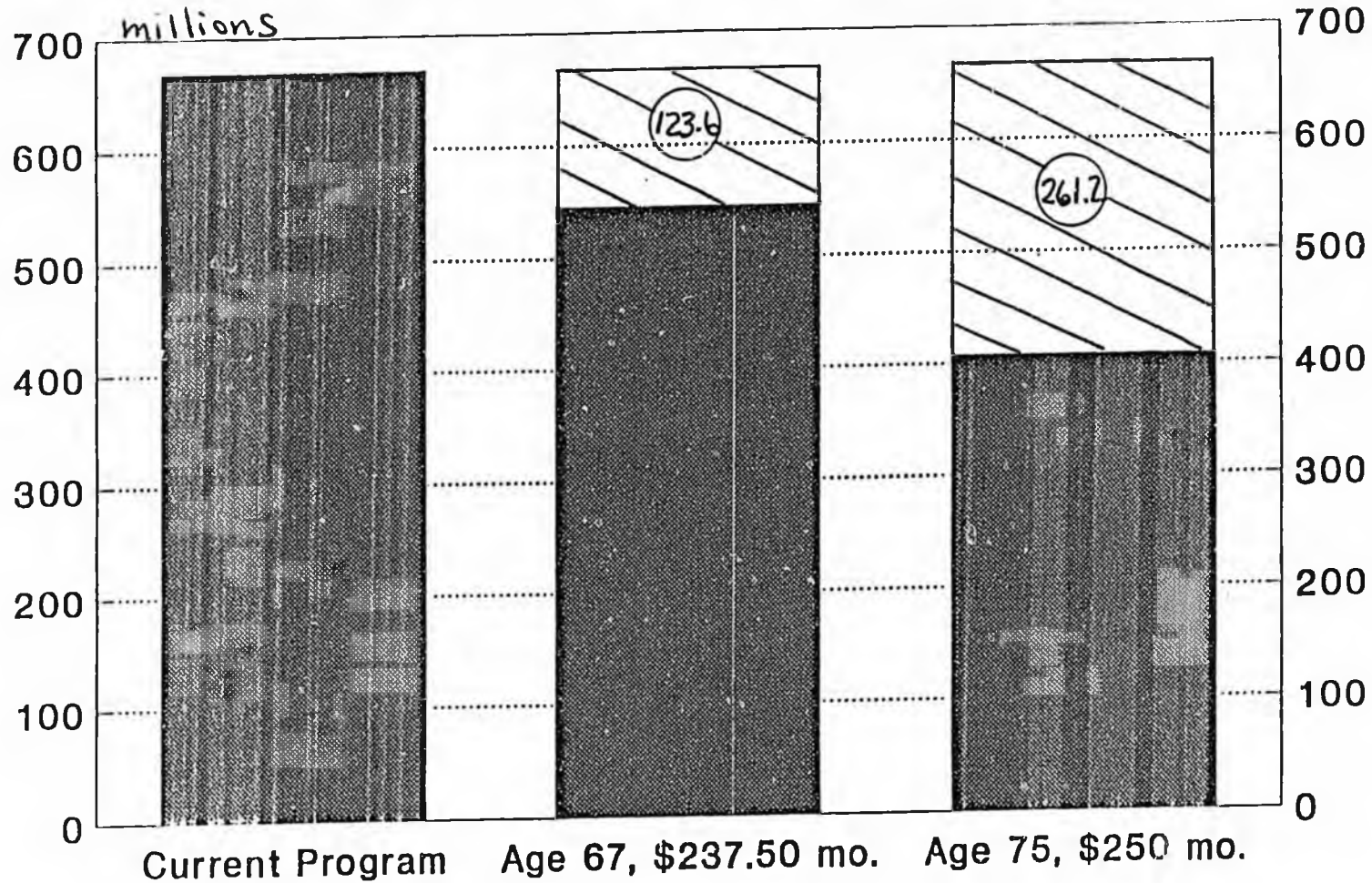
— Current Program

—+— Age 67, \$237.50/month

—*— Age 75, \$250/month

Longevity Bonus Program

Cumulative Dollars, 1992 - 2000



e/lb92-20

ADN 3/91

Hickel may bag plan to cut longevity bonus

The Associated Press

JUNEAU — Gov. Wally Hickel says he will discard his plan to reduce longevity bonus payments if Alaska's elderly tell him not to tinker with the free-money program.

Spokesmen for the elderly say there is little doubt that the majority of Alaskans over 65 want to keep their monthly state payments at \$250.

Hickel said during his campaign that he would not cut the bonus. But after taking office he proposed payments be reduced by 5 percent, and the eligibility age be raised from 65 to 67.

Hickel sent a letter last week to more than 50 pioneer homes, senior centers

and other such agencies outlining the proposed cuts and asking for support.

"Many seniors told me they were willing to play their part in this necessary belt-tightening," Hickel wrote. "But if you tell me collectively to maintain the

current funding, then I'll recommend that we keep the program as is against my informed judgment."

The program's cost has risen steadily since its creation in 1972. In its first year, 4,753 people received \$100 monthly bonus pay-

ments at a cost of \$346,100, according to the Division of Pioneer Benefits.

About 22,260 people will receive the \$250 monthly bonus checks in the coming fiscal year at a cost of more than \$60 million. The bonus is paid regardless of need.

The advertisement is for Allen & Petersen Home Decorating Center. At the top left, it lists payment methods: VISA, MasterCard, and Discover. Below that, it says "Corner of Seward & Benson" and "276-0111". The main title "allen & petersen" is in a large, stylized font, with "home decorating center" underneath. The central focus is a "WALLPAPER SALE" in large, bold letters. To the right, a speech bubble from a woman says "Wow! What a great deal on wallpaper!". At the bottom, there are small illustrations of wallpaper rolls.

SB159

Alaska State Legislature

Chairman
State Affairs
Committee

Legislative Council

Transportation
Committee



During Session:
State Capitol
P.O. Box V
Juneau, Alaska 99811
(907) 465-4859

During Interim:
P.O. Box 463
Valdez, Alaska 99686
(907) 835-2111

Representative Eugene Kubina

April 4, 1991

Honorable Walter J. Hickel, Governor
State of Alaska
P.O. Box A
Juneau, Alaska 99811-0101

Dear Governor Hickel:

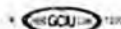
This past Monday, April 1st, I chaired a public forum at the Anchorage LIO sponsored by the House State Affairs Committee. The purpose of the meeting was to provide senior citizens and other interested people with an opportunity to comment on the various proposals currently in the legislature to modify the Longevity Bonus Program. Nearly two hundred people participated in the forum, many from teleconference sites throughout the state, and the mandate was clear: senior citizens are opposed to any changes to the longevity bonus program that would reduce benefits to recipients, raise requirements for eligibility or penalize seniors that must be absent from the state for extended periods of time.

One proposal which was discussed in detail was Senate Bill 159, the bill you introduced which raises the age of eligibility for longevity bonus payments from 65 to 67 and reduces the monthly payments to \$237.50. The testimony offered in response to SB 159 was strong in its opposition. As a matter of record, of the 171 people who signed the witness register, not a single person spoke in favor of the changes you have proposed in SB 159. You've publicly stated that you will withdraw your proposed changes to the longevity bonus program if you receive a mandate from the people to do so - I now feel that you have received that directive.

I realize that you and I, as elected public officials, are walking a narrow line trying to balance state spending with revenue sources, but we can't simply harden our hearts and assume that everyone is equally capable of tightening their belts - senior citizens are frequently burdened with personal and financial difficulties that don't normally affect younger, more able-bodied people. This isn't to say that our senior constituents are not willing to help the state as we face fiscal hard times. In fact, there was a

- DISTRICT SIX -

• Chenega Bay • Chitina • Cooper Landing • Cordova • Hope • Moose Pass • Seward • Tatitlek • Valdez • Whittier •

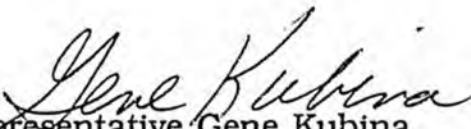


great deal of support expressed for Senator Kerttula's SB 8 which would convert the longevity bonus program to an annuity program utilizing contributions from personal permanent fund dividends. Perhaps this is one area that you may wish to look into.

I appreciate your willingness to reconsider your position on SB 159, it was an eye-opener to meet with so many senior citizens and get their input on the longevity bonus program.

If you would like to discuss the longevity bonus forum or if I can be of assistance to you as chair of the House State Affairs Committee, please feel free to give me a call.

Sincerely:


Representative Gene Kubina

cc: Members of the 17th Alaska Legislature

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192

SENATE BILL NO. 192

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY SENATOR STURGULEWSKI

Introduced: 3/13/91

Referred: State Affairs and Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to seizure and forfeiture of property in cases involving alcoholic
2 beverages, controlled substances, and imitation controlled substances."

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

4 * Section 1. AS 04.11.020(a) is amended to read:

5 (a) A license or permit is not required to authorize sales made by a person under a
6 judgment and decree of foreclosure, or under the bankruptcy law of the United States [, OR
7 UNDER ORDER OF THE BOARD OR A COURT UNDER AS 04.16.220].

8 * Sec. 2. AS 04.16.220 is repealed and reenacted to read:

9 Sec. 04.16.220. PROPERTY SUBJECT TO FORFEITURE. (a) Under the procedures
10 set out in AS 12.38, alcoholic beverages are subject to forfeiture to the state if

11 (1) manufactured, delivered, distributed, possessed, concealed, stored, acquired,
12 sold, exchanged, offered for sale or exchange, or transported, or one of these acts is attempted
13 or solicited, in violation of a criminal law under this title;

14 (2) unlawfully possessed in an area where the results of a local election under

1 AS 04.11.498 have prohibited possession of alcoholic beverages; or

2 (3) found on licensed premises without excise stamps required by federal law.

3 (b) The property listed in (c) of this section is subject to forfeiture, under the procedures
4 set out in AS 12.38, if

5 (1) except for liquor licenses forfeited under AS 04.16.180, the property is used,
6 or intended to be used, to commit or facilitate an offense under AS 04.11.010, AS 04.16.175,
7 AS 04.21.060, an offense relating to alcoholic beverages on licensed premises without excise
8 stamps required by federal law, or an offense relating to conduct made criminal because of the
9 results of a local election under AS 04.11.490 - 04.11.500; or

10 (2) the property is used, or intended to be used, in a direct or indirect exchange
11 for an alcoholic beverage in violation of AS 04.11.010, or is traceable to or derived from the
12 exchange.

13 (c) The following property is subject to forfeiture under (b) of this section:

14 (1) firearms, explosives, and weapons;

15 (2) money, securities, negotiable instruments, and anything of value, whether
16 tangible or intangible, secured or unsecured;

17 (3) raw materials, chemicals, pharmaceuticals, and anything, including plants or
18 other living organisms, from which alcoholic beverages might be derived;

19 (4) books, records, tapes, formulas, research papers, and equipment, including data
20 processing equipment and electronic equipment used in surveillance or countersurveillance
21 efforts;

22 (5) aircraft, vehicles, vessels, and conveyances; and

23 (6) a right, title, or interest in real property, and any improvements or
24 appurtenances, if the offense making the property subject to forfeiture is a felony offense.

25 (d) Notwithstanding any other provisions of AS 12.38, alcoholic beverages se.
26 AS 12.38.020 are automatically forfeited to the state and subject to immediate destruction by a
27 peace officer if

28 (1) unlawfully possessed in an area where the results of a local election under
29 AS 04.11.498 have prohibited possession of alcoholic beverages; or

30 (2) in the process of being consumed or in a container that has been opened or
31 the seal of which has been broken.

1 (e) Except as provided in (d) of this section, alcoholic beverages forfeited to the state
2 shall be destroyed by the law enforcement agency with custody of the property under procedures
3 prescribed by the commissioner of public safety.

4 * Sec. 3. AS 12 is amended by adding a new chapter to read:

5 CHAPTER 38. FORFEITURE OF PROPERTY.

6 Sec. 12.38.010. APPLICABILITY. This chapter applies to property subject to forfeiture
7 under AS 04.16.220 and AS 17.30.110.

8 Sec. 12.38.020. SEIZURE OF PROPERTY SUBJECT TO FORFEITURE. (a) Property
9 subject to forfeiture may be seized by a peace officer

10 (1) under an order issued by a court in an ex parte proceeding upon a showing

11 (A) of probable cause that the property is subject to forfeiture; or

12 (B) that a grand jury has returned an indictment finding that the evidence,
13 if unexplained or uncontradicted, would warrant a court's conclusion that the property
14 specifically identified in the indictment is subject to forfeiture; or

15 (2) without a court order if

16 (A) constitutionally permissible or otherwise authorized by law;

17 (B) the property has been the subject of a judgment in favor of the state
18 in a forfeiture proceeding; or

19 (C) there is probable cause to believe that the property is subject to
20 forfeiture and is easily movable; except for alcoholic beverages, controlled substances, or
21 imitation controlled substances, property seized solely under this subparagraph may not
22 be held for more than 48 hours without a court order under (1) of this subsection.

23 (b) Property that cannot with reasonable effort be taken into physical custody may be
24 constructively seized by posting a written notice of the seizure in a conspicuous place on the
25 property. This subsection does not prohibit other reasonable methods of constructive seizure.

26 Sec. 12.38.030. NOTICE OF SEIZURE; CUSTODY OF SEIZED PROPERTY;
27 INVENTORY AND APPRAISAL. (a) Within 30 days after a seizure under AS 12.38.020, the
28 law enforcement agency responsible for custody of the property shall give notice by certified mail
29 of the seizure to persons known to have a financial interest in an item with an estimated value
30 more than \$1,000, or whose interest in the property is ascertainable from official tax rolls,
31 registration numbers, licenses, or other state, federal, or municipal identification numbers affixed

1 to the property.

2 (b) Subject to the order of the court, property seized under AS 12.38.020 remains in the
3 legal custody of the Department of Public Safety or a municipal law enforcement agency
4 authorized by the commissioner of public safety to retain custody. The agency responsible for
5 custody may, in its discretion, release the property to another appropriate person.

6 (c) Within 10 days after a seizure under AS 12.38.020, the law enforcement agency
7 responsible for custody of the property shall estimate the value, make an inventory of the
8 property, and send the inventory and estimate to the attorney general.

9 (d) If the attorney general determines that a forfeiture proceeding cannot be sustained or
10 as a matter of discretion will not be instituted, a written report of that decision shall be sent to
11 the agency responsible for custody of the property and the property must be returned to the
12 person from whom it was obtained.

13 (e) This section does not apply to property that is subject to automatic forfeiture under
14 AS 04.16.220(d) or AS 17.30.110(c), or to property seized under AS 12.38.020(a)(2)(B).

15 Sec. 12.38.040. PRESERVATION OR DISPOSAL OF PROPERTY BEFORE ORDER
16 OF FORFEITURE. (a) A court may issue an appropriate temporary or other order, require
17 execution of a satisfactory performance bond to the state, or take other action to preserve the
18 availability or value of property seized under AS 12.38.020.

19 (b) The state may, at any time before an order of forfeiture is issued, request the sale or
20 other disposition of property seized under AS 12.38.020. A person claiming an interest in the
21 property may also request sale or other disposition before an order of forfeiture is issued if the
22 person proves by a preponderance of the evidence that

23 (1) the person has filed a timely claim under AS 12.38.070 or, before the
24 initiation of a forfeiture proceeding, has sent a notice of claim to the commissioner of public
25 safety in conformance with the requirements of AS 12.38.070(b);

26 (2) the property is not likely to be used as evidence in a judicial or administrative
27 proceeding;

28 (3) the person has given adequate assurance that the property or its proceeds will
29 remain subject to the court's jurisdiction;

30 (4) the sale or other disposition is in the best interests of the state and will
31 provide for protection of the value of the property; and

1 (5) the person provides a bond or other equivalent security equal to twice the
2 estimated value of the property.

3 (c) Proceeds from the sale of property, plus interest earned on the proceeds to the date
4 of termination of the proceedings, become the subject of the forfeiture action in the same manner
5 as the property itself.

6 Sec. 12.38.050. FORFEITURE PROCEEDINGS; NOTICE; BURDEN OF PROOF;
7 DEFENSES EXEMPTED. (a) A forfeiture proceeding

8 (1) may be initiated by the state filing a motion to forfeit in a criminal or civil
9 proceeding relating to the conduct that makes the property subject to forfeiture;

10 (2) may be initiated by the state filing a complaint in a separate in rem
11 proceeding; or

12 (3) under AS 12.38.060 may be initiated by the commissioner of public safety
13 directing that publication under (b) of this section be made of the state's intent to seek forfeiture
14 of property administratively.

15 (b) Within 30 days after a forfeiture proceeding has been initiated as provided in (a) of
16 this section,

17 (1) persons required to be notified under AS 12.38.030 shall be served with a
18 copy of the motion, complaint, or other notice in a manner authorized for service of process
19 under the rules of civil procedure; and

20 (2) the law enforcement agency with custody of the property shall begin to
21 publish notice of the forfeiture proceeding in the manner provided for service by publication
22 under the rules of civil procedure; the notice must include

23 (A) a list of property with an estimated value of more than \$1,000, with
24 a description of the property, including motor vehicle or other registration numbers;

25 (B) the approximate value of the property;

26 (C) the date and place of seizure;

27 (D) the reason the property is subject to forfeiture;

28 (E) a citation to this chapter, and a citation to the court docket number
29 relating to a judicial forfeiture proceeding; and

30 (f) notice that the property will be forfeited to the state if a timely claim
31 is not filed under this chapter.

1 (c) The notice requirements of (b) of this section do not apply to property that is subject
2 to automatic forfeiture under AS 04.16.220(d) or AS 17.30.110(c).

3 (d) In a forfeiture proceeding other than a summary administrative proceeding under
4 AS 12.38.060, the state must prove by a preponderance of the evidence that the property is
5 subject to forfeiture. It is prima facie evidence, sufficient to support an order of forfeiture, that
6 a defendant has been convicted of conduct making the property subject to forfeiture, or that a
7 grand jury has returned an indictment finding that the evidence, if unexplained or uncontradicted,
8 would warrant a court to conclude that the property specifically identified in the indictment is
9 subject to forfeiture.

10 (e) In a forfeiture proceeding other than a summary administrative proceeding under
11 AS 12.38.060, questions of fact or law shall be determined by the court, sitting without a jury.
12 A person claiming an interest in the property under AS 12.38.070 and 12.38.090 may testify,
13 present evidence and witnesses, and cross-examine witnesses presented by other parties. In
14 addition to other testimony and evidence presented, the court may consider the relevant portions
15 of the record of a related criminal action.

16 (f) Except for proceedings under AS 12.38.090(a)(2) to permit use of exempted property,
17 at the request of the state a forfeiture proceeding, including discovery, shall be held in abeyance
18 until the conclusion of a pending criminal action relating to the conduct making the property
19 subject to forfeiture.

20 (g) It is not a defense to a forfeiture proceeding that a criminal offense has not been
21 prosecuted, or has resulted in a conviction of a different offense or an acquittal.

22 Sec. 12.38.060. SUMMARY ADMINISTRATIVE FORFEITURE PROCEDURES. (a)
23 If the value of the property seized under AS 12.38.020 does not exceed \$100,000 and is not real
24 property, the commissioner of public safety may order administrative forfeiture of the property
25 under this chapter. The Administrative Procedure Act (AS 44.62) does not apply to an
26 administrative forfeiture.

27 (b) The commissioner of public safety shall terminate the administrative forfeiture
28 proceeding and refer the matter to the attorney general for initiation of a judicial forfeiture
29 proceeding if a person files a timely claim under AS 12.38.070 and deposits with the
30 commissioner, in cash or bond approved by the commissioner, 25 percent of the appraised value
31 of the property, but not less than \$1,000. The deposit is conditioned to secure the payment of

1 all reasonable costs and expenses of the judicial forfeiture proceeding, including attorney fees,
2 if the state is the prevailing party.

3 Sec. 12.38.070. PROCEDURE FOR CLAIMANTS. (a) A person claiming an interest
4 in property that is the subject of a forfeiture proceeding, including persons who claim an
5 exemption under AS 12.38.090(a)(2), shall file a claim

6 (1) in a judicial forfeiture proceeding, within the time permitted under applicable
7 court rules; or

8 (2) in an administrative forfeiture proceeding under AS 12.38.060, within 20 days
9 of the date of the final publication under AS 12.38.050(b)(2).

10 (b) The claim must

11 (1) be filed with the court in judicial forfeiture proceedings, or with the
12 commissioner of public safety in administrative forfeiture proceedings under AS 12.38.060;

13 (2) be sworn under oath; and

14 (3) set out with specificity the reasons why the property is not subject to forfeiture
15 or why the person is entitled to relief under AS 12.38.090, the nature of the person's right, title,
16 or interest in the property, the time and circumstances of the person's acquisition, the
17 consideration paid, and additional facts supporting the claim.

18 (c) If a claim is not timely filed, the property shall be forfeited to the state without
19 further proceedings.

20 Sec. 12.38.080. ORDER OF FORFEITURE; LIEN IN FAVOR OF THE STATE. (a)
21 If the state proves that property is subject to forfeiture, the property may be ordered forfeited to
22 the state, except as provided in AS 12.38.090.

23 (b) An order of judicial or administrative forfeiture, or an order granting relief under
24 AS 12.38.090, removes all liens, encumbrances, or other clouds on the title resulting from the
25 forfeiture proceeding.

26 (c) A person whose conduct causes property to be subject to forfeiture shall pay the
27 reasonable cost of maintenance, storage, disposal, or other expenses of the forfeiture proceeding,
28 including attorney fees, either as part of a sentence, a condition of probation or suspended
29 imposition of sentence, or as a mandatory assessment of costs in a forfeiture proceeding.

30 (d) A judicial order of forfeiture shall forfeit to the state any other assets of the person
31 who caused the property to be subject to forfeiture, up to the value of any property subject to

1 forfeiture, if the property subject to forfeiture has been

2 (1) commingled with other property and cannot be separated without difficulty;

3 (2) transferred to, sold to, or deposited with a third party, placed beyond the
4 jurisdiction of the court, or removed so it cannot be located;

5 (3) substantially diminished in value by an act or omission of the person who
6 caused the property to be subject to forfeiture; or

7 (4) ordered returned to an innocent party under AS 12.38.090(a)(1).

8 (e) An order of forfeiture issued under this section may be made regardless of the
9 location of the property that might be subject to forfeiture or that has been ordered forfeited.

10 (f) A perfected priority lien on property that has been ordered forfeited is created in favor
11 of the state up to an amount that is the sum of the expenses of investigation, prosecution, and
12 forfeiture arising out of the conduct making the property subject to forfeiture. In calculating the
13 amount of the lien, expenses of all state, federal, or local agencies are to be included. The lien
14 has priority over all unsecured and all unperfected secured debts associated with the property.

15 Sec. 12.38.090. RELIEF FROM FORFEITURE. (a) A person who has filed a timely
16 claim under AS 12.38.070 may obtain relief from the forfeiture upon proof by a preponderance
17 of the evidence

18 (1) that the person

19 (A) has a valid right, title, or interest in the property, acquired in good
20 faith, which takes priority over a lien in favor of the state under AS 12.38.080(f);

21 (B) did not knowingly participate in or facilitate the conduct that resulted
22 in the property being subject to forfeiture; and

23 (C) did not know or have reasonable cause to believe that a person might
24 engage in the conduct that resulted in the property being subject to forfeiture; or

25 (2) that the person provides more than half the support of a minor dependent
26 living in the person's household, in which case the person may claim exemptions from the
27 forfeiture to the extent permitted under AS 09.38.010 - 09.38.090; however, an exemption may
28 not be permitted for a liquor license granted under AS 04.

29 (b) If the person claiming an interest in the property is found to be entitled to less than
30 the total value of the property, the person may choose to receive either the proportional value of
31 the partial interest that is realized upon disposition of the property or, upon payment of the

1 difference in value, the entire property. In cases of multiple claims, the return of the property
2 is to be based on the value and priority of each person's respective interest, or is to be otherwise
3 allocated by the court in the interests of justice.

4 Sec. 12.38.100. STATE DISPOSAL OF FORFEITED PROPERTY. (a) Forfeited
5 property, other than property summarily forfeited under AS 04.16.220(d) or AS 17.30.110(c),
6 shall be transferred to the commissioner of administration for disposition in accordance with
7 applicable law. The commissioner of administration may

8 (1) destroy property harmful to the public;

9 (2) sell the property and, subject to appropriations for that purpose, use the
10 proceeds to pay the expenses of the proceedings of forfeiture and sale, including expenses of
11 seizure, custody, and court costs;

12 (3) transfer the property to another agency of the state or a political subdivision
13 of the state for use in the furtherance of the administration of justice;

14 (4) transfer the property to the United States Department of Justice for disposition;

15 (5) transfer ownership of an aircraft to the Alaska Wing, Civil Air Patrol;

16 (6) at the direction of the commissioner of public safety, transfer up to 90 percent
17 of the net value of forfeited property to one or more political subdivisions of the state; in
18 directing this transfer, the commissioner of public safety may take into account an equitable
19 allocation based on the amount of the contribution made by each agency to the investigation of
20 the conduct making the property subject to forfeiture, or any agreements as to the sharing of
21 assets; or

22 (7) otherwise dispose of the property in accordance with the law.

23 (b) The commissioner of administration shall separately account for the proceeds from
24 the sale of forfeited property under (a) of this section that the commissioner deposits in the
25 general fund. The annual estimated balance in the account may be used by the legislature to
26 make appropriations to the Department of Public Safety for use in the administration of justice.

27 * Sec. 4. AS 17.30.110 is repealed and reenacted to read:

28 Sec. 17.30.110. PROPERTY SUBJECT TO FORFEITURE. (a) Under the procedures
29 set out in AS 12.38, the property listed in (b) of this section is subject to forfeiture to the state
30 if

31 (1) manufactured, delivered, dispensed, distributed, possessed, concealed, stored,

1 acquired, or transported in violation of AS 11.71 or AS 11.73;

2 (2) used, or intended to be used, to accomplish or facilitate the manufacture,
3 delivery, dispensing, distribution, possession, concealment, storage, acquiring, or transportation
4 of a controlled substance or imitation controlled substance in violation of AS 11.71 or AS 11.73;
5 or

6 (3) used, or intended to be used, in a direct or indirect exchange for a controlled
7 substance or imitation controlled substance in violation of AS 11.71 or AS 11.73, or if traceable
8 to or derived from such an exchange.

9 (b) The following property is subject to forfeiture under (a) of this section:

10 (1) firearms, explosives, or weapons;

11 (2) money, securities, negotiable instruments, or anything of value, whether
12 tangible or intangible, secured or unsecured;

13 (3) raw materials, chemicals, pharmaceuticals, or anything, including plants or
14 other living organisms, from which controlled substances might be derived;

15 (4) books, records, tapes, formulas, research papers, and equipment, including data
16 processing and electronic equipment used in surveillance or counter-surveillance efforts;

17 (5) aircraft, vehicles, vessels, and conveyances, if the offense making the property
18 subject to forfeiture is a felony offense; and

19 (6) a right, title, or interest in real property, and any improvements and
20 appurtenances, if the offense making the property subject to forfeiture is a felony offense.

21 (c) Notwithstanding the provisions of AS 12.38, a controlled substance or imitation
22 controlled substance, and plants grown in the wild from which controlled substances or imitation
23 controlled substances are derived, seized under AS 12.38.020, are automatically forfeited to the
24 state. The law enforcement agency with custody of property described in this subsection shall
25 dispose of it under procedures prescribed by the commissioner of public safety.

26 (d) In this section, "violation of AS 11.71 or AS 11.73" includes an attempt or
27 solicitation under AS 11.31 to violate AS 11.71 or AS 11.73.

28 * Sec. 5. AS 18.60.148(a) is amended to read:

29 (a) A transfer to the Alaska Wing, Civil Air Patrol, of a forfeited aircraft under
30 AS 12.38, AS 16.05.195(f), [AS 17.30.122,] or another state law or regulation, is subject to the
31 following conditions:

- 1 (1) the transfer shall be made without cost to the Civil Air Patrol;
2 (2) the aircraft becomes a corporate Civil Air Patrol aircraft;
3 (3) the aircraft may only be used for Civil Air Patrol search and rescue, civil
4 defense, and training purposes;
5 (4) the aircraft may not be transferred to another wing of the Civil Air Patrol
6 unless
7 (A) the aircraft has been corporate aircraft of the Alaska Wing, Civil Air
8 Patrol for at least 36 months after the date of transfer to the Alaska Wing; or
9 (B) the aircraft is being exchanged for another Civil Air Patrol corporate
10 aircraft of equivalent or greater value;
11 (5) if the Civil Air Patrol determines that the aircraft should be disposed of as
12 surplus property, the disposition shall first be approved by the Department of Administration.
13 * Sec. 6. AS 11.73.060; AS 17.30.112, 17.30.114, 17.30.116, 17.30.118, 17.30.120, 17.30.122,
14 17.30.124, and 17.30.126 are repealed.

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB-192

Revision Date: _____ Department Affected: PUBLIC SAFETY
 Title: Relating to seizure and forfeiture of property in cases involving alcohol or drugs BRU: _____
 Sponsor: _____ 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	Ø					

CAPITAL	Ø					
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REVENUE	Ø					
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FUNDING: (Thousands of Dollars)

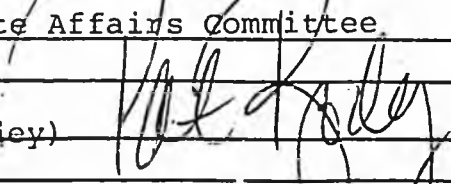
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	Ø					

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: none

ANALYSIS: (Attach a separate page if necessary.) Based on testimony from the department and on zero fiscal notes from DPS on a nearly identical bill from last year, the fiscal impact of this measure is expected to be zero.

Prepared By: Senate State Affairs Committee Phone: x4522
 Division: Legislature Date: 3/20/91
 Approved by Chairman (Rodey)  Date: _____
 Agency: _____ Date: _____

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

Alaska State Legislature



SENATOR
ARLISS STURGULEWSKI

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Senate

MEMORANDUM

14 March 1991

TO: Senator Pat Rodey
Chairman, Senate State Affairs Committee

FROM: Senator Arliss Sturgulewski *AS*

RE: Senate Bill 192

I respectfully request your scheduling Senate Bill 192 for a hearing before the Senate State Affairs Committee. This legislation amends current seizure and forfeiture laws as they pertain to drugs and bootleg alcohol.

The major change to current procedures is a new chapter in Title 12 outlining seizure and forfeiture proceedings. That new chapter clarifies current procedures and adds an administrative proceeding to the current methods by which property can be declared forfeit.

The major policy changes addressed by the bill include

1. Applying these seizure and forfeiture provisions to violations of alcohol laws.
2. Adding real property to the list of items subject to seizure in felony cases.
3. Adding to the ways in which persons may obtain relief from

SECTIONAL ANALYSIS
SENATE BILL 192
14 March 1991

SECTION 1:

Removes the provision allowing the state to sell seized liquor without a license. The bill calls for seized liquor to be destroyed.

SECTION 2:

Repeals and reenacts current law regarding seizure and forfeiture of property for violation of bootlegging statutes.

Sec 04.16.220 (a) outlines the conditions under which alcoholic beverages are subject to seizure and forfeiture.

(b) lists the conditions under which property is subject to seizure and forfeiture.

Change from current law is the addition of a provision allowing property traceable to or derived from the illegal activity to be subject to forfeiture.

(c) lists the property that may be forfeited.

Change from current law adds items in (1), (2), (3), (4), and (6).

(d) is new language that allows a peace officer to immediately destroy alcoholic beverages if the alcoholic beverages are in a prohibited area.

(e) requires that seized alcoholic beverages be destroyed.

SECTION 3:

This is a new chapter in Title 12 (Code of Criminal Procedure). It sets out procedures to be followed in declaring seized property forfeit.

Sec. 12.38.010 - procedures apply to property seized under the controlled substance, imitation controlled substance, and bootlegging statutes.

Sec. 12.38.020 - (a) list the conditions under which property may be seized with and without a court order.

(b) describes how constructive seizure may take place.

Sec. 12.38.030 (a) requires the agency with custody of the property to give notice of the seizure to interested parties within 30 days.

(b) authorizes the seizing agency to keep the property, or in its discretion, release the property to an appropriate person.

(c) directs the department of public safety to inventory the seized property and estimate its value. The inventory and estimate is to be sent to the attorney general.

(d) gives the attorney general authority to decide whether or not to pursue forfeiture proceedings on seized property. If forfeiture proceedings are not pursued, the seized property must be returned.

(e) exempts controlled substances, imitation controlled substances, bootleg alcohol, and property ordered forfeit by a court from this section.

Sec. 12.38.040 (a) allows the court to issue orders or requirements to ensure the availability of seized property.

(b) authorizes the state to request sale or other disposition of the property. A person claiming an interest in the property may also request a sale or other disposition if the conditions in subsections 1 - 5 are met.

(c) makes the proceeds from the sale of the property, plus interest, subject to forfeiture.

Sec. 12.38.050 (a) sets out conditions under which a forfeiture proceeding may begin:

(1) by the state's filing of a motion in a civil or criminal proceeding

(2) by the state's filing a complaint in a separate *in rem* proceeding

(3) by publication of a notice by the commissioner of public safety that the state intends to seek administrative forfeiture.

(b) requires that within 30 days after initiation of a forfeiture proceeding persons with an interest in the property must be served with notice and public notice of the proceeding must be initiated. This subsection sets out the requirements for public notice.

(c) exempts public notice requirements for those items subject to automatic forfeiture.

(d) requires the state to prove in court by a preponderance of the evidence that the property is subject to forfeiture. States that it is *prima facie* evidence that the defendant has been convicted of the conduct making the property subject to forfeiture or that a grand jury has returned an indictment specifying that the property is subject to forfeiture.

(e) outlines court procedures in forfeiture cases.

(f) allows the state to request that forfeiture proceedings be delayed until the conclusion of a pending criminal action relating to the conduct that made the property subject to forfeiture.

(g) states that it is not a defense in a forfeiture proceeding that a criminal violation has not been prosecuted, or has resulted in a conviction of a different offense or in an acquittal.

Sec. 12.38.070 (a) sets out conditions under which a claim may be filed.

(b) sets out where the claim must be filed and the information it must contain.

(c) authorizes property to be forfeited to the state without further proceedings if the claim is not timely filed.

Sec 12.38.080 (a) allows the court to order property to be forfeited to the state.

(b) states that an order of judicial or administrative forfeiture provides to the state clear title to the property. States that an order on behalf of a party subject to relief from the order of forfeiture (see

Sec. 12.38.090) clears any cloud on the title to the property resulting from the forfeiture proceeding.

(c) orders costs of maintenance, storage, disposal, and attorneys' fees to be paid by the person causing the property to be subject to forfeiture.

(d) allows a court to order other assets to be forfeited if the property subject to forfeiture is hard to reach.

(e) allows an order of forfeiture to be made regardless of the location of the property.

(f) creates a perfected priority lien to the state over property ordered forfeited. That lien has priority over all unsecured and all unperfected secured debts associated with the property.**

**This is in response to an Alaska Supreme Court ruling that unrecorded, unsecured creditors can file claims for remission of forfeitable property. According to the Department of Law this is a serious potential problem since it would require the state to give the property to an associate of the defendant unless it could be proven that the transaction was a sham. The Supreme Court (according to the Department of Law) hinted at a possible way of correcting this problem which would be to create a lien in favor of the state having priority over the "creditor's" unrecorded lien. This subsection was drafted to correct this problem.

Sec 12.38.090 (a) allows a person to obtain relief by filing a timely claim and proving by a preponderance of the evidence that

-the person has a valid right to the property

-the person did not knowingly participate in or facilitate the conduct that resulted in the property being subject to forfeiture, and

-did not know, or have reason to believe, that a person might engage in the conduct that resulted in the property being subject to forfeiture

or

that the person provides more than half the support of a minor dependent living in the person's household and is claiming

exemptions from the forfeiture under the Alaska Exemptions Act (AS 09.38.010 - 09.38.090.) This exemption does not apply to liquor licenses.

(b) allows a person with a partial interest in the property to choose to receive the partial value, or, after paying the difference, the entire property. Disposition of multiple claims is to be proportional based on the priority and value of each person's respective interest, or is to be otherwise allocated by a court in the interests of justice.

Sec. 12.38.100 (a) direct property be transferred to the commissioner of administration for disposal. Sets out methods by which property may be disposed of.

(b) directs the commissioner of administration to separately account for the proceeds of the sale of forfeited property. Allows for these funds to be appropriated for the furtherance of the administration of justice.

SECTION 4:

Sec. 17.30.110 sets out the list of property subject to forfeiture.

The major change from current law is the addition of real property. This conforms to the federal model forfeiture act, except that in this bill real property is subject to forfeiture only in cases of a felony offense.

SECTION 5:

This is current law with the addition of a statutory reference to the forfeiture procedures under AS 12.38.

SECTION 6:

Repeals current forfeiture provisions in Title 11 (Criminal Law) and Title 17 (Controlled Substances).

S B

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WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

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PHONE: (907) 465-3600
FAX: (907) 463-5295

March 15, 1991

Hon. Pat Rodey, Chair
Senate State Affairs Committee
P. O. Box V
Juneau, Alaska 99811

Re: SB 199 (Notice requirements
for regulations)

Dear Chairman Rodey:

Senate Bill 199, relating to the notice requirements for the adoption, amendment and repeal of regulations, is currently scheduled for hearing in the Senate State Affairs Committee on Wednesday, March 20. Because I will be in Anchorage in depositions on that day, I am submitting this letter in lieu of testimony on the bill at the hearing.

SB 199 proposes to amend AS 44.62.200(a) to require that the notice provided to the legislature include additional information not generally included in the public notice. Although we see no significant problem with a requirement that we provide the legislature with the additional information referenced in the bill, we do not believe that this information should be specifically included in the notice. The notice is a specific document that is published in the newspapers or otherwise disseminated to the public. The proposed language would require either that the current notice used and published by the adopting agency be much longer, with a corresponding increase in publication costs, or it would necessitate producing two formal notices, one for the legislature and another for all other purposes.

Presumably it is the intent of the sponsor only to make sure that this additional information be provided to the legislature at the time notice is given; it should not be necessary that this information actually be set out in the notice itself. To accomplish this, we recommend that, instead of amending AS

Hon. Patrick Rodey, Chair
Senate State Affairs Committee

March 15, 1991
Page 2

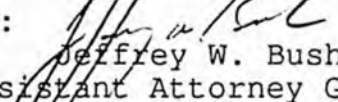
44.62.200(a), the bill amend AS 44.62.190 (a) (6) and (7) by adding the following to each of those paragraphs:

"along with a statement of the reason for the proposed action, the initial cost of implementation, the estimated annual costs of implementation, and the origin of the proposed action".

Thank you for your consideration of our comments.

Sincerely,

CHARLES E. COLE
ATTORNEY GENERAL

By: 
Jeffrey W. Bush
Assistant Attorney General

JWB:cl

cc: Hon. Richard Schultz
Senator, Alaska State Legislature

CS FOR SENATE BILL NO. 199 (STATE AFFAIRS)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): SENATOR SHULTZ

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the notice requirements for the adoption, amendment, and repeal of
2 regulations."

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

4 * Section 1. AS 44.62.190 is amended by adding a new subsection to read to read:

5 (d) A notice furnished under (a)(2), (4)(A), (6), (7), or (8) of this section must include
6 the reason for the proposed action, the initial cost of implementation, the estimated annual costs
7 of implementation, and the origin of the proposed action.

7-LS0935G
Bannister
3/19/91

**CS FOR SENATE BILL NO. 199 (STATE AFFAIRS)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION**

BY THE SENATE STATE AFFAIRS COMMITTEE

**Offered:
Referred:**

Sponsor(s): SENATOR SHULTZ

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the notice requirements for the adoption, amendment, and repeal of
2 regulations."

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

4 * **Section 1.** AS 44.62.190 is amended by adding a new subsection to read to read:

5 (d) A notice furnished to the legislature under (a)(6) - (8) of this section must include
6 the reason for the proposed action, the initial cost of implementation, the estimated annual costs
7 of implementation, and the origin of the proposed action.

SENATE BILL NO. 199

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY SENATOR SHULTZ

Introduced: 3/13/91
Referred: State Affairs

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the notice requirements for the adoption, amendment, and repeal of
2 regulations."

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

4 * Section 1. AS 44.62.200(a) is amended to read:

5 (a) The notice of proposed adoption, amendment, or repeal of a regulation must include

6 (1) a statement of the time, place, and nature of proceedings for adoption,
7 amendment, or repeal of the regulation;

8 (2) reference to the authority under which the regulation is proposed and a
9 reference to the particular code section or other provisions of law that are being implemented,
10 interpreted, or made specific;

11 (3) an informative summary of the proposed subject of agency action;

12 (4) other matters prescribed by a statute applicable to the specific agency or to
13 the specific regulation or class of regulations;

14 (5) a summary of the fiscal information required to be prepared under

1
2
3
4

AS 44.62.195; and

(6) for a notice furnished to the legislature under AS 44.62.190(a)(6) - (8), the reason for the proposed action, the initial cost of implementation, the estimated annual costs of implementation, and the origin of the proposed action.

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. CSSB-199 (STA)

Revision Date: _____ Department Affected: All Departments
 Title: Relating to notice requirements for regulations BRU: _____
 Sponsor: _____ 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					

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	0					
FEDERAL FUNDS						
OTHER						
TOTAL	0					

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: none

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Senate State Affairs Phone: 465-4522
 Division: Legislature Date: March 20, 1991
 Approved by Chairman, (Rodey)
 Agency: _____ Date: _____

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

SB

217

Alaska State Legislature

Senator Paul Fischer
Senate District D
Box 784
Soldotna, Alaska 99669
(907) 262-9420 W
262-9269



State Senate

While in Juneau
P.O. Box V
Juneau, Alaska 99811
(907) 465-3791

MEMORANDUM

TO: Senator Pat Rodey, Chairman
Senate State Affairs Committee

FROM: Senator Paul Fischer *PF*

SUBJECT: Senate Bill 217
(PERS/TRS lump sum for medical hardship)

DATE: March 27, 1991

I would appreciate your scheduling the above referenced bill for a hearing before the Senate State Affairs Committee at your earliest possible convenience.

The purpose of this bill is to allow a retiree, who is receiving monthly benefits, under the Public Employees Retirement System or the Teachers Retirement System, the opportunity to request that his or her retirement benefits be converted to a lump sum payment if faced with a medical hardship.

There is some complexity associated with this legislation as it relates to how medicaid plays a role in this area, etc. Consequently, I would like to request that when this legislation is before your committee for a hearing, you allow Mr. Dennis Murray, Administrator of Heritage Place in Soldotna (a nursing home), the chance to testify before the committee via teleconference. He is very knowledgeable about this issue.

Your consideration would be greatly appreciated.

PAF/sgn

cc: Dennis Murray, Administrator
Heritage Place

*Ps - Dennis Murray and other statewide providers will be here
on April 8 & 9.*

S B

220

CS FOR SENATE BILL NO. 220 (STATE AFFAIRS)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS RODEY, Collins

A BILL

FOR AN ACT ENTITLED

1 "An Act granting status as peace officers under the public employees' retirement system
2 to correctional nurses and to certain state employees employed at a residential psychiatric
3 facility; and providing for an effective date."

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

5 * Section 1. AS 39.35.680(28) is amended to read:

6 (28) "peace officer" or "fire fighter" means an employee occupying a position as
7 a peace officer, chief of police, correctional officer, correctional superintendent, correctional
8 nurse, fire fighter, fire chief, or probation officer or a state employee at a residential
9 psychiatric facility employed in a position that requires interacting directly with patients
10 at the facility ^{LIMITED TO} including physicians, physician's assistants, registered nurses, psychiatric
11 nursing assistants, practical nurses, technical assistants, ward clerks, social workers, mental
12 health clinicians, psychologists, activity therapists, occupational therapists, housekeepers,
13 and janitors;

14 * Sec. 2. A member who was employed, before the effective date of this Act, either as a correctional

1 nurse or by the state at a residential psychiatric facility with job duties that required interacting directly
2 with patients at the facility may convert the credited service for the position to credited service as a
3 peace officer by claiming the service as peace officer service before the member is appointed to
4 retirement. When the member claims this retroactive credited service, an indebtedness of the member
5 to the system shall be established. The indebtedness is equal to (1) the contributions to the system that
6 the employee would have made if the service had counted as peace officer service, less (2) the
7 contributions to the system that the member actually made. Interest as prescribed by regulation accrues
8 on this indebtedness beginning July 1, 1992. Any outstanding indebtedness that exists at the time the
9 member is appointed to retirement will require an actuarial adjustment to the benefits payable based upon
10 the service.

11 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

SENATE BILL NO. 220

IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY SENATORS RODEY, Collins

Introduced: 3/22/91
Referred: State Affairs and Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act granting employees of a state residential psychiatric facility status as peace
2 officers under the public employees' retirement system; and providing for an effective
3 date."

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

5 * Section 1. AS 39.35.680(28) is amended to read:

6 (28) "peace officer" or "fire fighter" means a state employee employed at a
7 residential psychiatric facility or an employee occupying a position as a peace officer, chief
8 of police, correctional officer, correctional superintendent, fire fighter, fire chief, or probation
9 officer,

10 * Sec. 2. A member who was employed by the state at a residential psychiatric facility in a position
11 in the public employees' retirement system before the effective date of this Act may convert the credited
12 service for that position to credited service as a peace officer by claiming the service as peace officer
13 service before the member is appointed to retirement. When the member claims this retroactive credited
14 service, an indebtedness of the member to the system shall be established. The indebtedness is equal

1 to (1) the contributions to the system that the employee would have made if the psychiatric facility
2 service had counted as peace officer service, less (2) the contributions to the system that the employee
3 actually made. Interest as prescribed by regulation accrues on this indebtedness beginning July 1, 1992.
4 Any outstanding indebtedness that exists at the time the member is appointed to retirement will require
5 an actuarial adjustment to the benefits payable based upon the psychiatric facility service.
6 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

BILL NO. CSSB 220(SA)

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Revision Date: _____
 Title: An act granting employees of a state residential psychiatric facility status of peace officers under PERS.
 Sponsor: Rodey
 Requestor: Senate State affairs

Department Affected: All State
 BRU: All State
 Component: All State
 COMPONENT SERIAL NO. _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	304.1	304.1	304.1	304.1
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	304.1	304.1	304.1	304.1

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
FUND SOURCE:						

FUNDING: (Thousands of dollars)

GENERAL FUND	0	0	304.1	304.1	304.1	304.1
FEDERAL FUNDS	0	0	0	0	0	0
OTHER						
FUND SOURCE	0	0	0	0	0	0
TOTAL	0	0	304.1	304.1	304.1	304.1

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 will have no cost to other Political Subdivisions of the State.

Prepared By: Garv Bader
 Division: Retirement and Benefits

Phone: 465-4470
 Date: March 5, 1992

Approved by Commissioner: Nancy Bear Usura
 Agency: Department of Administration

Date: 3/12/92

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB & Impacted Agency(ies).
 Rev 11/91 Page 1 of 2

Committee Substitute for Senate Bill 220 (SA)
Analysis of Fiscal Implications to the Retirement Funds
Prepared by Division of Retirement and Benefits
Department of Administration
March 5, 1992

Analysis: This bill is intended to include Public Employees' Retirement System (PERS) members who serve as employees of a state residential psychiatric facility under "Peace Officer/Firefighter" coverage. They are currently covered under the "All Other" category. We have assumed that this bill will increase the "Peace Officer/Firefighter" participation and decrease the "All Other" participation in PERS by 256 members.

This bill is estimated to increase the state FY 95 PERS contribution rate by .05%. The state payroll is estimated to be \$608,286,654 in FY 95 and remain stable each year thereafter.

The state cost of \$304.1 is calculated as follows:

State FY 95 payroll	\$ 608,286,654
Increase in PERS rate	<u>X .05%</u>
TOTAL FY 95 STATE COST.....	<u>\$ 304.1</u>

This bill will increase the PERS accrued liabilities by \$1.7 million and result in a decrease of .01% in the funding ratio of the PERS fund.

FISCAL NOTE

BILL NO. SB 220

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Revision Date: _____
Title: An act granting employees of a state residential psychiatric facility status of peace officers under PERS.
Sponsor: Rodey
Requestor: Senate State Affairs

Department Affected: All State
BRU: All State
Component: All State
COMPONENT SERIAL NO. _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	486.6	486.6	486.6	486.6
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	486.6	486.6	486.6	486.6

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	0	0	486.6	486.6	486.6	486.6
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUNDSOURCE	0	0	0	0	0	0
TOTAL	0	0	486.6	486.6	486.6	486.6

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 will have no cost to other Political Subdivisions of the State.

Prepared By: Gary Bader
Division: Retirement and Benefits

Phone: 465-4470
Date: February 21, 1992

Approved by Commissioner: Nancy Bear Usera
Agency: Department of Administration

Date: 2/22/92

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB & Impacted Agency(ies).
Rev 11/91 Page 1 of 2

FN - ALL STATE - 1992

Senate Bill 220
Analysis of Fiscal Implications to the Retirement Funds
Prepared by Division of Retirement and Benefits
Department of Administration
February 21, 1992

Analysis: This bill is intended to include Public Employees' Retirement System (PERS) members who serve as employees of a state residential psychiatric facility under "Peace Officer/Firefighter" coverage. They are currently covered under the "All Other" category. We have assumed that this bill will increase the "Peace Officer/Firefighter" participation and decrease the "All Other" participation in PERS by 440 members.

This bill is estimated to increase the state FY 95 PERS contribution rate by .08%. The state payroll is estimated to be \$608,286,654 in FY 95 and remain stable each year thereafter.

The state cost of \$486.6 is calculated as follows:

State FY 95 payroll	\$ 608,286,654
Increase in PERS rate	<u>X</u> .08%
TOTAL FY 95 STATE COST.....	<u>\$ 486.6</u>

This bill will increase the PERS accrued liabilities by \$3 million and result in a decrease of .01% in the funding ratio of the PERS fund.

REPORT TO SENATE STATE AFFAIRS COMMITTEE

by
Curtis W. Young
2/26/92

Throughout my report I shall refer from time to time to a study which was completed by Roberta Helmuth, RN, Ed. Coordinator and Heather McCracken, RN, of Alaska Psychiatric Institute (API). The study covers the period March 1, 1987 through February 28, 1989 and gives actual statistics which will show the need for the passage of SB 220. This study will be made available to all interested parties and for the remainder of this report shall be referred to as the API Study.

Nursing is one of the most dangerous ways to earn a living, according to the Bureau of Labor Statistics. Its most recent survey of workplace injuries found that nine industries--hospitals and nursing care facilities among them--reported at least 100,000 individual injuries in 1989.

According to the API Study under Findings, in the period March 1, 1987 through February 28, 1989, a period of 24 months, there were 1397 reports of patient assaults on staff. Sixteen of the reports were dropped from the example as invalid due to incomplete information. Of the 1381 remaining assaults, 1147 had no staff injury reported. Staff injuries occurred in 234 or 17 percent of the assaults. These injuries ranged from scratches to dislocated shoulders and concussions.

In a psychiatric facility such as API, the direct care nursing staff, which includes RNs, LPNs, and PNAs, are specially trained to deal with assaultive behavior. However, they are not specially salaried since the concensus of opinion appears to be that dealing with assaultive behavior is part of their accepted duties. Unfortunately, the lack of adequate compensation for hazardous duties results in a large turnover in the direct care nursing staff, which in turn contributes to the high incidence of injury because new staff are not always adequately trained or experienced in dealing with violent patients. API's Annual Reports of New Hires from 1986 through 1991 show that over 50 percent of the turnovers for each year were in Nursing.

Another factor which contributes to patient assaults on staff is the Bill of Patients' Rights which entitles a patient to refuse medication. According to Table V of the API Study, 22 percent of a total of 234 assaultors had no medications ordered, 25 percent were refusing ordered medications for a total of 47 percent of the assaultors who were not receiving medications. Patients suffering from Schizophrenic disorders are the most likely to assault staff; unfortunately they are also the most likely to refuse medication which could control the assaultive behavior.

Violence exists in psychiatric settings, and direct care staff are routinely exposed to patient violence and threats of violence. In addition, the situation often has far-reaching consequences as well. There is the stress caused by the knowledge that they can be assaulted at any time and, of course, once a staff member has been assaulted there is a tendency to try to minimize the emotional reactions to the assault. When this occurs, victims may not resolve the psychological impact of the assault and professional and personal consequences may result. For example, the victim may exhibit decreased work performance, interactional difficulties with co-workers, a desire for a job change, or family and social problems.

Another stress causing factor is the daily exposure to Hepatitis B, HIV, Staph infections, etc. Staff are continually at risk of becoming infected themselves and/or carrying the infection home to their families.

According to the API Study, under Related Factors, the quarterly figures from 1987 and 88 show a steady and marked increase in staff injuries. Also, in accordance with hospital policy, none of the records (except charts on the units) were flagged in any manner to alert the caregiver to a history of assaultive behavior. It was found that 54 percent of the assaultors had a history of previous assaults.

It is clear that under the described conditions it is no surprise that there is a large turnover in staff, given the fact that there is no real incentive to entice these people to remain on the job. Certainly the wages these people receive do not justify remaining in a position where they are exposed to violence on a daily basis. In fact, most direct care staff do not receive as high a wage as do janitorial and dietary staff. SB 220 would at least provide some reward to those dedicated enough to remain in a dangerous job situation long enough to retire.

There can be no argument that employees of a state residential psychiatric facility deserve to be granted status as peace officers under the public employees' retirement system, given the type of work they perform and the hazards they face on a daily basis.

FISCAL NOTE

BILL NO. CSSB 220(SA)

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Revision Date: _____
 Title: An act granting employees of a state residential psychiatric facility status of peace officers under PERS.
 Sponsor: Rodey - 8 -
 Requestor: Senate State Affairs

Department Affected: Administration
 BRU: Retirement and Benefits
 Component: Retirement and Benefits
 COMPONENT SERIAL NO. 64

Expenditures/Revenues: (Thousands of Dollars)

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

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING: (Thousands of dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE	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.)

Prepared By: Garv Bader *Garv M. Bader*
 Division: Retirement and Benefits

Phone: 465-4470
 Date: March 5, 1992

Approved by Commissioner: Nancy Bear Usery *NBU*
 Agency: Department of Administration

Date: 3/12/92

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB & Impacted Agency(ies).
 Rev 11/91 Page 1 of 1

REVISED F.N. - R4B

FISCAL NOTE

BILL NO. SB 220

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Revision Date: _____
Title: An act granting employees of a state residential psychiatric facility status of peace officers under PERS.
Sponsor: Rodey
Requestor: Senate State Affairs

Department Affected: Administration
BRU: Retirement and Benefits
Component: Retirement and Benefits
COMPONENT SERIAL NO. 61

Expenditures/Revenues: (Thousands of Dollars)

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

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING: (Thousands of dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE	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.)

Prepared By: Garv Bader *Nancy M Bader*
Division: Retirement and Benefits

Phone: 465-4470
Date: February 21, 1992

Approved by Commissioner: Nancy Bear Usera *NBC*
Agency: Department of Administration

Date: 2/24/92

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB & Impacted Agency(ies).
Rev 11/91 Page 1 of 1

FN - RYB - 1992

MEMORANDUM

State of Alaska

TO: Mr. Frank Crum
Nursing Director

DATE: April 25, 1989

FILE NO:

TELEPHONE NO:

FROM: Roberta Helmuth, RN, Educ. Coord. SUBJECT: Staff Injury Audit Report
Heather McCracken, RN

Attached is a report summarizing some of the data compiled during investigation of staff injuries resulting from patient assaults.

As the principal investigators in this project, we request permission to submit for publication pending Education and Research Committee approval of the research.

*Roberta Helmuth, Educ. Coord.
Heather McCracken, Nursing Director*

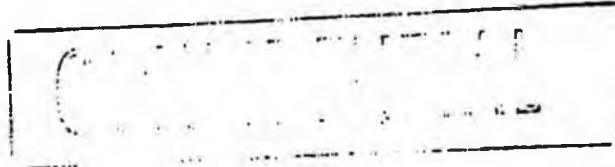
A.P.I. Study

A STUDY OF STAFF INJURIES AT THE ALASKA PSYCHIATRIC INSTITUTE

by Roberta Helmuth, RN, BA
and Heather McCracken, RN, BA

In recent months numerous nursing staff have been assaulted by patients resulting in injuries requiring time off work. The rising number and severity of staff injuries was noted by nursing administration and referred to the Nursing Quality Assurance Committee for review. The committee concurred with a proposal to research the problem utilizing an audit process. Nursing Education staff designed an audit tool and implemented the project. ¹

Due to the urgent need for the results of the research, the Nursing Director assigned one staff member from Nursing Education to work full time on gathering the audit data to enable rapid generation of a report from the data.



Ms. Helmuth is Education Coordinator, and Ms. McCracken is a Nursing Instructor at the Alaska Psychiatric Institute, 2900 Providence Drive, Anchorage, Alaska 99508.

¹ All data not otherwise credited was retrieved by an audit of records of patients who assaulted staff during the audit period, March '87 - February '89. The data will be presented for publication elsewhere.

FINDINGS

In the period March 1, 1987 through February 28, 1989 there were 1397 reports of patient assaults on staff. Sixteen (1.6) of the reports were dropped from the sample as invalid due to incomplete information. Of the 1381 remaining assaults, 1147 had no staff injury reported. Staff injuries occurred in 234 (17%) of the assaults. These injuries ranged from scratches to dislocated shoulders and concussions.

A month by month comparison of incidence of injury to patient census did not demonstrate any correlation in these two factors. (Table I)

TABLE I

MONTH	INJURIES	MONTHLY CENSUS
3/87	9	128
4/87	9	137
5/87	7	153
6/87	9	137
7/87	8	125
8/87	12	121
9/87	6	121
10/87	0	120
11/87	6	118
12/87	12	119
1/88	5	119
2/88	17	120
3/88	9	127
4/88	7	131
5/88	12	119
6/88	8	125
7/88	16	134
8/88	11	131
9/88	9	124
10/88	5	115
11/88	19	115
12/88	12	114
1/89	11	129
2/89	15	114

A breakdown of assaults by patient unit was done.(Table II)

TABLE II

UNIT	Total Assaults	Assaults with Injury	Assaults without Injury
Third	106	18	88
AAU	156	27	129
PSU	368	78	290
DTU	386	46	340
STP	31	6	25
ICP	102	20	82
YTP	232	39	193

Table III data was retrieved from Medical Record Departments annual reports and details the average daily census per unit and % of bed occupancy on the unit. Table III data covers FY '88, the only complete fiscal year within the audit period. Within that limited time frame, ~~there is a strong correlation between numbers~~

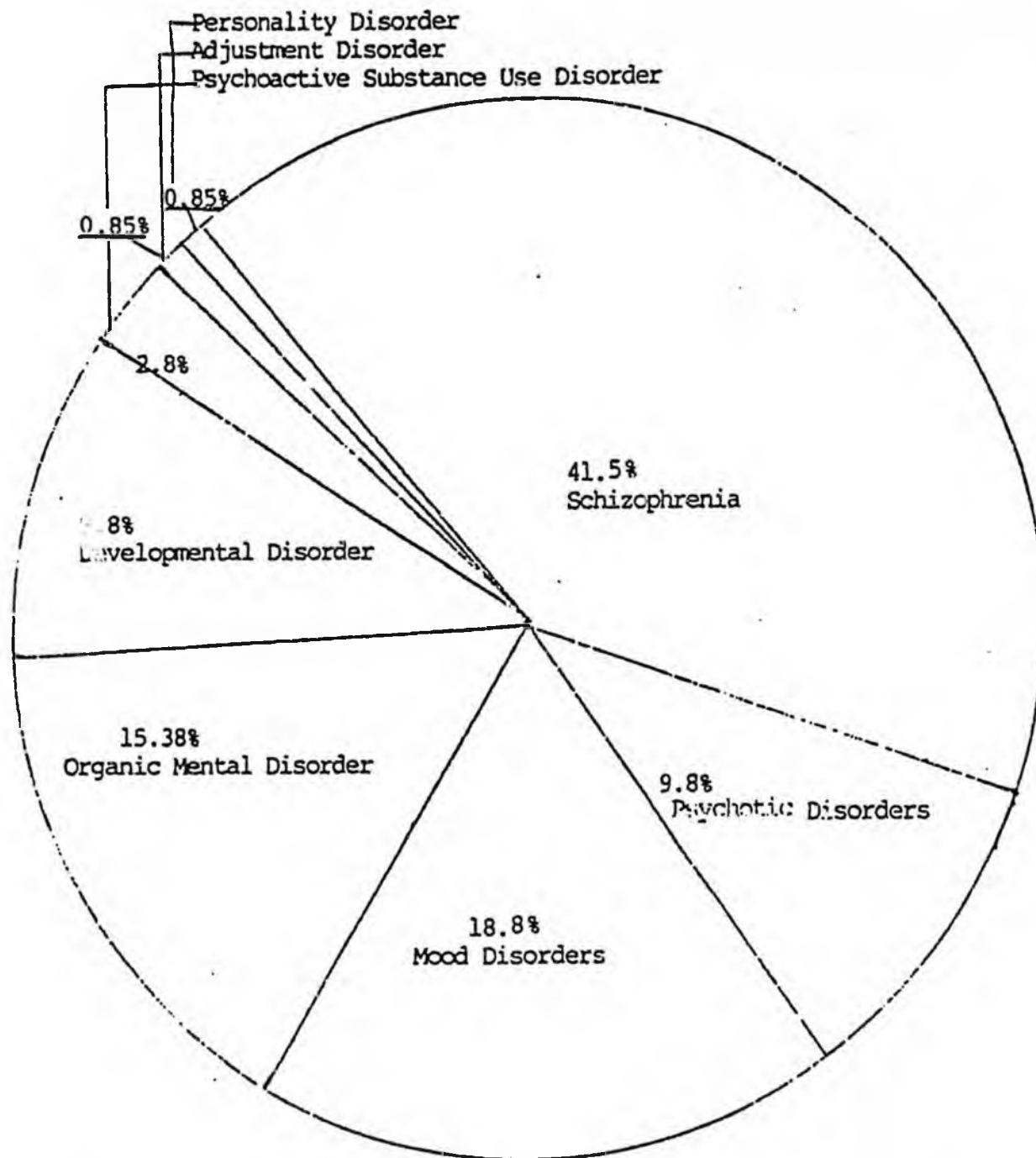
TABLE III

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UNIT	Average census FY'88	Bed Capacity	% of Capacity
Third	32	48	66.6
AAU	14	16	87.5
PSU	8	14	57.1
DTU	22	24	91.6
STP	17	20	85.0
ICP	17	20	85.0
YTP	13	32	40.6

Table IV shows a breakdown of the Primary diagnosis , per DSM-III-R classification, of patients committing assaults resulting in staff injuries. It is significant to note that 70.1% of these people fall into three (3) broad categories: Schizophrenia, Psychotic Disorders not elsewhere classified, and Mood Disorders. Traditionally, the majority of these three (3) categories have been successfully treated/controlled with medications.

TABLE IV



Categories as designated in the DSM-III-R

Table V is a breakdown of assaultors by DSM-III-R diagnostic categories. This table identifies how many patients in each category had no psychotropic medications ordered, how many were refusing ordered medications and the per category percentage not on medication.

TABLE V

DSM-III-R Categories	Total number of Patients	Number with no Psychotropics Ordered	Number Refusing	Total % not on Medication
Schizophrenic Disorders	97	14	26	41%
Psychotic Disorders	23	4	4	35%
Mood Disorders	44	9	17	59%
Organic Mental Disorders	36	5	7	33%
Developmental Disorders	23	8	5	57%
Psychoactive Substance Use	7	7	0	100%
Personality Disorders	2	2	0	100%
Adjustment Disorders	2	2	0	100%

In summation, 22% of the total 234 assaultors had no medications ordered, 25% were refusing ordered medications for a total of 47% of the assaultors who were not receiving medications. In the review of diagnostic categories, 34 patients (including developmental disorders, psychoactive substance use disorders, personality disorders, and adjustment disorders), may or may not be appropriate for medication depending upon physician interpretation of their individual circumstances. Keeping in mind the 34 patients represent 14.5% of the 234 assaultors, there remains 32.5% of the assaultors in this review who fall into categories traditionally treated by medications. This segment either had no medication ordered or were refusing ordered medication.

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RELATED FACTORS

Risk Management data regarding staff injuries was reviewed. The quarterly figures from '87 and '88 show a steady and marked increase since the fourth quarter of 1987, corroborating our data.

All API nursing staff have been trained in the Mandt system since 1979. The focus of the system is prevention and de-escalation utilizing verbal skills prior to using physical techniques. It prepares staff to use verbal and physical skills in situations requiring intervention.

In accordance with hospital policy, none of the records (except charts on the unit) were flagged in any manner to alert the care giver to a history of assaultive behavior. We defined "history of assaultive behavior" for the purposes of this research as more than one assault. It was found that 54% of the assaultors had a history of previous assaults.

While compiling various sets of statistics it was discovered that three (3) patients accounted for 46 (19.7%) of the injuries. In the interest of prevention a memo of 4/18/89 as forwarded to you prior to report completion.

The researcher's attempts to correlate reports of injury with workmen's compensation filings were unsuccessful.

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PERSONNEL REPORT

NOVEMBER 14, 1990

NUMBER OF PCN's: 304

NUMBER OF FULL-TIME EQUIVALENTS: 292

	<u>Number PCN's</u>	<u>Part-Time & Seasonal</u>	<u>Number FTE's</u>	<u>Vacancies</u>
Medical Staff	11	1	10.5	4
Ancillary Services	4	1	3.5	1
Nursing Services	164	20	154	4
RN's	72(*)	3	70.5	3
LPN's	3	0	3	0
PNA's	83	17	74.5	1
Clerical	6	0	6	0
Social Services	9	0	9	1
Psychology	7	0	7	1
Forensics	4	0	4	0
Activity Therapy	10	0	10	1
<u>SUPPORTING SERVICES:</u>				
Administration (Includes Volunteer Services Coordinator and Chaplain)	14	2	13	4
Medical Records	11	0	11	0
Maintenance	14	0	14	2
Housekeeping	22	0	22	1
Business Office	9	0	9	1
Dietary	21	0	21	0
Supply	4	0	4	0
TOTALS	304	24	292	20 (FTE's 18)

Includes 2 Mental Health Clinician II positions with nursing specialty.

Presently there are 2 non-perms. working in Maintenance which are not indicated on this report.

JG/bj/HMISCA 4152

r. 11/1/90
t. 11/6/90

MEMORANDUM

State of Alaska

TO: Curtis Young
PNA

DATE: March 18, 1991

FILE NO:

TELEPHONE NO:

FROM:

Donna C. Todtenhagen
Donna C. Todtenhagen
Admin Support Tech

SUBJECT: Requested statistics

Following are that statistics you requested for calendar years 1988, 1989 and 1990:

	1990	1989	1988
Admissions	834	979	1074
Discharges	833	1004	1069
Assaults	647	897	591
Locked quiet room	742	860	639
Restraints	356	526	290

cc: Reta J. Sullivan, ART
Medical Record Administrator

MEMORANDUM

State of Alaska

TO: Al Finneseth
Administrator

DATE: January 24, 1991

FILE NO:

TELEPHONE NO:

THRU:

SUBJECT: Workmen's Compensation
Report, 1990

FROM: Jim Gordon
Administrative Assistant I

<u>Calendar year</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>	<u>1990</u>
Total Days Lost Due to Injury	210.9	258.73	448.6	803.1	319.2
Total Days Lost Due to Non-Patient Injury	93.5	84	353.7	593.7	84.6
Total Days Lost Due to Patient-Connected Injury	117.4	174.73	94.9	209.4	234.6

For the calendar year 1990, API had a total of 2394 hours lost from work due to injuries.

There were 106 incidents reported, 36 involving lost time (12 of which resulted from a combative patient).

There were 70 incidents filed which did not result in any lost time, of these 32 were small abrasions and bumps suffered while subduing patients.

There were five staff injuries resulting in more than 150 hours away from the job. Three were the result of combative or uncooperative patients. One was the result of a fall in gym activities. One was a recurring hand injury that required surgery.

Additionally, there were 412 hours carried over as a result of prior year injuries that were not included in this report.

JG/ojb/MISC33/5024

r. & t. 1/25/91

1990

Reports Involving No Lost Time

Lifting.....6
Walking.....2
 In Hospital.....1
 On Grounds.....1
Gym Activities.....7
Responding to Aide Calls.....4
Miscellaneous.....19
Combative Patients.....32
TOTAL.....70

Reports Involving Lost Time

Lifting.....5
Walking.....6
 In Hospital.....1
 On Grounds.....5
Gym Activities.....4
Responding to Aide Calls.....2
Miscellaneous.....7
Combative Patients.....12
TOTAL.....36

JG/ojb/MISC33/5024

r. & t. 1/25/91

API ANNUAL REPORT
New Hires

	TOTAL	NURSING
1991	95	61
1990	100	59
1989	120	82
1988	126	65
1987	171	109
1986	94	48

NUMBER		
PCN's	304	164

* NOTE: Over 50 percent new hires occurred in Nursing.



TELECOPY COVER SHEET

Anchorage Legislative Information Office
Office - (907) 561-7007 Fax - (907) 562-4376

TO: Juneau LIO

ATTN: (5) State Affairs FAX: _____ PHONE: _____

FROM: Curtis W. Young PHONE: _____

INSTRUCTIONS: Please give to committee.
Regarding SB 220 meeting 1:30pm
2-26-92

SENT: Date 2-26-92 Time 1:17

DISPOSAL OF ORIGINAL: Discard _____ Hold for Pickup _____

NUMBER OF PAGES: 13 (counting cover sheet)

TRANSMITTED BY: Barbara

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. CSSB 220 (STA)

Revision Date: _____ Department Affected: Department of Corrections
 Title: "An Act granting status as BRU: Statewide Operations
peace officers..." Component: Various
 Sponsor: Senator Rodey
 Requestor: Senate Finance 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	26.6	27.4	28.2	29.1	29.9	30.8
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	26.6	27.4	28.2	29.1	29.9	30.8
CAPITAL						

REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	26.6	27.4	28.2	29.1	29.9	30.8
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	26.6	27.4	28.2	29.1	29.9	30.8

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: 0

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

Prepared By: *D. Schenker* Diane Schenker, Legislative Liaison Phone: 465-3376
 Division: Office of the Commissioner Date: 03/11/92
 Approved by Commissioner: *Lloyd Hames* Lloyd Hames, Commissioner
 Agency: Department of Corrections Date: 03/11/92

CONTINUATION OF FISCAL ANALYSIS

CSSB 220 (STATE AFFAIRS): An Act granting status as peace officers under the public employees' retirement system to correctional nurses and to certain state employees employed at a residential psychiatric facility; and providing for an effective date.

The Department pays 15.64% of an employee's gross pay for retirement benefits if the employee does not fall under peace officer status. The Department pays 16.97% of a peace officer's gross pay toward retirement benefits. For every employee added to peace officer status, the Department would increase its cost by 1.33% of the employee's gross pay.

There are 42 nurse positions in the Department of Corrections. Based on a survey of the gross pay of these employees, the Department would have to pay an additional \$26,600 per year if this bill passes. Assuming a 3% inflation/COLA for FY94-97, the costs will increase each year.