

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672

7704 SENATE STATE AFFAIRS

238



Alaska Permanent Fund Corporation

FINANCIAL PROJECTIONS (in millions)

as of January 31, 1992

GROWTH OF FUND PRINCIPAL						
FY	FY Begin Balance	Appropriations	Dedicated State Revenues*	Inflation Proofing	FY End Balance	Inflation Proofing Shortfall
78	0		54		54	
79	54		84		139	
80	139		344		483	
81	483	900	385		1,769	
82	1,769	800	400		2,969	
83	2,969	400	421	231	4,021	
84	4,021	300	366	151	4,838	
85	4,838	300	368	235	5,741	
86	5,741		323	216	6,281	
87	6,201	1,264 **	170	148	7,864	
88	7,864		418	303	8,585	
89	8,585		228	360	9,173	
90	9,173		267	454	9,894	
91	9,894		435	559	10,888	
92	10,888		282	474	11,643	
93	11,643		203	466	12,312	
94	12,312		217	752	13,281	
95	13,281		230	811	14,321	
96	14,321		238	874	15,433	
97	15,433		263	942	16,637	
98	16,637		252	1,013	17,902	
99	17,902		228	1,088	19,218	
0	19,218		207	1,116	20,540	50
1	20,540		188	1,037	21,765	207
2	21,765		174	1,095	23,033	221
3	23,033		159	1,155	24,347	236
4	24,347		146	1,218	25,711	252
5	25,711		132	1,284	27,127	267
6	27,127		118	1,351	28,596	283
7	28,596		106	1,422	30,124	300
8	30,124		98	1,496	31,717	318
9	31,717		89	1,573	33,380	336
10	33,380		82	1,654	35,115	354
Cumulative Totals Projected For FY 1992 - 2010:			3,410	20,818		2,824

USE OF FUND INCOME							
Net Income	Distributions			General Fund	Reserves		FY
	Dividends	Per Capita Dividends	Inflation Proofing		Add (Delete)	FY End Balance	
2				1			78
8				7			79
32	12			12			80
150	28			28	59	59	81
368	71	\$1,000.00		71	185	244	82
471	108	\$386.15	231	110	110	354	83
530	175	\$331.29	151		203	557	84
658	217	\$404.00	235		206	763	85
1,021	303	\$556.26	216		501	1,264 **	86
1,069	391	\$708.19	148		529	529	87
789	424	\$826.93	303		62	591	88
868	460	\$873.16	360	4	44	635	89
916	487	\$952.63	454	4	(30)	605	90
1,030	489	\$931.34	559	4	(24)	581	91
1,099	496	\$899.00	474	4	125	707	92
1,105	527	\$925.00	466		113	819	93
1,248	567	\$970.00	752		(71)	748	94
1,333	611	\$1,022.00	811		(88)	660	95
1,423	652	\$1,066.00	874		(102)	558	96
1,519	696	\$1,111.00	942		(118)	439	97
1,621	750	\$1,171.00	1,013		(142)	297	98
1,726	800	\$1,220.00	1,088		(162)	135	99
1,834	853	\$1,271.00	1,116		(135)		0
1,945	908	\$1,321.00	1,037				1
2,059	964	\$1,373.00	1,095				2
2,178	1,023	\$1,426.00	1,155				3
2,301	1,083	\$1,479.00	1,218				4
2,429	1,146	\$1,532.00	1,284				5
2,562	1,211	\$1,580.00	1,351				6
2,700	1,278	\$1,647.00	1,422				7
2,844	1,348	\$1,705.00	1,496				8
2,993	1,420	\$1,765.00	1,573				9
3,150	1,496	\$1,829.00	1,654				10
38,059	17,829	\$25,321	20,818	4			

REALIZED RATE OF RETURN ASSUMPTIONS:

	Nominal	Inflation	Real
FY 92:	9.27%	4.24%	5.03%
FY 93:	8.50%	4.00%	4.50%
FY 94-2010:	9.00%	6.00%	3.00%

* SOURCE: Dedicated State oil revenue estimates are from the Department of Revenue (DOR) Fall 1991 Low-Case Revenue Forecast. FY 92 includes \$46.3 million to Fund principal from BP oil settlement.

** The FY 86 Earnings Reserve Account end balance was appropriated by the legislature to the principal of the Permanent Fund effective July 1, 1986.

STATUS QUO



Alaska Permanent Fund Corporation

FINANCIAL PROJECTIONS (in millions)

as of January 31, 1992

GROWTH OF FUND PRINCIPAL						
FY	FY Begin Balance	Appropriations	Dedicated State Revenues	Inflation Proofing	FY End Balance	Inflation Proofing Shortfall
78			54		54	
79	54		84		139	
80	139		344		483	
81	483	900	385		1,769	
82	1,769	800	400		2,969	
83	2,969	400	421	231	4,021	
84	4,021	300	366	151	4,839	
85	4,839	300	368	235	5,741	
86	5,741		323	216	6,281	
87	6,281	1,264 **	170	148	7,864	
88	7,864		418	303	8,585	
89	8,585		228	360	9,173	
90	9,173		267	454	9,894	
91	9,894		435	559	10,888	
92	10,888		282	474	11,643	
93	11,195		195	448	11,839	
94	11,168		197	682	12,047	
95	11,365		197	694	12,256	
96	11,562		192	705	12,459	
97	11,754		200	717	12,671	
98	11,954		181	728	12,863	
99	12,135		154	737	13,027	
00	12,289		132	713	13,135	32
01	12,392		113	626	13,130	125
02	12,387		99	623	13,109	126
03	12,367		85	620	13,073	127
04	12,333		74	617	13,023	127
05	12,286		63	613	12,963	128
06	12,229		53	609	12,891	128
07	12,161		45	605	12,811	128
08	12,086		39	600	12,726	127
09	12,005		34	595	12,634	127
10	11,819		29	580	12,539	126
Cumulative Totals Projected For FY 1992 - 2010:			2,365	11,997		1,301

USE OF FUND INCOME							
FY	Net Income	Distributions			Reserves		FY
		Dividends	Per Capita Dividends	Inflation Proofing	General Fund	Add (Delete)	
78	2				1		78
79	8				7		79
80	32	12			12		80
81	150	28			28	59	59
82	368	71	\$1,000.00		71	185	244
83	471	108	\$386.15	231	110	110	354
84	530	175	\$331.29	151		203	557
85	658	217	\$404.00	235		206	763
86	1,021	303	\$556.26	216		501	1,264 **
87	1,069	391	\$708.19	148		529	529
88	789	424	\$826.93	303		62	591
89	868	460	\$873.16	360	4	44	635
90	916	487	\$952.63	454	4	(30)	605
91	1,030	489	\$931.34	559	4	(24)	581
92	1,099	496	\$899.00	474	4	125	707
93	1,063	507	\$889.00	448		108	788
94	1,132	514	\$880.00	682		(64)	679
95	1,141	523	\$875.00	694		(76)	565
96	1,149	526	\$861.00	705		(83)	450
97	1,157	530	\$846.00	717		(90)	335
98	1,165	530	\$841.00	728		(102)	214
99	1,170	543	\$827.00	737		(110)	91
00	1,173	545	\$813.00	713		(86)	
01	1,173	548	\$797.00	526			
02	1,172	549	\$781.00	523			
03	1,170	549	\$766.00	620			
04	1,166	549	\$749.00	617			
05	1,161	548	\$732.00	613			
06	1,155	546	\$716.00	609			
07	1,148	543	\$700.00	605			
08	1,141	541	\$684.00	600			
09	1,133	538	\$668.00	595			
10	1,125	534	\$653.00	590			
21,791		10,167	\$14,977	11,997	4		

ASSUMPTIONS:

	Nominal Returns	Inflation	Real Rates of Return
FY 92:	9.27%	4.24%	5.03%
FY 93:	8.50%	4.00%	4.50%
FY 94-2010:	9.00%	6.00%	3.00%

* SOURCE: Dedicated State oil revenue estimates are from the Department of Revenue (DOR) Fall 1991 Low-Case Revenue Forecast. FY 92 includes \$46.3 million to Fund principal from BP oil settlement.

** The FY 86 Earnings Reser. Account end balance was appropriated by the legislature to the principal of the Permanent Fund effective July 1, 1986.

STATUS QUO IN REAL 1992 DOLLARS



Alaska Permanent Fund Corporation

FINANCIAL PROJECTIONS

(in millions)

as of January 31, 1992

GROWTH OF FUND PRINCIPAL						
FY	FY Begin Balance	Appropriations	Dedicated State Revenues*	Inflation Proofing	FY End Balance	Inflation Proofing Shortfall
78	0		54		54	
79	54		24		139	
80	139		344		483	
81	483	900	385		1,769	
82	1,769	800	460		2,969	
83	2,969	400	421	231	4,021	
84	4,021	300	366	151	4,838	
85	4,838	300	368	235	5,741	
86	5,741		323	216	6,281	
87	6,281	1,264 **	170	148	7,864	
88	7,864		418	303	8,585	
89	8,585		228	360	9,173	
90	9,173		267	454	9,894	
91	9,894		435	559	10,888	
92	10,888		282	474	11,643	
93	11,643		203	466	12,312	
94	12,312		217	752	13,281	
95	13,281		230	811	14,321	
96	14,321		238	874	15,433	
97	15,433		263	942	16,637	
98	16,637		252	1,013	17,902	
99	17,902		228	1,088	19,218	
0	19,218		207	1,166	20,590	
1	20,590		188	1,247	22,024	
2	22,024		174	1,332	23,530	
3	23,530		159	1,421	25,110	
4	25,110		146	1,515	26,771	
5	26,771		132	1,614	28,517	
6	28,517		118	1,718	30,353	
7	30,353		106	1,828	32,287	
8	32,287		98	1,943	34,328	
9	34,328		89	2,065	36,482	
10	36,482		82	2,194	38,758	
Cumulative Totals Projected						
For FY 1992 - 2010: 3,410 24,461						

US USE OF FUND INCOME							
Net Income	Distributions			Reserves			FY
	Dividends	Per Capita Dividend	Inflation Proofing	General Fund	Add (Delete)	FY End Balance	
2					1		78
8					7		79
32	12				12		80
150	28				28	59	81
368	71	\$1,000.00			71	185	82
471	108	\$386.15	231	110	110	244	83
530	175	\$331.29	151		203	354	84
658	217	\$404.00	235		206	557	85
1,021	303	\$556.26	216		501	763	86
1,069	391	\$708.19	148		529	1,264 **	87
789	424	\$826.93	303		62	529	88
868	460	\$873.16	360	4	44	591	89
916	487	\$952.63	454	4	(30)	635	90
1,030	489	\$931.34	559	4	(24)	605	91
1,099	496	\$899.00	474	4	125	581	92
1,105	500	\$877.00	466		140	707	93
1,250	500	\$855.00	752		(1)	846	94
1,342	500	\$835.00	811		31	845	95
1,443	500	\$815.00	874		70	876	96
1,556	500	\$795.00	942		114	946	97
1,680	500	\$777.00	1,013		166	1,060	98
1,814	500	\$758.00	1,088		226	1,227	99
1,958	500	\$740.00	1,166		292	1,452	00
2,114	500	\$723.00	1,247		367	1,745	01
2,283	500	\$706.00	1,332		451	2,112	02
2,467	500	\$691.00	1,421		545	2,563	03
2,665	500	\$676.00	1,515		651	3,108	04
2,883	500	\$662.00	1,614		769	3,758	05
3,120	500	\$649.00	1,718		902	4,528	06
3,377	500	\$637.00	1,828		1,050	5,429	07
3,658	500	\$625.00	1,943		1,215	6,479	08
3,964	500	\$613.00	2,065		1,399	7,694	09
4,299	500	\$603.00	2,194		1,605	9,093	10
44,077	9,496	\$13,936	24,461	4		10,698	

REALIZED RATE OF RETURN ASSUMPTIONS:

	Nominal	Inflation	Real
FY 92:	9.27%	4.24%	5.03%
FY 93:	8.50%	4.00%	4.50%
FY 94-2010:	9.00%	6.00%	3.00%

* SOURCE: Dedicated State oil revenue estimates are from the Department of Revenue (DOR) Fall 1991 Low-Case Revenue Forecast. FY 92 includes \$46.3 million to Fund principal from BP oil settlement.

** The FY 86 Earnings Reserve Account end balance was appropriated by the legislature to the principal of the Permanent Fund effective July 1, 1986.

PFDS CAPPED AT \$500 MILLION BEGINNING IN FY 93.



Alaska Permanent Fund Corporation

FINANCIAL PROJECTIONS (in millions)

as of January 31, 1992

GROWTH OF FUND PRINCIPAL							
FY	FY Begin Balance	Appropriations	Dedicated State Revenue	Inflation Proofing	Inflation Proofing Shortfall	FY End Balance	
78			54			54	
79	54		84			139	
80	139		344			483	
81	483	900	385			1,769	
82	1,769	800	400			2,969	
83	2,969	400	421	231		4,021	
84	4,021	300	366	151		4,838	
85	4,838	300	368	235		5,741	
86	5,741		323	216		6,281	
87	6,281	1,264 **	170	148		7,864	
88	7,864		418	303		8,585	
89	8,585		228	360		9,173	
90	9,173		267	454		9,894	
91	9,894		435	559		10,888	
92	10,888		282	474		11,643	
93	11,195		195	448		11,839	
94	11,168		197	682		12,047	
95	11,365		197	694		12,256	
96	11,562		192	705		12,459	
97	11,754		200	717		12,671	
98	11,954		181	728		12,863	
99	12,135		154	737		13,027	
0	12,289		132	745		13,167	
1	12,422		113	752		13,287	
2	12,535		99	758		13,392	
3	12,634		85	763		13,482	
4	12,719		74	768		13,560	
5	12,793		63	771		13,627	
6	12,856		53	775		13,683	
7	12,909		45	777		13,731	
8	12,954		39	780		13,773	
9	12,993		34	782		13,809	
10	13,027		29	783		13,840	
Cumulative Totals Projected For FY 1992 - 2010:						2,365	13,639

US USE OF FUND INCOME						
Net Income	Distributions			Reserves		
	Dividends	Per Capita Dividend	Inflation Proofing	General Fund	Add (Delete)	FY End Balance
2					1	
8					7	
32	12				12	
150	28				28	59
369	71	\$1,000.00			71	185
471	108	\$386.15	231	110		244
530	175	\$331.29	151			354
658	217	\$404.00	235			557
1,021	303	\$556.26	216			763
1,069	391	\$708.19	148			1,264 **
789	424	\$826.93	303			529
868	460	\$873.16	360	4		591
916	487	\$952.63	454	4	(30)	635
1,030	489	\$931.34	559	4	(24)	605
1,099	496	\$899.00	474	4		581
1,063	481	\$843.00	448		125	707
1,134	454	\$776.00	682			814
1,148	428	\$715.00	694		(1)	766
1,165	404	\$658.00	703		27	750
1,185	381	\$605.00	717		56	764
1,207	359	\$558.00	728		87	808
1,229	339	\$514.00	737		120	881
1,252	320	\$473.00	745		153	985
1,275	302	\$436.00	752		187	1,116
1,299	285	\$402.00	758		221	1,274
1,324	268	\$371.00	763		257	1,458
1,350	253	\$342.00	768		293	1,669
1,378	239	\$316.00	771		330	1,904
1,406	225	\$293.00	775		368	2,164
1,436	213	\$271.00	777		406	2,448
1,468	201	\$251.00	780		446	2,755
1,501	189	\$232.00	782		487	3,087
1,535	179	\$215.00	783		530	3,442
24,456	6,014	\$9,170	13,639	4	573	3,820

ASSUMPTIONS:

	Nominal Returns	Inflation	Real Rates of Return
FY 92:	9.27%	4.24%	5.03%
FY 93:	8.50%	4.00%	4.50%
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* SOURCE: Dedicated State oil revenue estimates are from the Department of Revenue (DOR) Fall 1991 Low-Case Revenue Forecast. FY 92 includes \$46.3 million to Fund principal from BP oil settlement.

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PFDS CAPPED AT \$500 MILLION IN REAL 1992 DOLLARS

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ALASKA STATE LEGISLATURE

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Fairbanks, Alaska 99701
(907) 452-4882
Fax: 452-3254



Room 125, State Capitol
Juneau, Alaska 99801-1182
(907) 465-3834
Fax: 586-6246

Shirley Craft
Alaska State Senator

MEMORANDUM

To: Senator Pat Rodey, Chair
Senate State Affairs Committee

From: Senator Shirley Craft *Shirley*

Date: April 2, 1992

Re: SB 459, "An Act relating to regulations to implement the longevity bonus program."

On November 21, 1990, the Department of Administration adopted regulations that would change the longevity bonus payment schedule from prospective to retrospective in nature. (It wasn't a simple issue and had created a \$9.75 million debt to the state.)

On March 13, 1992, the Administrative Regulation Review Committee met to scrutinize emergency regulations adopted by the Department of Administration to correct the problem.

The emergency regulations were the solution to the "duplicate payment" problem created by the previous administration. I was informed that there may be a legal problem with the emergency regulations. An assistant attorney general stated at the hearing, that although they could advise the Division of Pioneer Benefits on what they should do, they could not tell them what to do, because the longevity bonus program is not subject to the Administrative Procedures Act (APA).

The committee has unanimously agreed that there is no reason why this program should not be subject to the APA. The "duplicate payment" problem may have been prevented, if the program had followed the guidelines and procedures required of most programs.

If you would like further information on this matter or have any questions, please contact me at 465-3444. I would appreciate your favorable consideration and early scheduling of this measure.

SPONSOR STATEMENT

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF ADMINISTRATION
DIVISION OF PIONEERS' BENEFITS
Longevity Bonus Program

P.O. BOX 61
JUNEAU, ALASKA 99811-0211
PHONE: (907) 465-4416
TOLL FREE: 1-800-478-2160
FAX: (907) 465-4108

February 7, 1992

Senator Shirley Craft
Alaska State Legislature
State Capitol
Juneau, Alaska 99801 - 1182

RE: "Duplicate" Payments - Longevity Bonus Program

Dear Senator Craft:

Thank you for meeting with me to discuss the issue of "duplicate" payments for the Longevity Bonus Program. In December 1990, the administrative regulations were revised to change the Longevity Bonus Program payment system from being prospective in nature to retrospective in nature. Rather than delay payments for two months during the transition, "duplicate" payments were issued for the months of January and February, 1991. The actual switch occurred during the first four months of 1991 as shown below:

<u>Payment Mailing Date</u>	<u>For the Month of</u>
January 1, 1991	January 1991
February 1, 1991	February 1991
March 1, 1991	January 1991
April 1, 1991	February 1991
May 1, 1991	March 1991
etc.	etc.

The administrative regulation is being scrutinized with the assistance of the Department of Law. Also, enforcement of the collection efforts have been suspended during the review process.

According to accounting officials, the change results in a debt to the Longevity Bonus system for those receiving "duplicate" payments for January and/or February 1991 in the amount of \$250 for each "duplicate" payment. Most recipients received both "duplicate" payments for those months and therefore have a debt coded in the computer in the amount of \$500 (about \$10,000,000 for all recipients).

Per current administrative regulations (see 2 AAC 40.175), the debt is collected at the time a recipient becomes disqualified (e.g. enters a nursing home) or terminates from the program (death, moves from Alaska). You can well imagine the feelings recipients

029 "Duplicate" Payments

Page - 2 -

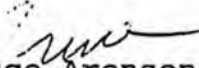
RE: "Duplicate" Payments - Longevity Bonus Program

and their families experience when this regulation is applied. As mentioned during our meeting, this particular administrative regulation is under active review by the department.

Thank you for the opportunity to discuss the Longevity Bonus Program, and if you have further questions or comments, please contact us.

A handwritten signature in cursive script, appearing to read "Thanks!".

Sincerely,

A handwritten signature in cursive script, appearing to read "Bruce".

Bruce Aronson
Administrator

Audit Report



STATE OF ALASKA

SINGLE AUDIT

For the Fiscal Year Ended
June 30, 1990



Audit Control Number:

02-6100-91

Division of Legislative Audit

P.O. Box W, Juneau, Alaska 99811-3300

LBA - Audit

Personnel. DOA should provide each department with all necessary material and guidelines for proper notification of employees.

Failure to fully implement the Drug-Free Workplace Act could be grounds for suspension of grant payments, termination of grants, and suspension or debarment as a recipient of federal funds.

Agency's Response

Recommendation No. 10

DOA should implement a drug-free workplace awareness program which fully implements Public Law 100-690, Drug-Free Workplace Act of 1988.

We concur. We originally believed that the "Drug Free Workplace Act of 1988 Notice to Employees Covered by the Act" met the requirements of Public Law 100-690. However, upon further review, we realize it does not. We will comply with the Act.

Recommendation No. 11

The Division of Pioneers' Benefits (DPB) should work with DOF to establish the appropriate FY 91 accounts receivable and bad debt expense associated with the new method of issuing longevity bonus payments.

During FY 91, DOA decided to move from a prospective payment of longevity bonus recipients to a retroactive payment system. A December 1990 letter to all longevity bonus recipients identified that recipients "will receive duplicate bonuses for January...and for February..." Given the estimate that 19,500 recipients were in the system for that time period, the duplicate payments would total \$9,750,000.

Under the old system, payments were issued on December 31 for the month of January and on January 31 for the month of February. Under the new system, payments were issued on February 28 for the month of January and on March 31 for the month of February. This can be visualized as follows:

	Old System			Transition Period of New System		New System	
Payment Date:	11/30/90	12/31/90	1/31/91	2/28/91	3/31/91	4/30/91	5/31/91
Residence Month							
Being Paid	December	January	February	January	February	March	April

This payment schedule was used because DOA did not want to penalize the bonus recipients by withholding checks while the system change occurred. As identified in the December 27, 1990 letter to all recipients, DOA "...will not attempt to collect duplicate payments unless

and until you [bonus recipient] are disqualified or terminated from the program."

As a result, DOA should recognize an FY 91 account receivable in the accounting records. Since collection efforts will not begin until after a recipient is disqualified or terminated from the program, DOA should also record the dollar amount of the receivable estimated to be uncollectible.

Agency's Response

Recommendation No. 11

The Division of Pioneers' Benefits should work with DOF to establish the appropriate FY 91 accounts receivable and bad debt expense associated with the new method of issuing longevity bonus payments.

The Longevity Bonus Program has recorded the debt on an individual basis, and collects on that debt when persons become disqualified from the program. Since the existing computer software is unable to display a debt in the traditional sense, the debt has been coded in the former legislative election district field. The debt of all recipients will be totalled and included as an accounts receivable in the '91 accounting records, with an estimated amount for uncollectible accounts.

Recommendation No. 12

DPB should improve controls over the issuance of longevity bonuses.

Controls over the issuance of longevity bonus checks should be instituted as follows:

- a. Employee tasks should be reassigned in order to prevent and detect errors.

In the DPB, one individual is responsible for approving longevity bonus applications, for the input of that recipient data into the system for payment, and the review of rejected applicant data. These tasks are considered incompatible when assigned to one employee.

Tasks are considered to be incompatible when it is possible for an individual to commit errors in the normal course of their duties without detection by the system. Duties should be assigned so that the duties of one employee automatically provides a cross-check on the work of one or more other employees.

In this instance, combining these tasks for performance by one individual could allow for the undetected creation of fictitious longevity bonus recipients. In order to prevent this or other undetected errors, DPB should separate these duties.

- b. The controls over the recording of longevity bonus warrants should be strengthened.

Once a month, longevity bonus staff send a memo to DOA, Data Processing (DP) identifying the beginning warrant number to be used for that month's issuance of bonus warrants. DP interfaces the longevity bonus information with AKSAS in order to record those expenditures into the state accounting system.

Before this interface process occurs, DPB does not know the total number of warrants that should be processed for that month's recipients. Therefore, they cannot confirm that the total number of warrants issued is correct. That is, authorized by longevity bonus staff or their contractors.

DPB should upgrade their system so that they can ensure that all approved data entered successfully processes into the state accounting system.

- c. Potential fraudulent longevity bonus recipients should be thoroughly investigated.

According to the director of the program, because of the number of bonuses processing through the system, there is not sufficient time to investigate fraud tips thoroughly. This may allow for the fraudulent receipt of longevity bonuses.

The application for a longevity bonus is intended to prove eligibility of applicants. It is required to be signed and notarized. Additionally, two signatures from witnesses who can confirm that the applicant is eligible for the program must be included.

However, there is no post-audit of applications, nor a cross-reference with available databases to identify fraudulent applicants. The possibility of relevant databases should be explored for cross-referencing. For example, the permanent fund dividend database may provide a valuable cross-reference. Additionally, there may exist other databases that contain vital statistics of relevance.

In order to safeguard the State's assets, DPB should ensure that longevity bonus recipients remain eligible for the program through cross-referencing of available pertinent databases and aggressive follow-up on fraud tips.

Overall, these controls should be strengthened to ensure that only eligible recipients are issued longevity bonus checks.

As discussed above, in our opinion, the Alaska Permanent Fund Corporation should not have transferred \$80 million of interest income to the principal of the fund in FY 88 without legislative appropriation.

As discussed in Recommendation No. 13, we believe that the calculations used for the FY 87 lapse of the newly reconstituted National Petroleum Reserve - Alaska Special Revenue Fund were incorrect. As a result the Alaska Permanent Fund received too much of the FY 87 lapse. The corporation staff disagree and have declined to return \$2.7 million to the NPRA fund and \$4.7 million to the General Fund. We acknowledge that there are differing legal opinions on the issue.

- o Significant Fiscal Policy Decisions Without Legislative Involvement - Recommendation No. 11 reports that the Division of Pioneers' Benefits made a change in the manner in which they pay out longevity bonuses. The effect of the change was to duplicate payments for two months, roughly estimated at a total value of \$9.75 million. The division believes that they will simply recover the \$500 duplicate payments from each recipient upon their disqualification or termination from the program.

More recently, the administration began highway reconstruction work on the Copper River Highway utilizing a questionable funding source. According to reports, \$250,000 of an FY 91 appropriation to the Department of Transportation and Public Facilities for Northern Region Deferred Maintenance were used to begin the Copper River Highway work. This work plan was not presented to the legislature for consideration.

While some of the above items may not be significant by themselves, and may at first glance appear to be disjointed, the common thread among them is that they all occurred without proper legislative involvement in the decision process.

In our opinion, this trend has been developing over the years and is not attributable to any one administration. However, we do believe that it merits close attention by the legislature to ensure that proper legislative powers are not eroded.

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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

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

MEMORANDUM

February 18, 1992

SUBJECT: Longevity Bonus Payments (Work Order No. 7-LS2019)

TO: Senator Shirley Craft

FROM: Tamara Brandt Cook
Director *TBC*

You have supplied me with information that indicates that, while longevity bonus payments in the past have been made at the beginning of the bonus month, the Department of Administration implemented a new payment schedule at the beginning of 1991 under which the payment for a bonus month is made two months later. This lag time is designed to enable the department to verify eligibility, as I understand it. However, to accomplish the transition the department sent duplicate bonus payments for the months of January and February 1991 during March and April, so that each recipient would receive a bonus every month. Then in May the department sent out the payments for March under the new two month lag schedule.

Under 2 AAC 40.175(f) the department will take action to recover duplicate payments when a recipient becomes ineligible, is reinstated, or is terminated from the program. Because of the extra payments made for January and February, the longevity program is short of money and may be seeking a supplemental appropriation. Since the change may affect the appropriation process, you have asked whether the department may make this change without legislative involvement.

The commissioner of administration is charged with administering the longevity bonus program. (AS 47.45.100) There is no provision for legislative involvement in decisions dealing with the administration of the program, and it is unlikely that the legislature could play much of a role in these matters without violating the separation of powers doctrine.

However, there are limitations to what an agency may do by regulation, and no regulation may substantively modify what is clearly provided for by statute. (AS 44.62.030; State v. Alveska Pipeline Serv. Co., 723 P.2d 76 (Alaska 1986)) While regulations relating to the longevity bonus program need not comply with the

Legal Services to Craft

Senator Shirley Craft
February 18, 1992
Page 2

Administrative Procedure Act (AS 47.45.160), this general principal still applies. Otherwise, the regulatory authority exercised by the agency will be found by a court to constitute an improper delegation of legislative power.

AS 47.45.010 clearly provides for a monthly bonus payment of \$250. There is no authority in statute for the department to make two payments for the same month. I believe that the department acted outside its authority in doing so.

TBC:pl
92-111.plm



ALASKA STATE LEGISLATIVE COMMITTEE

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Mr. C. Keith Campbell
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Seward, AK 99664
(907) 224-5631

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Juneau AK 99801
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Fairbanks, AK 99701
(907) 456-9737

COORDINATOR
Capital City Task Force
Mr. Joe Aller
Box 29304
Juneau AK 99802
(907) 586-6680

Bringing lifetimes of experience and leadership to serve all generations.

February 20, 1992

Honorable Ben Grussendorf
Speaker of the House of Representatives
P.O. Box V (MS3100)
Juneau, Alaska 99811

Dear Speaker Grussendorf:

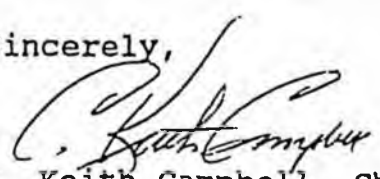
The Alaska State Legislative Committee of the American Association of Retired Persons respectfully requests that the Administration and Legislature solve the problems created by the duplicate payments to recipients of the longevity bonus program.

These payments were made in January and February 1991, during the implementation of regulations changing the payments under this program from a prospective basis to a retrospective basis.

The State Legislative Committee urges the resolution of this problem be both uniform and equitable. This request is stimulated by complaints of recoupment being activated only at the death of a recipient and the resulting shock of an unforeseen debt levied against the estate. The unexpectedness of this action causes undue stress during a grieving period. A more sensitive handling of the problem is requested by the State Legislative Committee.

Thank you for your attention to this matter. Our Committee would welcome the opportunity to comment upon future regulations in regard to this issue.

Sincerely,


C. Keith Campbell, Chair
Alaska State Legislative Committee

cc: Members of Alaska House of Representatives
Jean H. Nalibow, Area 10 Director
Myriam Marquez, Area 10
Legislative Representative

longbp.ltr

AARP - Duplicate Payments

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. SB 459

Revision Date: _____
Title: An Act relating to regulations to implement the Longevity Bonus Program
Sponsor: Rules Committee by Request
Requestor: State Affairs

Department Affected: Administration
BRU: Pioneers' Benefits
Component: Longevity Bonus

COMPONENT

0	0	2	7
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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: NONE

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Dennis L. DeWitt, Director Phone: 465-4400
Division: Pioneers' Benefits Date: April 2, 1992

Approved by Commissioner: Nancy Bear Uesera Date: _____
Agency: Administration

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

3/6/92

LONGEVITY BONUS PROGRAM
Proposed Emergency Regulation Change

PURPOSE

Resolve the confusion surrounding the transition from prospective payment and retrospective payment systems by eliminating the erroneous assumption of "duplicate payments."

DISCUSSION

When the program changed from paying prospectively to paying retrospectively a transition was necessary to ensure that payments to current recipients would not be interrupted. This should have been handled as a transition issue for the program, not as a debt to recipients.

The current regulation, 2 AAC 40.175 (f), establishes a debt for "duplicate payments" under the Longevity Bonus. Duplicate payments, however, were not made to any recipient. The program dated two checks for January 1991 and February 1991. The checks were delivered to recipients during a four month period from January through April of 1991. This was done for accounting and payment processing purposes and in an attempt to make program administration changes transparent to current recipients.

The result has been confusion on the part of most recipients and the creation and posting of a debt due from recipients for "duplicate payments" pursuant to 2 AAC 40.175 (f). The fact is that no recipient received more than one payment in any one month. Thus there is no reality to a notion of duplicate payment nor should there be a debt.

The solution to the problem is to terminate payments to those eligible before December 1, 1990 (old recipients) at the time of disqualification. Those who became eligible on or after December 1, 1990 (new recipients) would continue to be eligible through the last full month of eligibility as provided in the current

DOA - Regulations

regulations. The practical effect of this approach is that old recipients will not be eligible to keep any bonus payments issued after they lose eligibility.

Examples for recipients eligible before December 1 , 1990

1. A person dies on January 10. The person would keep the payment received in January. We would turn off the payment scheduled for February. No collection efforts would be required. .

2. A person dies on January 29. A payment is issued in the month of February. We will ask that the payment be returned. We would not attempt to collect the January payment.

The proposed emergency regulations will not affect recipients who became eligible for the Longevity Bonus Program on or after December 1, 1992.

The attached proposed emergency regulations accomplish this objective.

b:\proemreg

NOTICE OF ADOPTION OF EMERGENCY REGULATIONS

Notice is given that, under the authority of AS 47.45.100(1) the Department of Administration adopted, amended and repealed, as emergency regulations, provisions in 2 AAC 40.075 and 2 AAC 40.175 relating to Longevity Bonus payments.

The amendments change the regulations by:

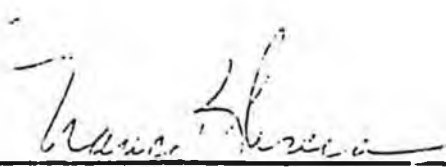
Eliminating transition language which require the administrator to recover certain payments and clarifying eligibility to receive bonus payments at the time of disqualification.

The emergency regulations took effect March 6, 1992.

Copies of the regulations may be obtained by writing to the Division of Pioneers' Benefits, P.O. Box 110211, Juneau, Alaska 99811.

Notice is also given that the Department of Administration intends to make the regulations permanent, and any person interested may send written statements relevant to the action proposed to Division of Pioneers' Benefits, P.O. Box 110211, Juneau, Alaska 99811, to be received no later than April 15, 1992.

Date: 3-8-92



Nancy Bear Usera
Commissioner of Administration

FINDING OF EMERGENCY

The Department of Administration finds that an emergency exists and that the attached regulations adopting, amending and repealing provisions in 2 AAC 40.075 and 2 AAC 40.175 are necessary for the immediate preservation of the public peace, health, safety, or general welfare. The facts constituting the emergency are as follows:

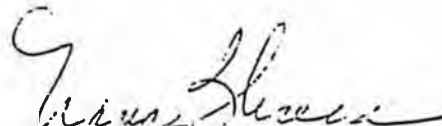
1. The current regulations are confusing to Longevity Bonus program recipients.
2. The current regulations were promulgated with an erroneous interpretation of accounting principles.
3. The regulations have created a current debt against approximately 20,000 Alaskans who have not received any overpayment from the State of Alaska.
4. The inappropriate debt recorded against Longevity Bonus recipients can adversely affect their credit rating.
5. Adoption of these regulations will allow the Longevity Bonus Program to remove the debt that has been posted against Longevity bonus recipients and clear any concern with credit ratings.
6. Delay in adoption will cause initiation of collection procedures for a debt which should not exist.

ADOPTION ORDER

Under authority of AS 47.45.100(1), the amendments to the regulations are therefore adopted as emergency regulations and are effective March 6, 1992.

This action is not expected to require an increased appropriation.

Date: 3/1, 1992
Juneau, Alaska



Nancy Bear Usera, Commissioner

FILING CERTIFICATION

I _____, Lieutenant Governor for the State of Alaska, certify that on _____, 1992, at _____ .m., I filed the attached regulations, which were voluntarily submitted to me for publication.

Lieutenant Governor

Effective _____.
Register _____.

2 AAC 40.075 (b)(2) and (c) are amended to read:

(2) the recipient has notified the administrator that he or she has discontinued residency in Alaska and the payment is for a month for which a [THE] recipient is qualified to receive [FOR] a bonus payment.

(c) Unless other reimbursement is received by the administrator, bonus payments will be withheld as repayment for bonuses that were issued to a recipient for a period in which the recipient was not entitled to receive a bonus payment. (Eff. 12/1/90, Register 117; am / / , Register).

Authority: AS 47.45.100(1)

2 AAC 40.175(f) is repealed and reenacted to read:

(f) A recipient who was eligible for and received a bonus before December 1, 1990 is not eligible to receive bonus payments after the month of disqualification under 2 AAC 40.110 or termination under 2 AAC 40.140 (a), (b), (c)(2), and (c)(3), regardless of the month for which the payment is being made.

2 AAC 40.175 is amended by adding new subsections (g) and (h) to read:

(g) A recipient who was eligible under 2 AAC 40.010(b) before December 1, 1990 who terminates eligibility under 2 AAC 40.140(c)(1) will continue to receive payments without interruption.

(h) A recipient who was eligible for the program before December 1, 1990 whose eligibility for bonus payments is discontinued under 2 AAC 40.110(b) or (c), or who is terminated under 2 AAC 40.140 may be reinstated under 2 AAC 40.130 but will be treated as a new recipient who was not eligible for the program before December 1, 1990. Bonus payments will commence pursuant to 2 AAC 40.065. (Eff. 12/1/90, Register 117; am / / , Register).

Authority: AS 47.45.020(1)

Longevity Bonus Program 1991 Payment Schedule



Bonuses paid after February 1, 1991, are for the second prior month rather than for the month in advance. This means that many of you received duplicate bonuses for January (one payment about January 1 and a second about March 1) and for February (one payment about February 1 and a second about April 1). These duplicate payments were necessary to avoid interruption of bonuses during the transition to the new payment system. We will not attempt to collect duplicate payments unless and until you are disqualified or terminated from the program. Bonuses are mailed as follows.

<u>Mailing Date</u>	<u>For the Month of</u>
January 1, 1991	January 1991
February 1, 1991	February 1991
March 1, 1991	January 1991
April 1, 1991	February 1991
May 1, 1991	March 1991
June 1, 1991	April 1991
July 1, 1991	May 1991
August 1, 1991	June 1991
September 1, 1991	July 1991
October 1, 1991	August 1991
November 1, 1991	September 1991
December 1, 1991	October 1991

The form attached to the bonus payment asks questions which will confirm that you qualify for a bonus payment. After answering all the questions on the form and returning it by the 15th of the month, if you are qualified you will receive your bonus payment and a new validation form, which is mailed the first day of the following month. The process is repeated each month.

If you have questions about the payment system, you may call or write to us.

Longevity Bonus Program
P.O. Box 110211
Juneau, AK 99811-0211
Telephone: 465-4416

L.B. Payment Schedule

ALASKA LONGEVITY BONUS PROGRAM

Recipients and Cost by Fiscal Year--1973-2000

Fiscal Year	Recipients at Year-end	Annual Increase		Annual Cost	Annual Increase	
		Number	Percent		Amount	Percent
73	4,753			346,100		
74	5,250	497	10.5%	967,500	621,400	179.5%
75	5,463	213	4.1%	3,689,700	2,722,200	281.4%
76	5,553	90	1.6%	6,470,700	2,781,000	75.4%
77	6,228	675	12.2%	8,669,375	2,218,675	34.3%
78	6,671	443	7.1%	9,486,375	797,000	9.2%
79	7,207	536	8.0%	11,814,900	2,328,525	24.5%
80	7,897	690	9.6%	12,804,600	989,700	8.4%
81	8,527	630	8.0%	18,778,600	5,974,000	46.7%
82	9,101	574	6.7%	26,074,500	7,295,900	38.9%
83	9,731	630	6.9%	27,586,750	1,512,250	5.8%
84	10,769	1,038	10.7%	29,254,500	1,667,750	6.0%
85	15,135	4,366	40.5%	43,199,000	13,944,500	47.7%
86	15,763	628	4.1%	44,105,500	906,500	2.1%
87	16,834	1,071	6.8%	47,095,500	2,990,000	6.8%
88	17,675	841	5.0%	50,152,500	3,057,000	6.5%
89	18,439	764	4.3%	53,472,250	3,319,750	6.6%
90	19,490	1,051	5.7%	57,172,700	3,700,450	6.9%
91	20,298	808	4.1%	60,209,600	3,036,900	5.3%
92	21,645	1,347	6.6%	63,571,000	3,361,400	5.6%
93	22,879	1,234	5.7%	67,194,500	3,623,500	5.7%
94	24,137	1,258	5.5%	70,890,250	3,695,750	5.5%
95	25,392	1,255	5.2%	74,576,500	3,686,250	5.2%
96	26,535	1,143	4.5%	77,932,500	3,356,000	4.5%
97	27,570	1,035	3.9%	80,971,750	3,039,250	3.9%
98	28,645	1,075	3.9%	84,129,750	3,158,000	3.9%
99	29,705	1,060	3.7%	87,242,500	3,112,750	3.7%
2000	30,834	1,129	3.8%	90,557,750	3,315,250	3.8%

Rec 11/6/91 As you can see, the cost of providing the longevity bonus program has grown by leaps and bounds, since 1973. The expense to the state to operate the program for this year alone, is approximately \$63 million dollars.

In 1972, this program was exempted from the Administrative Procedures Act (APA). With such a large budget, you would think it appropriate for the program to adhere to the same hearing and review procedures that the majority of programs are required to use.

L.B. Cost per Fiscal Year

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FISCAL NOTE

**STATE OF ALASKA
1992 LEGISLATIVE SESSION**

BILL NO. SB-470

Revision Date: _____ Department Affected: NA
 Title: Alaska Flag Day - July 9 BRU: _____
 Component: _____

Sponsor: Senate HESS
 Requestor: Rodey / State Affairs COMPONENT SERIAL NO.

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EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	0					

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: M. Gifford Phone: 465-4522
 Division: Senate State Affairs Committee Date: 4/14/92
 Approved by Senator Pat Rodey, Chair *Pat Rodey*
 Agency: Alaska State Legislature Date: 4/14/92

Benny Benson and The Alaska Flag

John Ben (Benny) Benson, designer of the Alaska flag, was born on October 12, 1913, at Chignik, Alaska. His mother was of Aleut-Russian descent and his father was a Swedish fisherman. In 1916, at the age of three, Benny came to the Jesse Lee Home, following his mother's death from pneumonia. He lived at Jesse Lee, first in Unalaska, and later in Seward, until 1932.

Benny's opportunity to design the flag came following Governor Parks' visit to Washington, D.C. There the Governor discovered Alaska was the sole territory or state without a flag. On his return home, the Governor met with several organizations to remedy the situation. The resulting contest to find a suitable territorial flag, sponsored by the American Legion, was held in the Spring of 1927. Benny's simple but elegant design, the unanimous choice of all judges, won first place, and was later adopted as official state flag. When a telegram arrived at school announcing the news, Benny, who never did get used to being in the limelight, was speechless and unable to utter a word. Modesty remained one of Benny's most notable traits.

Benny's described his flag as follows: "The blue is for Alaska's sky and the forget-me-not, an Alaskan flower. The North Star stands for Alaska, which someday will be the most northerly star in our Country's flag. The Dipper is for the Great Bear, signifying strength."

Some years later, Benny met Marie Drake, who wrote Alaska's Flag Song to explain Benny's design to school children. Marie Drake described Benny's design as "beautiful, simple, and meaningful." Her words were subsequently set to music and became the state song.

Alaska's Flag, Words by Marie Drake

Eight stars of gold on a field of blue -
Alaska's flag, May it mean to you
The blue of the sea, the evening sky
The mountain lakes, and the flow'rs nearby;
The gold of the early sourdough's dreams,
The precious gold of the hills and streams;
The brilliant stars in the northern sky
The "Bear" - the "Dipper" - and,
 shining high,
The great North Star with its steady light.
Over land and sea a beacon bright,
Alaska's flag - to Alaskans dear,
The simple flag of a last frontier.

Benny was awarded a gold watch, with his winning flag design reproduced on the case. Benny later received a \$1,000 scholarship to attend Hemphill Diesel School in Seattle, and \$2,500 from the Alaska State Legislature.

The original flag, now displayed at the Alaska State Historical Museum in Juneau along with Benny's watch, was first unfurled and flown at the Jesse Lee Home Campus in Seward, on July 9, 1927. Benny had the honor of raising the flag when it was flown at the dedication. On a number of occasions, Benny served as an ambassador of goodwill for the State of Alaska.

ACS credits the following known authors (and some unknown) for their assistance from pieces found in ACS historical files: The Anchorage Times; Phyllis D. Carlson; Greater Anchorage Incorporated; Velma Moos Potter.

SCR

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Kenai Chamber of Commerce
Box 497
Kenai, Alaska 99611
(907) 283-7989

January 22, 1991

Senator Paul Fischer
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

REFERENCE: Senate Concurrent Resolution #2

Dear Senator Fischer:

The Board of Directors of the Kenai chamber of Commerce would like to thank you for your efforts on behalf of the City of Kenai through introduction of the above Resolution.

This very historical year of celebrating our city's bicentennial is just beginning. The first function with bicentennial flavor is the Kenai Chamber Banquet on January 25, 1991, where our guest speaker is a soviet news correspondent. Next the Chamber is sponsoring the Bicentennial Masquerade Ball in April, with many events to follow. In short its going to be an exciting year for our community.

We appreciate you introducing this resolution recognizing our 200th anniversary.

Sincerely,

William S. Coghill
President
Kenai Chamber of Commerce

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 Concurrent Resolution 2
(Kenai as bicentennial city in 1991)

DATE: January 22, 1991

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

As you are aware, this resolution passed the Senate unanimously in 1989. However, during neither session was it ever calandared by the House Rules Committee for House action.

The Kenai Bicentennial Visitors and Convention Bureau is diligently planning and developing celebration events on the Kenai and early passage of this resolution would recognize their efforts.

Your consideration would be greatly appreciated.

PAF/sgn

Sponsor Statement

SCR

19

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SCR-19

Revision Date: _____ Department Affected: Legislature
 Title: enforcement of state laws prohibiting age discrimination in employment BRU: _____
 Sponsor: Kerttula Component: _____
 Requestor: Senate State Affairs COMPONENT SERIAL NO.

--	--	--	--

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					
---------	---	--	--	--	--	--

REVENUE	Ø					
---------	---	--	--	--	--	--

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.)

Prepared By: Senate State Affairs Phone: x4522
 Division: Alaska State Legislature Date: 4/3/91
 Approved by Senator Paul Roden, Chairman, Sen. State Affairs
 Agency: Alaska State Senate Date: 4/3/91

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

SCR

20



**City of Kodiak
1792-1992**

**Kodiak Island Convention & Visitors Bureau
Bi-Centennial Committee**

Co-chair: Pam Foreman, Tom Watson

MISSION STATEMENT

The mission of the Kodiak Island Bicentennial Committee is to encourage, promote and coordinate, through a common bicentennial theme, as many events and activities throughout Kodiak Island as possible regarding the celebration of the 200th anniversary in 1992 of the founding of the townsite of Kodiak, Alaska.

Goals:

1. To provide coordinated support to groups or individuals planning activities in conjunction with the bicentennial theme.
2. To maintain a presence in local, regional and statewide media regarding the promotion of island-wide, year-long bi-centennial events in Kodiak.
3. To coordinate with other regional or statewide events concurrent with Kodiak's celebration to maintain an ongoing inclusion of Kodiak events in statewide or regional calendars or programs.
4. To develop and enhance a broader awareness and appreciation for the rich cultural heritage of Kodiak Island.

Objectives:

1. Inventory all existing or proposed activities and events throughout 1991-1992 that are compatible with the bicentennial theme.
2. Generate a list of potential activities that may enhance the celebration and provide additional activities for the community both during and after the celebration timeframe.
3. Generate news releases and other promotion literature for timely dissemination to all appropriate media, agencies and organizations.
4. Coordinate with all businesses and services who might provide specific support to the bicentennial activities of Kodiak.

5. Prepare and maintain a current schedule of events for public information.

6. Assist schools in developing programs and class sessions in various aspects of the bicentennial components.

7. Pursue all funding opportunities including raffles, fund raising events, local and state grants (KIB, Division of Tourism, etc.).

8. Develop and present thematic programs to various service organizations on various aspects of Kodiak history.

9. _____

10. _____

Specific objectives

1. Coordinate a major kick-off celebration to coincide with the 25th performance of the Cry of the Wild Ram, August, 1991.

2. Contact legislative and congressional representatives regarding proclamations, resolutions acknowledging Kodiak's bicentennial.

3. Develop a "Heritage Days" mid-summer event with the intent of making it an annual affair. Proposed time window would be between Crab Festival and the Ram (Expand 4th of July festivities, or develop separate event to be held no later than second week in July).

4. Develop a seal or cancellation stamp for use on all outgoing mail. Further encourage individual businesses to include similar on a postal pieces going off island.

5. Develop flags, banners, similar for display by merchants throughout 1991-1992 celebration. (Suggest Russian-American flags above storefronts; large banner spanning main thoroughfare.

6. Develop and install Russian heritage displays at airport terminal for extent of celebration.

7. Encourage contests, promotions with air carriers regarding Kodiak's bi-centennial theme.

8. Encourage incentive packages with hotels, air carriers for off-island participation in activities.

9. Develop special tours to villages with strong bi-centennial themes: Old Harbor/Three Saints Bay Tour; Karluk/Oldest Russian Church Tour; etc.

10. Newspaper poster/art contest for students; essay contests with prizes by local merchants.

11. Periodic programs on aspects of history for column in paper, programs on public radio.

12. Encourage the incorporation of a bi-centennial theme in all merchant advertising.

13. _____

14. _____

15. _____



MAYOR AND CITY COUNCIL
POST OFFICE BOX 1397, KODIAK, ALASKA 99615

TELEPHONE (907) 486-8635
FAX (907) 486-8600

March 8, 1991

RECEIVED MAR 11 1991

Honorable Fred Zharoff
Alaska State Senator
P.O. Box V, MS 3100
Juneau, Alaska 99811

RE: Resolution Recognizing Kodiak as Bicentennial Community

Dear Senator Zharoff: *Fred*

This letter respectfully requests you consider submitting the enclosed resolution, which represents the spirit of Kodiak by recognizing 1992 as the 200th anniversary of its colonization. Also enclosed is a gift containing celebrational memorabilia for the 1992 Bicentennial.

Your support on the passage of this resolution would be greatly appreciated, not only by the City of Kodiak, but of all citizens residing on Kodiak Island.

Sincerely,

CITY OF KODIAK

MARCELLA H. DALKE, CMC/AAE
City Clerk

MHD/cms

Enclosures

SCR

28

Current legislative policy
STATE OF ALASKA
THE LEGISLATURE

P O BOX 7, STATE CAPITOL
JUNEAU, ALASKA 99811
907 485-3802

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

TO: All Legislators, and to Legislative and Agency Staff
FROM: *S. Smith* Sally Smith
Personnel and EEO Officer
SUBJECT: Sexual Harassment DATE: October 21, 1991

With the subject of sexual harassment so prominently in the spotlight, you may have questions about how the legislative branch would handle such an issue.

Sexual harassment is defined by the U.S. Equal Employment Opportunity Commission as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

While the federal Equal Employment Opportunity Commission (EEOC) enforces federal laws which prohibit discrimination, elected officials of a state or political subdivision and their personal staff members are excluded from provisions of the enabling Civil Rights Act. They are, however, subject to broader nondiscrimination provisions of Alaska State law.

not in
Statute
Alaska statutes^{*} define harassment as:

unwanted conduct or communication by a supervisor, co-worker, or nonemployee in the work place which is based on the sex, color, race, religion, national origin, age, handicap, marital status, changes in marital status, pregnancy, or parenthood of an individual and which adversely affects the employment relationship or working environment. This includes slurs, epithets, threats, derogatory comments, unwelcome jokes, teasing and other verbal or physical conduct.

Rather than the State's EEO office, it is the State Commission for Human Rights which has the authority to investigate any complaints concerning discrimination that emanate from Alaska's legislative branch.

As your EEO officer, I am available to answer questions related to your rights as an employee or supervisor and to provide you with any assistance in working through your concerns. You are encouraged to contact me at the earliest possible time so that we may understand and resolve issues before they escalate into problems. I would hope that no one of us would ever face the situation--on either side--that was witnessed by the nation last week.

1604.11 Sexual harassment.

(a) Harassment on the basis of sex is a violation of section 703 of title VII. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

(b) In determining whether alleged conduct constitutes sexual harassment, the Commission will look at the record as a whole and at the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incidents occurred. The determination of the legality of a particular action will be made from the facts, on a case by case basis.

(c) Applying general title VII principles, an employer, employment agency, joint apprenticeship committee or labor organization (hereinafter collectively referred to as "employer") is responsible for its acts and those of its agents and supervisory employees with respect to sexual harassment regardless of whether the specific acts complained of were authorized or even forbidden by the employer and regardless of whether the employer knew or should have known of their occurrence. The Commission will examine the circumstances of the particular employment relationship and the job functions performed by the individual in determining whether an individual acts in either a supervisory or agency capacity.

(d) With respect to conduct between fellow employees, an employer is responsible for acts of sexual harassment in the workplace where the employer (or its agents or supervisory

employees) knows or should have known of the conduct, unless it can show that it took immediate and appropriate corrective action.

(e) An employer may also be responsible for the acts of non-employees, with respect to sexual harassment of employees in the workplace, where the employer (or its agents or supervisory employees) knows or should have known of the conduct and fails to take immediate and appropriate corrective action. In reviewing these cases the Commission will consider the extent of the employer's control and any other legal responsibility which the employer may have with respect to the conduct of such non-employees.

(f) Prevention is the best tool for the elimination of sexual harassment. An employer should take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment under title VII, and developing methods to sensitize all concerned.

(g) Other related practices: Where employment opportunities or benefits are granted because of an individual's submission to the employer's sexual advances or requests for sexual favors, the employer may be held liable for unlawful sex discrimination against other persons who were qualified for but denied that employment opportunity or benefit.

(Title VII, Pub. L. 88-352, 78 Stat. 253 (42 U.S.C. 2000e et seq.))
[45 FR 74677, Nov. 10, 1980]

APPENDIX TO PART 1604—QUESTIONS AND ANSWERS ON THE PREGNANCY DISCRIMINATION ACT, PUB. L. 95-555, 92 STAT. 2076 (1978)

INTRODUCTION

On October 31, 1978, President Carter signed into law the *Pregnancy Discrimination Act* (Pub. L. 95-955). The Act is an amendment to title VII of the Civil Rights Act of 1964 which prohibits, among other things, discrimination in employment on the basis of sex. The *Pregnancy Discrimination Act* makes it clear that "because of sex"

*The principles involved here continue to apply to race, color, religion or national origin.

(7-1-91 Edition)

ions, under any insurance or sick connection with a or unwritten and practices in as the com on of leave; the on, the accrual er benefits and at, and payment disability insur n, formal or in ed to disability irth or related the same term are applied to ealth insurance except where would be endan carried to term plications have n, are not re an employer, r, precludes an g abortion ben ects bargaining abortion. ation of an em rily disabled is at policy under eave is avail n violates the mpact on em s not justified

it program, or am which is in 78, which does d by pregnan : medical con r persons not i their ability e be in compl :rovisions of 1979. In order with the pro re can be no ompensation October 31, 1979 or the e bargaining October 31,

program im- r 31, 1978, provisions of entation.

serve a legitimate management purpose.

3. DEFINITIONS

3.1 Harassment: Unwanted communication and/or conduct by a supervisor, co-worker or non-employee in the workplace which adversely affects the employment relationship or working environment for the employee or applicant for employment and is based on the sex, race, religion, national origin, age, handicap, marital status, changes in marital status, pregnancy or parenthood of that individual. Harassment may include slurs, abusive language, threats, derogatory comments, unwelcome jokes, teasing and other such verbal or physical conduct.

★ 3.2 Sexual harassment: Addressed and defined by the U.S. Equal Employment Opportunity Commission in the Federal Guidelines on Discrimination Because of Sex published on November 10, 1980, and codified as 29 CFR Section 1604.11, sexual harassment is defined as follows:

"(a) Harassment on the basis of sex is violation of Sec. 703 of Title VII. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment."

4. GUIDELINES FOR THE IMPLEMENTATION OF POLICY

4.1 Responsibility for Implementation:

- (a) Overall responsibility for the administration of this order is delegated to the Director of the Division of Equal Employment Opportunity.
- (b) All agency heads, managers and supervisors within the Executive Branch of State Government are responsible for taking immediate and appropriate corrective action where they have any knowledge of such prohibited practices. Such corrective actions should be taken only after consultation with the State Division of Equal Employment Opportunity.

4.2. Complaints:

- (a) Employees believing they have been subjected to harassment

15/10D1/0730-08/2

1/24/72
Anchorage
Daily News

Harassment

Prevention better than cure

After last fall's televised hearings on sexual harassment, some employers didn't waste any time. Before you could say "Clarence Thomas" or "Anita Hill," they had copies of their companies' harassment policies tacked to company bulletin boards.

So at least something good came out of these hearings. At least people became more aware of sexual harassment. At least they talked about it.

Now Sen. Rick Uehling, R-Anchorage, wants to make sure people remain aware. Sen. Uehling is sponsoring a bill that would require all employers with 15 or more workers to post information about sexual harassment in the workplace.

More red tape? More government interference? You could look at it that way. But then, all companies, public and private, already are bound by state and federal sexual harassment laws. If a simple, posted explanation could prevent a case of harassment, then it would keep government out of your business. Better prevention than damages or penalties.

Sexual harassment isn't the only form of discrimination, of course. It certainly would help to have people more aware of race or age or handicap discrimination as well. But, judging from the uproar over the Thomas-Hill hearings, people do seem to have particular trouble understanding sexual harassment. It couldn't hurt to give them more information while interest is high.

But perhaps the best way to see that education and prevention efforts on all kinds of discrimination are carried out is to fully fund the state Human Rights Commission. The commission has seen all complaints — including sexual harassment — go up 44 percent over the past year, while staffing has dropped by almost half over the past few years. Certainly the commission can't take on any new responsibilities under Sen. Uehling's bill, unless it gets the money to do so.

1/22/92
Anchorage Daily News

Bill aims to 'get the word out' on sexual harassment

The Associated Press

JUNEAU — Employers with 15 or more workers would be required to post information about sexual harassment in the workplace under proposed legislation introduced in the Senate Tuesday.

Notices must be placed in "prominent and accessible" locations, and include the federal definition of sexual harassment, a list of state and federal agencies that accept harassment complaints, and deadlines for filing complaints.

"I just don't think people know what constitutes sexual harassment in the workplace," said Sen. Rick Uehling, R-Anchorage and the bill's sponsor. "This bill is just trying to get the word out. It's a start."

Maine has adopted a similar law, he said.

Paula Haley, executive director of the state Human Rights Commission in Anchorage, said she reviewed a copy of the proposal Monday and planned to discuss it with the seven commissioners this week.

"I think posting notices about discrimination can be effective in advising employees of their rights and reminding employers of their responsibilities," Haley said.

Sexual harassment complaints filed with the commission last year doubled to about 28 cases from 14 the year before, Haley said. At least one of the cases investigated last year involved sexual harassment against a man.

Senate Bill 363 was assigned Tuesday to the Finance and Labor and Commerce committees.

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. CSSCR 28 (STA)

Revision Date: _____ Department Affected: Office of the Governor
 Title: Human Rights Commission BRU: Human Rights Commission
prepared sex harassment handbook Component: _____
 Sponsor: UEHLING
 Requestor: Senate State Affairs COMPONENT SERIAL NO.

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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	23.1					
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS	12.6					
TOTAL OPERATING	35.7					

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

REVENUE						
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

GENERAL FUND	35.7					
FEDERAL FUNDS						
OTHER						
FUND SOURCE:						
TOTAL	35.7					

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.) see attached memo from Human Rights Commission to Sen. Uehling (1/24/92)

Prepared By: Senate State Affairs Phone: x4522
 Division: Alaska State Legislature Date: Feb. 5, 1992
 Approved by Senator Pat Rodey *Pat Rodey*
 Agency: Chairman, Senate State Affairs Date: Feb. 6, 1992

MEMORANDUM Human Rights Commission

TO: Senator Rick Uehling
FROM: Paula M. Haley *PMH*
Executive Director
DATE: January 24, 1992
RE: Advisory Memorandum on SCR 28

=====

Your legislative aide, Brian Butcher, asked me to provide your office with figures on the cost of implementing Senate Concurrent Resolution 28. The Commission has developed a rough estimate of the cost of producing and distributing a sexual harrassment handbook.

Approximately 250,000 employees would be eligible to receive handbooks under SCR 28. The estimated cost of producing a small handbook aproximately six (6) pages in length including the cover and mailer is \$23,100. Identifying all the employers in the state and making a one time distribution of the handbook would add a cost of about \$12,600 for a total of \$35,700.

Please feel free to contact me with any questions. Thank you.

Senator Rick Uehling

Downtown, Elmendorf, Northeast Anchorage



Senate Finance Committee
International Trade & Tourism Committee
State Affairs Committee

SUMMARY OF RESOLUTION

SCR 28

A Resolution

Urging the Alaska State Commission for Human Rights
to prepare a handbook on sexual harassment.

SCR 28 will urge the Alaska State Commission for Human Rights to prepare a handbook on sexual harassment for distribution by employers to employees. The handbook would give a detailed description of sexual harassment, when, how, and to whom to report it, and to show management level employees how to properly handle a sexual harassment complaint.

There is a significant amount of confusion by the public on what constitutes sexual harassment in the workplace and this handbook would help inform people as to what it is and how to report it. Sexual harassment in the workplace is believed to be substantially underreported and a handbook would give both employers and employees a more detailed understanding of sexual harassment and would help to deter the problem in the future.

MEMORANDUM Human Rights Commission

TO: Senator Rick Uehling
FROM: Paula M. Haley *pmh*
Executive Director
DATE: January 24, 1992
RE: Advisory Memorandum on SCR 28

=====

Your legislative aide, Brian Butcher, asked me to provide your office with figures on the cost of implementing Senate Concurrent Resolution 28. The Commission has developed a rough estimate of the cost of producing and distributing a sexual harrassment handbook.

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Please feel free to contact me with any questions. Thank you.

SCR

30

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. SCR-30

Revision Date: _____ Department Affected: _____

Title: Open Primary Elections BRU: _____

Sponsor: Cotten, Rodey, Eliason et al Component: _____

Requestor: Senate State Affairs COMPONENT SERIAL NO.

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EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

REVENUE						
FUND SOURCE:	0					

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
FUND SOURCE:						
TOTAL	0					

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: none

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: M. Gifford, Committee Aide Phone: x4522

Division: Senate State Affairs Committee Date: 2/14/92

Approved by Senator PAT RODEY *Pat Rodey*

Agency: Chair, State Affairs Committee Date: 2/14/92

FISCAL NOTE

SCR

37



SENATOR FRED F. ZHAROFF
ALASKA STATE LEGISLATURE

P. O. BOX 405, KODIAK, ALASKA 99615 (907) 486-5259

DURING SESSION:


P. O. BOX V, JUNEAU, ALASKA 99811 • (907) 465-3473 • 465-3474

DISTRICT N

ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILIAMNA • PRIBILOF ISLANDS • SHUMAGIN ISLANDS

MEMORANDUM

TO: Senator Pat Rodey
Chair
Senate State Affairs Committee

FROM: Senator Fred F. Zharoff 
Chair
Senate Rules Committee

DATE: April 9, 1992

RE: Scheduling a hearing for SCR 37

I respectfully request that you schedule a hearing for SCR 37 before the Senate State Affairs Committee as soon as possible.

SCR 37 requests the State Geographic Board to consider naming the beach at Hog Island in the Aleutians as Arkansas Beach. The Arkansas National Guard was deployed to the Aleutian Islands in 1941 and were present when the Japanese bombed Dutch Harbor and three men from the 206th Coast Artillery of the Arkansas National Guard lost their lives.

The Resolution has the support of the City of Unalaska. In addition, neither the owner nor the lessee of Hog Island have objections to this resolution.

Thank you for your consideration of this legislation. Please give me a call at 465-3473 if there are any questions regarding this request.

SPONSOR STATEMENT

WALTER J. HICKEL, GOVERNOR

**DEPARTMENT OF MILITARY
AND VETERANS AFFAIRS**

P.O. BOX L
JUNEAU, ALASKA 99811-0900

April 14, 1992

Senator Pat Rodey
Chairman
Senate State Affairs Committee
P.O. Box V
Juneau, AK 99811

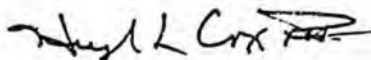
Dear Senator Rodey,

This letter is written in support of SCR37, scheduled for a hearing in your committee on Wednesday, April 15.

Our department has been working this issue at the request of the Adjutant General of the Arkansas National Guard. The idea to memorialize the efforts and sacrifices of the members of the Arkansas National Guard in the Aleutian campaign of World War II has great merit, and I believe that this resolution will be an appropriate vehicle to do so. The department is pleased to support this resolution, and encourages the members of your committee to pass out SCR37 with a favorable recommendation.

Please contact me, or have your staff contact my legislative liaison, Jeff Morrison, if you need any additional information.

Sincerely,



Hugh L. Cox III
Commissioner

cc: Senator Fred Zharoff

file: JM/SCR37]

SUPPORT - DEPT. MIL. + VETS

Requested By:

Ayes: _____

Nays: _____

CITY OF UNALASKA
UNALASKA, ALASKA

RESOLUTION 92-28

A RESOLUTION IN SUPPORT OF DESIGNATING A BEACH AT HOG ISLAND,
UNALASKA, ALASKA "ARKANSAS BEACH".

WHEREAS: DURING WORLD WAR II the 206th Coast Artillery, an Arkansas National Guard Unit served with great credit and distinction on Hog Island, Unalaska, Alaska; and

WHEREAS: During this time three young soldiers of the 206th Coast Artillery Unit were Killed; and

WHEREAS: The Adjutant General of the State of Arkansas has requested that a beach on Hog Island be designated Arkansas Beach in memory of those gallant young Arkansas Guardsmen; and

WHEREAS: The designation has the approval of the current owner of Hog Island, Mr. J.W. Graham, and the long term lessee, Mr. Hal Dreyer, as long as this designation does not result in any further city, state, federal government delays or policies that would affect or slow down future development plans.


NOW THEREFORE BE IT RESOLVED THAT: The City Council of the City of Unalaska, Alaska, has no objections to and fully supports the designation of a beach on Hog Island, Unalaska, Alaska as Arkansas Beach.

PASSED AND APPROVED THIS 31 DAY OF March, 1992 BY
THE CITY COUNCIL OF THE CITY OF UNALASKA, ALASKA.



Frank Kelty
Mayor

ATTEST:



Debra Dushkin, City Clerk

PAT -

THE FOLLOWING STATES
HAD ELEMENTS OF
THEIR GUARD UNITS
IN THE ALEUTIAN
CAMPAIGN:

ALASKA

ARKANSAS

CALIF.

WASH. D.C.

KANSAS

NEBRASKA

NEW JERSEY

MISSOURI

W. VIRGINIA -

FISCAL NOTE

**STATE OF ALASKA
1992 LEGISLATIVE SESSION**

BILL NO. SCR-37

Revision Date: _____ Department Affected: Community Regional Affairs
 Title: Arkansas Beach / Hog Lisand BRU: _____
 Component: State Geographic Board
 Sponsor: Senate Rules Committee
 Requestor: Rodey, State Affairs COMPONENT SERIAL NO.

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EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	0					

POSITIONS:

FULL-TIME	0					
PART-TIME	0					
TEMPORARY	0					

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: M. Gifford, St. Affairs Staff Phone: 465-4522
 Division: Senate State Affairs Committee Date: 4/14/92
 Approved by Senator Pat Rodey, Chair
 Agency: Alaska State Legislature Date: 4/14/92

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

CORRECTION

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

PAT -

THE FOLLOWING STATES
HAD ELEMENTS OF
THEIR GUARD UNITS
IN THE ALEUTIAN
CAMPAIGN:

ALASKA

ARKANSAS

CALIF.

WASH. D.C.

KANSAS

NEBRASKA

NEW JERSEY

MISSOURI

W. VIRGINIA -

4-21-92

PAT -

THE FOLLOWING STATES
HAD ELEMENTS OF
THEIR GUARD UNITS
IN THE ALEUTIAN
CAMPAIGN:

ALASKA
ARKANSAS
CALIF.
WASH. D.C.
KANSAS
NEBRASKA
NEW JERSEY
MISSOURI
W. VIRGINIA

FISCAL NOTE

**STATE OF ALASKA
1992 LEGISLATIVE SESSION**

BILL NO. SCR-37

Revision Date: _____ Department Affected: Community Regional Affairs
 Title: Arkansas Beach / Hog Lisand BRU: _____
 Sponsor: Senate Rules Committee Component: State Geographic Board
 Requestor: Rodey, State Affairs COMPONENT SERIAL NO.

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EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	0					

POSITIONS:

FULL-TIME	0					
PART-TIME	0					
TEMPORARY	0					

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: M. Gifford, St. Affairs Staff Phone: 465-4522
 Division: Senate State Affairs Committee Date: 4/14/92
 Approved by Senator Pat Rodey, Chair
 Agency: Alaska State Legislature Date: 4/14/92

SJR

14



Senate

During Session:
P.O. Box V
Juneau, Alaska 99811
(907) 465-3793

**SENATE JOINT RESOLUTION 14 -
PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE
STATE OF ALASKA RELATING TO OPEN MEETINGS.**

SJR 14 is substantially the same as CSSJR 1 (State Affairs) from 1989. It is an important and balanced piece of legislation which would guarantee the public reasonable access to the legislative process.

This proposal is a step toward making openness in government the rule and secrecy the exception by establishing a constitutional requirement rather than a statutory one.

If passed by the legislature, the proposal would be placed on the ballot in the 1992 general election for a vote.

AS 44.62.310 (Open Meetings Act) provides "All meetings of a legislative body ...shall be open". As a result of a 1986 law suit, the Superior Court found the legislature had violated the OMA and Uniform Rule 22 - the bottom line being that the OMA applied to the legislature.

After the case was reviewed the by Supreme Court, it held that the statute and rule fell within the legislature's rule making authority and the court could not enforce compliance. The matter was nonjusticiable.

As a result of the court's decision, the legislature was left in the position of being exempt from enforcement of stringent open meetings standards while requiring other governmental bodies to comply. To resolve this inconsistency and to provide a basis for judicial enforcement, a constitutional amendment should be adopted. By amending our state constitution to provide a standard for open meetings, we will establish a basis for enforcement of that standard.

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SJR 14

Revision Date: _____ Department Affected: Office of the Governor-Elections
 Title: Amendment to the Constitution BRU: Division of Elections
relating to open meetings Component: II - Primary and General Elections
 Sponsor: Senator Rodey
 Requestor: Senate Spec. Comm. on Ethics COMPONENT SERIAL NO.

0	0	2	2
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Expenditures/Revenues: (Thousands of Dollars) ^{Reform}

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL		2.2*				
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		2.2*				

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND		2.2*				
FEDERAL FUNDS						
OTHER						
TOTAL		2.2*				

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: -0-

ANALYSIS: (Attach a separate page if necessary.) * This figure covers cost of inclusion of information about this issue in the Official Election Pamphlet as required by AS 15.58, and programming for DataVote counting of votes cast on this measure. However, only 4 measures can be printed on a single ballot card. Should this measure require printing an additional ballot card, the fiscal impact would be: 53.4.

Prepared By: Elizabeth Ziegler, Deputy Director Phone: 465-4611
 Division: Division of Elections Date: 2-7-91
 Approved by Commissioner: Charles E. Hickstein
 Agency: Division of Elections Date: 2-7-91

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

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March 5, 1991

SECTIONAL ANALYSIS

Section 1(a) provides that **except for executive sessions authorized by law**, private and substantive discussions on legislation under its jurisdiction by a quorum of a house of the legislature or of a legislative committee are prohibited.

The subject of holding a caucus has raised questions in the past. This proposal makes it clear that a quorum of a committee or of a house is prohibited from holding substantive discussions on legislation regardless where the meeting is held. A group of legislators that do not constitute a quorum of a house or of a committee may discuss legislative business in private.

Section 1(b) allows the legislature or a committee to hold executive sessions authorized by law.

Section 1(c) specifies a court may not prescribe rules or procedures for conducting legislative business nor invalidate legislation because of a violation of the section.

Section 1(d) allows the court to impose civil fines and other sanctions authorized by law upon an individual member of the legislature for an intentional violation. The imposition of a civil fine on a legislator, the amount of which can be set by the legislature, is the only intrusion by the court into the legislative process under this amendment.

Section 1(e) provides for the legislature to implement this section. This allows the legislature to determine appropriate definitions and terms for implementing the open meetings law.

Page 3 - SJR 14
March 5, 1991

Section 2 addresses legislative intent. This does not go on the ballot nor into the constitution, but will be considered for the preparation of the summary which is placed in the voters pamphlet.

Section 2(a) states the purpose of the amendment and ensures the public's access to substantive deliberative and decision making stages of the legislative process.

Section 2(b) provides a basis for judicial enforcement of the existing open meeting law to the extent it is consistent with this amendment (notwithstanding legislative immunity or rule making authority as provided in article II, section 6 and 12 respectively of our State Constitution). This section makes it clear that the court must follow the schedule adopted by the legislature for the payment of a civil fine.

Section 2(c) provides the amendment is not intended to prevent the free flow of ideas among legislators, or their participation in public forums and other events.

Section 2(d) provides instructions to the Legislative Affairs Agency.

Section 3 places the amendment on the ballot for the next general election (1992).

Table 1
Open Meetings Laws in the States: Major Provisions

Provision	Number of States
Injunctive relief or other remedial action is provided if law violated	47
Committee meetings must be open	46
Meetings of local entities must be open	46
Discussions, in addition to actual decision making, must be held in open meeting	42
No exemptions to open-meeting provisions are allowed unless specified in law	40
A policy statement says the open-meeting law should be liberally construed	37
Where closed (executive) sessions are allowed, all final actions must be taken in open meetings	37
Quasi-judicial meetings must be open	34
When the law permits closed meetings, the parties involved may request that they be open	29
There is no provision for discussing investments, donations or other financial matters in executive session	25
Labor negotiations must be open	25

Source: Council of State Governments, The Book of the States, 1985-1986.
 (Lexington, Kentucky), 1985, p. 49.



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

P O Box Y, State Capitol
Juneau, Alaska 99811-3100
Mail Stop 3100
(907) 465-3991

November 26, 1986

MEMORANDUM

TO: Representative John Sund

ATTN: John Hartle

FROM: Ginny Fay *Ginny Fay*
Legislative Analyst

RE: Provisions of State Open Meeting Laws
Research Request 87-045

You requested that we identify states with open meeting laws and discuss the provisions of these laws. All states have open meeting or "sunshine" laws, however, the provisions vary considerably among states. A 1984 study of state sunshine laws identified 23 separate provisions that can be contained in these laws and found that states varied considerably in their definition of sunshine (as measured by the combinations of these provisions).¹ Tennessee and Florida led the states; their laws contain 21 and 20 of these provisions, respectively. In contrast, laws in Pennsylvania, Wisconsin and Wyoming contained only eight provisions each. Table 1 (attached) presents the 11 most common provisions of state open meeting laws and indicates the number of states' laws that contain these provisions.

Table 2 (attached) provides the citation of the open meeting and freedom of information laws in each state; Table 3 specifically identifies and contrasts eight major provisions of open meeting laws. The majority of states have had their open meeting law interpreted by the state's attorney general. Somewhat fewer than half of the states have had their laws reviewed by the courts; have laws that do not exempt informal meetings; and/or have laws which include specific criminal penalties for violations. Approximately one-third of the states' laws do not explicitly exempt any government bodies and/or require that personnel matters be discussed in open meetings. Relatively few state laws require open committee meetings or that meetings be open even if there is no quorum.

¹Council of State Governments, The Book of the States, 1984-1985.
(Lexington, Kentucky), 1984, p. 49.

Table 4 (attached) provides summary information regarding public notice requirements and identifies states where actions are void if open meeting law requirements are not followed.

The basic tenet of open meeting laws is that people should be informed about the government that represents them in order for a democracy to function.² While special provisions may vary among states, almost every state's open meetings law has four basic components:

- definition of a meeting or record;
- provisions for executive sessions;
- notice requirements; and
- provisions for enforcement.

Statutes on this subject are necessary because common law has not set precedents for access to information. In 1980, the U.S. Supreme Court ruled that the First Amendment did provide a right to access to criminal trials by all citizens (Richmond Newspapers v. Virginia 100 S. Ct. 2814, 1980) but the courts have generally been unwilling to read into the First Amendment a right of access to information. Most states have opted to write laws declaring that all meetings and records are open and then write exceptions into the laws.³

The trend during the 1980s has continued toward more open government in the states. In recent years, many states have made open meeting laws more stringent and made penalties for violations harsher. As late as 1979, most open meeting laws did not apply to legislatures.⁴ In Kentucky,

²Council of State Governments, Backgrounder "Government in the Sunshine," (Lexington, Kentucky), June 1986, p.1.

³According to Don R. Pember [in Mass Media Law, Second Edition (Dubuque, Iowa: Wm. C. Brown Co. Publishers), 1981, p.130] many legal experts believe that the most important component of an access law is the legislative intent. "A strong legislative declaration in favor of open access can be used to persuade a judge that if a section of the law is vague it should be interpreted to grant access, rather than to restrict access, since that is what the legislature wants," wrote William F. Wright II in the Mississippi Law Review. He points to the Washington intent section as a model: "The legislature finds and declares that all public agencies of this state and subdivisions thereof exist to aid in the conduct of public business. It is the intent of this chapter that their actions be taken openly and that their deliberations be conducted openly."

⁴National Association of Attorney Generals, Open Meetings: Exceptions to State Laws (Raleigh, N.C.:NAAG), March 1979, p.14.

Representative Sund
November 26, 1986
Page Three

General Assembly meetings other than those of the standing committees are closed. Legislative subcommittee and conference meetings are closed in Mississippi. Meetings of the Wisconsin legislature may be closed when the state's sunshine law conflicts with legislative rules. In Alaska, organizational meetings of the legislature are closed. A committee meeting in the New Hampshire legislature may be closed by a vote of three-fifths of the members. The North Carolina open meeting law does not apply to the Advisory Budget Commission of the Legislative Services Commission. The Georgia and Oklahoma sunshine laws do not apply to the legislature.⁵

Many states allow caucus meetings in the legislature to be closed. Those states are: Alaska, California, Delaware, Hawaii, Idaho, Illinois, Indiana, Kentucky, Montana, Nevada, New Jersey, New Mexico, New York, Oklahoma, Oregon, Pennsylvania, Utah, Virginia, Washington, West Virginia, and Wyoming.

Nearly all states' open meeting laws provide for remedial action if the law is violated. In 36 states, actions are voided if the open meetings law is not followed (see Table 3). Georgia legislation (1982) made it a misdemeanor for officials to willfully obstruct release of public records or information and required 24-hour notice of any public hearing. The laws in 21 states include specific criminal penalties for the violation of open meeting laws (see Table 2).

Complications with the enforcement of open meeting statutes have led several states to form independent commissions to review complaints. In New York, the Committee on Open Government was established to handle citizen appeals on denial of open meeting and information requests. The New York committee is composed of seven members, three from government and four from the public. At least two of the public members are news media representatives. The committee has the authority to provide written and oral advice and mediate controversies. Between 1974 and 1979, the committee issued 1,500 written advisory opinions.⁶

I hope this information is of use to you. If you have any questions, or would like additional information, please call.

GF

Attachments

⁵Freedom of Information Center, "Executive Sessions: Allowed to Close," 1984.

⁶New York Department of State, "Freedom of Information and Open Meetings: Opening the Door," January 1981, Pamphlet, p.1.

STATE OF ALASKA
THE LEGISLATURE

FOURTH STATE CAPITOL
JUNEAU ALASKA 99801
707 465 1800


LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 26, 1989

SUBJECT: Open meetings: the laws from other states
(SJR 1)

TO: Senator Arliss Sturgulewski

FROM: Richard A. Bradley
Legislative Counsel 

McKie Campbell asked me to provide you with a study that I did last year on the laws of the other states that have open meetings. I used in my review a listing of such laws that was initially prepared by the House Research Agency (that I regretfully seem unable to find a copy of; I assume one is available from them).


Initially, I reviewed the constitutions and laws of Oregon and California in some detail in the context of the question whether either state would void a law for a violation of open meeting requirements.

A brief summary of the provisions would be that neither state has any provision voiding laws for violations of the open meetings laws of those states.

Nor do the constitutions of those states lead to that result.

The California Constitution provides that the "proceedings of each house and the committees thereof shall be public except as provided by statute or concurrent resolution, when such resolution is adopted by two-thirds vote of the members of each house, . . ." Art. IV, sec. 7(c), California Constitution.

The enacting legislation at Secs. 11120 - 11131 of the California (Government) Code does not apply to the legislature but rather only to state executive branch agencies.



Senator Arliss Sturgulewski

Page 2

January 26, 1989

And I believe that no provision of that law provides that action taken in violation of it is void. The only remedies offered in those sections of the California law is the authorization of litigation seeking mandamus or injunctive relief (Sec. 11130), costs and attorney fees (Sec. 11130.5), and a provision making the conduct a misdemeanor (Sec. 11130.7).

California does, however, have an open meetings law specifically concerned with the legislature. See Secs. 9027 - 9031, California (Government) Code.

The legislative formulation of art. IV, sec. 7(c), quoted above, provides that all "meetings of the Assembly and Senate and the committees and subcommittees thereof, and any conference committee, shall be open and public and all the proceedings shall be conducted openly so that the public may remain informed, except as otherwise provided in this article. All meetings of any conference committee shall be open to press representatives accredited by the Joint Rules Committee." Sec. 9027.

Two sanctions are stated: (1) a knowing violation is a misdemeanor. Sec. 9030; and (2) a mandamus or injunctive action for declaratory relief may be filed. Sec. 9031.

The Oregon laws are consistent.

The Oregon Constitution provides that the "deliberations of each house, of committees of each house or joint committees and of committees of the whole, shall be open." Art. IV, sec. 14, Oregon Constitution. The section also directs each house to adopt rules to implement the section and both houses are directed to adopt joint rules relating to joint legislative activity.

ORS Secs. 192.610 - 192.690 are ambiguous as to whether they apply to legislative Acts or legislative proceedings. I can find no provision within these sections that uses terms to be expected in laws applying to the legislature. But I can find no specific provisions that do apply to the legislature; since we do not have access to the legislative rules, that may well be the the location of those provisions.

Sec. 192.680 establishes the policy that the court may order equitable relief as it considers appropriate. The law also provides that

A decision shall not be voided if other equitable relief is available. The court may order payment to a successful plaintiff in a suit brought under this section of reasonable attorney fees at trial and on appeal, by the governing body, or public body of which it is a part or to which it reports. ORS, sec. 192.-680(1).

This remedy may be offered because it would be very unlikely that a plaintiff could prove "actual damages" for a violation of the law.

The law also provides that if the violation was a "result of wilful misconduct by any member or members of the governing body, that member or members shall be jointly and severally liable to the governing body . . . for the amount paid under subsection (1)."

Finally, the Oregon law provides that "the provisions of this section shall be the exclusive remedy for an alleged violation of ORS 192.610 - 192.690."

I believe it is accurate to note that neither California nor Oregon will void a legislative Act for a violation of their open meetings laws. The laws also suggest that sanctions against members whose conduct is wilful is a proper recourse.

In addition, I have reviewed about half of the laws of the other states. Since some kind of pattern appears in the laws of the states that I did review, I discontinued the review. Let me make some observations about the laws and then offer the individual analyses of the states from Alabama through Missouri.

First, and I think this is significant, I found no case where an Act of a legislature was avoided. It appears that no action was avoided (or challenged until Abood) where the violation was based only on the actions of a committee or subcommittee of the legislative body.

There is some logic to this point. While committee recommendations are useful, a member may vote for or against final passage based on or in spite of recommendations of a committee. What one committee does may be disregarded by a subsequent committee or used for entirely different reasons.

Senator Arliss Sturgulewski

Page 4

January 26, 1989

It should not follow that the action by a committee vitiates the final legislative action.

In probably every state, state constitutions will require votes on final enactment to be public. Whether a disregard of committee action that violates open meeting concepts (if final action is open) is a serious loophole or an unfortunate expectation may be debatable but it appears to explain why the application of open meeting concepts to legislative action does not result in the avoidance of the final legislative action. The legislature should have the power to cure the defects in legislation caused by a committee of the legislature.

While the senate and the house each seem to have their own different ideas about the amount of debate required for adoption, it is quite different for a court to order the legislature to engage in "substantial, de novo, independent and public reconsideration of those substantive matters previously discussed in private." That remedy was requested in Aboud v. League of Women Voters of Alaska, 743 P.2d 333, 334 (Alaska 1987).

The amount of debate required to cure a violation is the kind of question that the courts would be required to address if a violation by a committee is permitted to taint the final legislative action fatally. If I am correct that only violations by the enacting body will cause action to be void, the cure for violations is not a problem since no violation by the legislature itself will (or can) occur.

Finally, an analysis of state laws. While it has been suggested (by the House Research Agency report) that each state has an open meeting law, it is far from true that the citations offered prove that the legislatures have uniformly subjected themselves to such laws. And let me note also that this study was done 10 months ago; it might be a little dated.

Alabama. I could find no laws at the citation suggested in the HR report. Title 13 has been repealed. No entries in the index for the topic.

Arizona. Sec. 38.431. Applies to the legislature. No case in annotation appears to have challenged legislative violations. Only applies when a quorum is present according to AG opinion. Court may impose a fine of not to exceed \$500.

Sec. 431.07. Public body may not expend public money to defend action under certain circumstances. Sec. 431.07. Either house of legislature may exempt itself by adoption of rule or procedure. Sec. 431.08(B). Does not apply to conference committees of legislature or any caucus. Sec. 431.08(A); conference committees shall nonetheless be open.

Arkansas. Citation incorrect: see A.C.A. 25.19.101 et seq. Open meetings section does not apply to the legislature. Sec. 25.19.106. Misdemeanor penalty for violations of \$200 or 30 days (sec. 25.29.104). Action taken not void unless adopted at a public meeting. Sec. 25.19.106.

California. Citation given (sec. 11120 et seq., Cal. Gov't Code) applies only to executive branch agencies. See above for comments on sections applicable to the legislature.

Colorado. C.R.S. sec. 24.6.401 et seq. Applies to the legislature. Sec. 24.6.402. Does not apply to "chance meeting or social gathering at which discussion of public business is not the central purpose." Sec. 24.6.402(2.1). Provisions on invalidity may not apply to the legislature: "(4) No resolution, rule, regulation, ordinance, or formal action of a board, committee, commission, or other policy-making or rule-making body shall be valid unless taken or made at a meeting that meets the requirements . . ." Note that while it applies to a committee in the legislature, a committee is not a policy making body.

Connecticut. G.S.C. sec. 1.21. Appears to apply to the legislature. Sec. 1.21(a). Establishes notice; has no provision explicitly establishing application to the legislature or providing for the implications of violations (even as to executive branch agencies).

Delaware. 29 D.C.A. sec. 10001 et seq. Includes legislature. Sec. 10002. "Any action taken at a meeting in violation of this chapter may be voided by the Court of Chancery" within 60 days of notice of the action but not more than 6 months from the action. Sec. 10005(a). No annotations regarding violations by the legislature.

Florida. Ch. 286, F.S. at 011. Does not apply to the legislature. Sec. 286.011(1). Did not determine whether other law applies to the legislature.

Georgia. O.C.G. sec 50-14-1 et seq. Not applicable to the legislature.

Hawaii. H.R.S. sec. 92.3. Does not apply to the legislature. Sec. 92.10; rather, will be subject to rules adopted by the legislature (I have not found such rules). Executive action voidable on "proof of willful violation." Sec. 92.-11.

Idaho. I.C. sec. 67-2340 et seq. General sections do not apply to the legislature. Sec. 2341. Open legislative meetings required. Sec. 2346. Curiously, there is no statutory authorization for any executive session by legislative committees: "All meeting . . . shall be open at all times"; I suggest the section cannot be taken seriously. Action taken at a meeting that violates the sections is null and void. No cases construing statute in context of suit against legislature for its violation.

Illinois. 102 Ill. A.S. sec. 41 et seq. Includes "legislative . . . bodies of the state . . . except the General Assembly and committees or commissions thereof." Sec. 41.02. Did not find any specific sections applying to the legislature.

Indiana. B.I.S.A. sec. 5-15-1.5-1. Appears to apply to the legislature. Sec. 5-14-1.5-2(a). Notice requirement do not apply to the legislature. Sec. 5-14-1.5-5(g). Citizen may enjoin action taken at an executive session or to declare void action in violation of notice requirements (not applicable to legislature). Sec. 5-14-1.5-7(a). Court may award costs and attorney fees if action was knowing and intentional. Sec. 5-14 - 1.5-7(f).

Iowa. The correct citation is chapter 21 in the 1987 code. The chapter does not apply to the legislature. Remedies include assessment of fines of \$100 to \$500 for participants; no fines for a person who voted against the violating meeting or acted in good faith or in reliance of legal advice. Sec. 21.6(3). Costs and attorney fees for prevailing party who establishes the violation. Sec. 21.6(3). Voids the action taken in violation if the case is brought within six months of the action on a determination that the public interest in the enforcement of the open meeting policy outweighs the public interest in sustaining the validity of the action taken; doesn't apply to an action regarding the issuance of bonds or other indebtedness of a governmental body

if a public hearing, election, or public sale has been held. The court may remove an individual who has engaged in two prior violations in which damages were assessed during the member's term. May issue a mandatory injunction punishable by civil contempt. Ignorance is no defense.

Kansas. 75 K.S.A. sec. 4317 et seq. Appears to apply to the legislature. Sec. 4318. Violators subject to a \$500 civil penalty. Any binding action taken in violation is voidable in an action brought by the attorney general or county attorney. Sec. 4320. Court may award costs and attorney fees. Exceptions for impeachment are made. Sec. 4318. One annotation says that there was no "authority for private individual to bring action to void acts performed in violation of open meetings law. Stoldt v. City of Toronto, 678 P.2d 153 (Kansas 1984). Unannounced gathering prior to official meeting violates the law. Coggins v. Public Employee Relations Board, 581 P.2d 817.

Kentucky. KRS 61.805. Appears to apply to the legislature. Sec. 61.805(2), but with some "exceptions": "committees of the general assembly other than standing committees". Sec. 61.810(9). Courts may enforce by injunction. Sec. 61.845. Curiously, though there are pages of annotations of opinions of the attorney general as well as court decisions, no case involves the legislature.

Louisiana. RS 42.5 is the law; a 1981 amendment deleted the language that exempted the legislature in those words but the words now used do not include the legislature. Sec. 42.4.2(2). A specific section authorizes closed or executive sessions of legislative houses and committees. Sec. 42.6.2. The law also exempts "chance meetings, social gatherings, or other gatherings at which only presentations are made to members of the legislature or members of either house thereof or of any committee or subcommittee if no vote or other action, including formal or informal polling of members, is taken." Sec. 42.6.2(C). The legislature is exempted from requirement applicable to executive agency that meetings for the year be announced at the beginning of the year. Sec. 42.7. Suits to void action must be filed within 60 days of the action.

Maine. 1 MRSA sec. 401 et seq. Applies to the legislature. Sec. 402.2. For violations of the policy: "If any body or agency approves any ordinances, orders, rules, resolutions, regulations, contracts, appointments or other official

action in an executive session, this action shall be illegal and the officials responsible shall be subject to the penalties hereinafter provided". I note that "Acts" are not included. The penalty is a class E crime, probably a misdemeanor. No case examines a challenge to a legislative enactment.

Maryland. 76A A.C.M., sec. 7 et seq., reorganized as 10 A.C.M., 501 et seq. in the 1984 edition. Regarding enforcement, the law says: . . . the court may declare void any final action taken at a meeting held in wilful violation of [the law] if the court finds no other remedy would be adequate under the circumstances. However, the action of a public body may not be voided because of the violation . . . by any other public body." Sec. 10-510(a)(2); sec. 10-510(e) authorizes injunctions or other appropriate relief. The section specifically excludes actions appropriating public funds, levying taxes, or providing for the issuance of bonds, notes, or evidences of public obligation from the authority of the court to void actions. Sec. 10-510(a). No case examines a challenge to a legislative enactment.

Massachusetts. 30A M.G.L.A. sec. 11A. Does not apply to the general court (legislature) or the committees or recess committees of the general court. Sec. 11A.

Michigan. Michigan has a constitutional provision requiring open meeting unless the public welfare requires otherwise. Art. 4, sec. 20. The current citation to the general law is 15 M.C.L.A. sec 261 et seq. "Public body" is defined as "any state . . . legislative . . . body, including a . . . committee, subcommittee . . . empowered by the state constitution . . . to exercise governmental . . . authority" Sec. 15.262(a); under 15.262(d), "decision" includes a "vote . . . upon a . . . bill . . ." Attorney General opinions are consistent that committee action is covered. A reenactment complying with the act cures a prior enactment that was deficient; the effective date is on the reenactment. Sec. 15.270. No case addresses a challenge to a legislative enactment.

Minnesota. M.S. 471.705. Does not apply to the legislature.

Mississippi. Not reviewed.

Senator Arliss Sturgulewski

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January 26, 1989

Missouri. M.R.S., sec. 610.010 et seq. Applies to the legislature. Sec. 610.010(2). Violations include injunctive relief. Sec. 610.027(1). Civil fines of not more than \$100 are authorized. Sec. 610.027(3). Actions may void the action on evidence that the governmental body violated the section "if the court finds under the facts of the particular case that the public interest in the enforcement of the policy . . . outweighs the public interest in sustaining the validity of the action taken at the closed meeting, record, or vote." Sec. 610.027(4). Injunctive relief is authorized. Sec. 610.030. No annotation applies a challenge to a legislative enactment.

If I may be of further assistance, please advise.

RAB:gc
G6/049

SJR

15

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SJR-15

Revision Date: _____ Department Affected: Legislature

Title: Opposing proposed COLA reduction for federal employees in Alaska BRU: _____

Component: _____

Sponsor: Duncan, Pearce

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						
---------	--	--	--	--	--	--

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0					

POSITIONS:

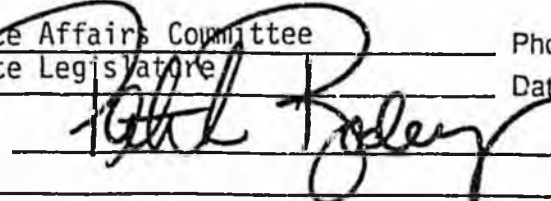
FULL-TIME	0					
PART-TIME	0					
TEMPORARY	0					

Estimate of current year impact: none

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Senate State Affairs Committee Phone: 465-4522

Division: Alaska State Legislature Date: February 13, 1991

Approved by Commissioner:  Date: Feb. 13, 1991

Agency: _____

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

SJR

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