

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

9049 SENATE STATE AFFAIRS

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX: (907) 465-2028
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

January 12, 1996

SUBJECT: Cigarette tax increases under SB 210 (Work Order 9-LS1314\C)

TO: Senator Johnny Ellis
Attn: Nina Brudie

FROM: Jack Chenoweth
Legislative Counsel

A mill is one-tenth of a cent (\$.001). There are 20 cigarettes to the pack, so a one-mill increase in the tax on cigarettes x 20 cigarettes equal two cents per pack.

The total tax on cigarettes being proposed by the change set out in this bill would be determined as follows:

Under AS 43.50.090(a), a pre-Statehood Act dedicated levy supporting the school tax:

2.5 mills
x 20 cigarettes = \$.05

Under AS 43.50.190(a), as amended by this bill:

until June 30, 1999

62 mills per cigarette
x 20 cigarettes = \$ 1.24 for a total levy of
\$ 1.29 per pack;

between July 1, 1999, and June 30, 2002

74 mills per cigarette
x 20 cigarettes = \$ 1.48 for a total levy of
\$ 1.53 per pack;

between July 1, 2002, and June 30, 2005

86 mills per cigarette
x 20 cigarettes = \$ 1.72 for a total levy of
\$ 1.77 per pack;

Cigarette tax increases re: SB210

- Jack Chenoweth

1/12/96

Senator Johnny Ellis

January 12, 1996

Page 2

Thereafter, the increments increase progressively at the rate of \$.24 per pack at intervals of three years.

JBC:lmb

96-018.lmb

Enclosure

SB

211

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO SB211

Revision Date: _____ Dept. Affected: Administration
 Title: An Act relating to sexual assault; and relating BRU: Senior Services
to endangering the welfare of vulnerable adults... Component: Protection, Community Services
Sponsor: Ellis & Administration
 Requestor: _____ COMPONENT SERIAL NO. 2083

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITUR	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
Total	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year (FY 96) cost: \$ _____

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill will have no fiscal impact on this division.

Prepared by: Connie J. Sipe, Director Phone: 561-5654
 Division: Senior Services Date: _____

Approved by Commissioner: Mark Boyer Date: 3/7/96
 Agency: Department of Administration

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SB 211

Revision Date: _____ Dept. Affected: Department of Law
 Title: "...relating to endangering the welfare of BRU: Criminal Division
vulnerable adults and neglect of vulnerable adults." Component: Criminal Division
 Sponsor: Senator Ellis
 Requester: Senate State Affairs Committee COMPONENT SERIAL NO. 2085

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

In addition to clarifying language in the state's sexual assault statutes, AS 11.41.410 and AS 11.41.420, this bill establishes two new crimes, endangering the welfare of a vulnerable adult and criminal neglect of a vulnerable adult. The bill provides that a person commits the crime of endangering the welfare of a vulnerable adult if the person intentionally deserts the vulnerable adult in any place under circumstances creating a substantial risk of physical injury to the vulnerable adult and the vulnerable adult is entrusted to the person's care by law. This crime would be punishable as a class C felony.

The bill further provides that a person commits the crime of criminal neglect of a vulnerable adult if the person fails without lawful excuse to provide support for the vulnerable adult and the vulnerable adult is entrusted to the person's care by law. This crime would be punishable as a class A misdemeanor.

Richard I. Pegues

Prepared by: Richard I. Pegues, Director
 Division: Administrative Services Division
 Approved by Commissioner: Bruce M. Potelno, Attorney General
 Agency: Department of Law

Phone: 465-3672
 Date: 3/6/96
 Date: 3/6/96

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. S3 211

ANALYSIS CONTINUATION:

Instances of this conduct are somewhat infrequent, occurring every year or two. However, when they do occur they are of great public concern. Due to the infrequency of this conduct ,there will not be a fiscal impact for the Department of Law.

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SB 211

Revision Date: _____ Dept. Affected: Corrections
 Title: An Act relating to sexual assault; and relating to BRU: ALL
endangering the welfare of vulnerable adults and neglect Component: _____
 Sponsor: Senator Ellis
 Requester: House State Affairs COMPONENT SERIAL NO. #0694

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: ↑ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 11.41.410 (3) (B)(ii) and AS 11.41.420 (a)(2)(B)(ii) by including 1st Degree and 2nd Degree Sexual Assault language to include care providers who are licensed by the State, and by adding new language to AS 11.51.200; specifically (b) Endangering the welfare of a vulnerable adult is a class C felony; and by adding new language to AS 11.51.210; specifically (c) Criminal nonsupport of a vulnerable adult is a class A misdemeanor.

The number of arrests, convictions by the Department of Law, and the length of any jail sentence that a court might impose for either of these types of offenses is unknown at this time. For this reason no costs have been shown in the fiscal note.

Prepared by: Joe Reeves
 Division: Office of the Commissioner
 Approved by Commissioner: *Ng...*
 Agency: Department of Corrections

Phone: 465-4652
 Date: 3/1/96
 Date: 3/1/96

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further distribution information, call the Governor's Legislative Office

A M E N D M E N T

OFFERED IN THE SENATE
TO: CSSB 211(STA)

- 1 Page 1, line 13:
- 2 Delete "entrusted to"
- 3 Insert "in [ENTRUSTED TO]"

- 4 Page 2, line 15:
- 5 Delete "entrusted to"
- 6 Insert "in [ENTRUSTED TO]"

- 7 Page 3, line 17:
- 8 Delete "knowingly"

**SENATE COMMITTEE REPORT
First Committee of Referral**

DATE: 1/10/96

FURTHER: Judiciary

Date of 5-Day Notice: 2/21/96
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 3/8/96

The State Affairs Committee considered SB 211

"An Act relating to sexual assault; and relating to endangering the welfare of vulnerable adults and neglect of vulnerable adults."

and recommends:

- be replaced with CS SB 211 (STA)
- adopt previous CS ()
- attached amendment(s)
- adopt Letter of Intent by Committee
- further referral to the Committee

Senate Bill:

- same title
- new title
- House Bill:**
- same title
- technical title
- new: SCR#

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Roll & Kelly</i>	✓				
<i>Arw & Pincus</i>	✓				
<i>Carroll & Kelly</i>	✓				
<i>Scott & Huggins</i>	✓				
<i> </i>					
<i> </i>					
CHAIR: <i>Scott & Huggins</i>	✓				

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

Administration	3/7	0	
Corrections	3/1	0	
Law	3/6	0	

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

APPROPRIATION -- no fiscal note

*Include fiscal notes accompanying Governor's bill

CS FOR SENATE BILL NO. 211(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): SENATOR ELLIS

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to sexual assault; and relating to endangering the welfare of
2 vulnerable adults."

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

4 * Section 1. AS 11.41.410(a) is amended to read:

5 Sec. 11.41.410. SEXUAL ASSAULT IN THE FIRST DEGREE. (a) An
6 offender commits the crime of sexual assault in the first degree if

7 (1) the offender engages in sexual penetration with another person
8 without consent of that person;

9 (2) the offender attempts to engage in sexual penetration with another
10 person without consent of that person and causes serious physical injury to that person;

11 (3) the offender engages in sexual penetration with another person

12 (A) who the offender knows is mentally incapable; and

13 (B) who is entrusted to the offender's care

14 (i) by authority of law; or

1 (ii) in a facility or program that is required by law to be
2 licensed by the state [DEPARTMENT OF HEALTH AND SOCIAL
3 SERVICES]; or

4 (4) the offender engages in sexual penetration with a person who the
5 offender knows is unaware that a sexual act is being committed and

6 (A) the offender is a health care worker; and

7 (B) the offense takes place during the course of professional
8 treatment of the victim.

9 * Sec. 2. AS 11.41.420(a) is amended to read:

10 (a) An offender commits the crime of sexual assault in the second degree if

11 (1) the offender engages in sexual contact with another person without
12 consent of that person;

13 (2) the offender engages in sexual contact with a person

14 (A) who the offender knows is mentally incapable; and

15 (B) who is entrusted to the offender's care

16 (i) by authority of law; or

17 (ii) in a facility or program that is required by law to be
18 licensed by the state [DEPARTMENT OF HEALTH AND SOCIAL
19 SERVICES];

20 (3) the offender engages in sexual penetration with a person who the
21 offender knows is

22 (A) mentally incapable;

23 (B) incapacitated; or

24 (C) unaware that a sexual act is being committed; or

25 (4) the offender engages in sexual contact with a person who the
26 offender knows is unaware that a sexual act is being committed and

27 (A) the offender is a health care worker; and

28 (B) the offense takes place during the course of professional
29 treatment of the victim.

30 * Sec. 3. AS 11.51 is amended by adding new sections to read:

31 ARTICLE 2. VULNERABLE ADULTS.

1 Sec. 11.51.200. ENDANGERING THE WELFARE OF A VULNERABLE
2 ADULT IN THE FIRST DEGREE. (a) A person commits the crime of endangering
3 the welfare of a vulnerable adult in the first degree if the person

4 (1) intentionally abandons the vulnerable adult in any place under
5 circumstances creating a substantial risk of physical injury to the vulnerable adult and
6 the vulnerable adult is in the person's care

7 (A) by authority of law; or

8 (B) in a facility or program that is required by law to be
9 licensed by the state; or

10 (2) violates AS 11.51.210 and, as a result of the violation, the
11 vulnerable adult suffers serious physical injury.

12 (b) Endangering the welfare of a vulnerable adult in the first degree is a class
13 C felony.

14 Sec. 11.51.210. ENDANGERING THE WELFARE OF A VULNERABLE
15 ADULT IN THE SECOND DEGREE. (a) A person commits the crime of
16 endangering the welfare of a vulnerable adult in the second degree if the person
17 knowingly fails without lawful excuse to provide support for the vulnerable adult and
18 the vulnerable adult is in the person's care

19 (1) by authority of law; or

20 (2) in a facility or program that is required by law to be licensed by the
21 state.

22 (b) As used in this section "support" includes necessary food, care, clothing,
23 shelter, and medical attention. There is no failure to provide medical attention to a
24 vulnerable adult if the vulnerable adult is provided treatment solely by spiritual means
25 through prayer in accordance with the tenets and practices of a recognized church or
26 religious denomination of which the vulnerable adult is a member or adherent,
27 provided the vulnerable adult consents to the treatment through spiritual means only,
28 and the treatment is administered by an accredited practitioner of the church or
29 denomination.

30 (c) Endangering the welfare of a vulnerable adult in the second degree is a
31 class A misdemeanor.

1
2

Sec. 11.51.220. DEFINITION OF VULNERABLE ADULT. In AS 11.51.200
- 11.51.210, "vulnerable adult" has the meaning given in AS 47.24.900.

AMENDMENT TO SB 211

In the Senate State Affairs Committee

Page 3, lines 1 - 27: delete all material and insert the following

Sec. 11.51.200. ENDANGERING THE WELFARE OF A VULNERABLE ADULT IN THE FIRST DEGREE. (a) A person commits the crime of endangering the welfare of a vulnerable adult in the first degree if the person

(1) intentionally abandons the vulnerable adult in any place under circumstances creating a substantial risk of physical injury to the vulnerable adult and the vulnerable adult is in the person's care

(A) by authority of law; or

(B) in a facility or program that is required by law to be licensed by the state; or

(2) violates AS 11.51.210 and, as a result of the violation, the vulnerable adult suffers serious physical injury.

(b) Endangering the welfare of a vulnerable adult in the first degree is a class C felony.

Sec. 11.51.210. ENDANGERING THE WELFARE OF A VULNERABLE ADULT IN THE SECOND DEGREE. (a) A person commits the crime of endangering the welfare of a vulnerable adult in the second degree if the person knowingly fails without lawful excuse to provide support for the vulnerable adult and the vulnerable adult is in the person's care

(1) by authority of law; or

(2) in a facility or program that is required by law to be licensed by the state.

(b) As used in this section "support" includes necessary food, care, clothing, shelter, and medical attention. There is no failure to provide medical attention to a vulnerable adult if the vulnerable adult is provided treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination of which the vulnerable adult is a member ^{or} adherent, provided the vulnerable adult consents to the treatment through spiritual means only, and the treatment is administered by an accredited practitioner of the church or denomination.

(c) Endangering the welfare of a vulnerable adult in the second degree is a class A misdemeanor.

Sec. 11.51.220. DEFINITION OF VULNERABLE ADULT. In AS 11.51.200 - 11.51.210, "vulnerable adult" has the meaning given in AS 47.24.900.

STATE OF ALASKA

DEPARTMENT OF LAW

CRIMINAL DIVISION

March 7, 1996

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

- CRIMINAL DIVISION CENTRAL OFFICE
P.O. BOX 110300
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3428
FAX: (907) 465-4043
- OFFICE OF SPECIAL PROSECUTION AND APPEALS
310 K STREET, SUITE 308
ANCHORAGE, ALASKA 99501-2064
PHONE: (907) 259-6250
FAX: (907) 259-6270

The Honorable Johnny Ellis
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Re: SB 211

Dear Senator Ellis:

You have asked for a legal analysis of SB 211, relating to sexual assault and to endangering the welfare of vulnerable adults and neglect of vulnerable adults.

Sections one and two of the bill amend the statutes addressing sexual assault in the first and second degree by providing that a person may not engage in prohibited sexual conduct with a person entrusted to the person's care in a program or facility license by the state, rather than the Department of Health and Social Services. This allows the application of the sexual assault statutes to protect people in facilities or programs licensed by state agencies which are not within the Department of Health and Social Services.

Section three of the bill creates two new offenses, endangering the welfare of a vulnerable adult and criminal neglect of a vulnerable adult. Endangering the welfare of a vulnerable adult prohibits intentionally deserting a vulnerable adult in circumstances where there is a substantial risk of harm to the person. It is a class C felony. Criminal neglect of a vulnerable adult prohibits a person from providing essential support for a vulnerable adult. It is a class A misdemeanor. Support is defined as including food, care, clothing, shelter, and medical attention.

The definition of vulnerable adult is referenced from AS 47.24.900, and means a person 18 years of age or older who, because of physical or mental impairment, is unable to meet the person's own needs or to seek help without assistance.

The Hon. Johnny Ellis
Alaska State Legislature


March 7, 1996
Page 2

While the new provisions in the bill are clear and present no legal problem, I recommend that they be amended to a format which fits into our criminal code more easily. Attached is a proposal that describes the new offenses as endangering the welfare of a vulnerable adult in the first and second degrees. It makes minor drafting changes in the bill. Further, it adds a provision to the first degree offense - committing the second degree offense and causing serious physical injury.

The Department of Law supports SB 211, and will be happy to assist you in any way as it moves through the legislative process.

Very truly yours,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: 
Laurie H. Otto
Deputy Attorney General

LHO:jf

ALASKA STATE LEGISLATURE

State Health, Education and
Social Services Committee

Senate Judiciary Committee

Department of Health and Social
Services Budget Subcommittee

Department of Law
Budget Subcommittee

State Capitol
State Office Building
Juneau, Alaska 99801
(907) 586-4700
Fax: (907) 586-4300

400 North
710 West 4th Ave. Ste. 100
Anchorage, Alaska 99501
(907) 249-4142
Fax: (907) 249-4371

SENATOR JOHNNY ELLIS

-MEMORANDUM-

JE

TO: Senator Bert Sharp, Chair
Senate State Affairs Committee

FROM: Senator Johnny Ellis

DATE: February 19, 1996

RE: Hearing Request for SB 211: Relating to Endangering the
Welfare of Vulnerable Adults and Neglect of Vulnerable
Adults

I respectfully request that you schedule Senate Bill 211 for a hearing at your earliest possible convenience. I have attached a sponsor statement and other supporting materials. I have also requested fiscal notes and will forward them to you as soon as I receive them.

Thank you for your consideration.

ALASKA STATE LEGISLATURE

Senate Health, Education and
Social Services Committee

•
Senate Judiciary Committee

•
Department of Health and Social
Services Budget Subcommittee

•
Department of Law
Budget Subcommittee



Alaska Senate
State Capitol Room 910
Juneau, Alaska 99801
(907) 586-3714
fax (907) 586-2521

•
Alaska Judiciary
710 West 4th Ave. Ste. 400
Anchorage, Alaska 99501
(907) 258-1822
fax (907) 258-3371

SENATOR JOHNNY ELLIS

SPONSOR STATEMENT SENATE BILL 211

Elder abuse has been called the hidden crime. While its extent is not completely defined, it is widely agreed that the problem affects a significant number of older persons. The National Center of Elder Abuse reports that the 241,000 reported cases of domestic elder abuse in 1994 represents a 106% increase over the number of reported cases in 1986. I don't believe that the problem in Alaska has escalated at that rate; however, a December news article about the abuse that took place at the Friendship Home in Anchorage prompted me to get to the root of this disturbing problem. I have introduced Senate Bill 211 to amend Alaska's abuse and neglect laws to better protect seniors.

As people live longer, frailty and vulnerability increase, along with the potential to become victims of abuse, fraud, and exploitation. Many Seniors have fewer options for resolving or avoiding the abusive situation due to their age, health, or limited resources. They may be more vulnerable to and harmed by physical abuse because of their existing physical condition.

Like most states, Alaska does require elder mistreatment be reported to the authorities when it is discovered. Unlike some states, Alaska does not specifically make abuse or neglect of the elderly a crime. We are correcting that oversight with this legislation.

In Senate Bill 211, endangering the welfare of a vulnerable adult would become a Class C felony, punishable by a jail term of up to five years and a \$50,000 fine. Criminal neglect of a vulnerable adult would become a Class A misdemeanor, punishable by a jail term of up to a year and a \$5,000 fine.

Assisted-living facilities are a growth business nationwide and in Alaska. If the Friendship Home is any indication, we must provide the tools to make certain that oversight of such facilities matches industry growth and deals firmly with unacceptable behavior toward Alaska's Seniors.

Witness tells of abuse at boarding home



ANNE RAUP / Anchorage Daily News

Idesta Green, 82, helped state investigators in their examination of conditions at Friendship Home, an Anchorage boarding home licensed to care for infirm elderly people. She was moved from the home during the investigation.

State says home abused elderly

Report cites neglect, withholding medication, tormenting Alzheimer's victims

By SHEILA TOOMEY
Daily News reporter

The owners and staff of a private adult boarding home, licensed by the state to care for 16 infirm old people, neglected and abused residents, failed to get medical care for gravely ill patients, withheld necessary medication and tormented Alzheimer's victims, according to a state ombudsman's investigation.

The long-term care ombudsman, responsible for monitoring such homes, has asked the attorney general to consider criminal charges against Debi and Tracy Batchelder, former owners of Friendship Home, and Autumn Tucker, the former manager.

An investigative report dated Nov. 30 says people running the home, on West 69th Avenue in the Sand Lake area, sometimes failed to fill patients' prescriptions or seek emergency medical

Father-in-law's fate creates a crusader

By SHEILA TOOMEY
Daily News reporter

Guilt and its cousin anger pulled Bobbie Watts out of her safe life into a world where ugly things happen. But tenacity and a talent for constructive troublemaking are keeping her there.

Watts' father-in-law died in June after three months in a local convalescent home. A diabetic double amputee with lupus and bad kidneys, Paul Watts, 69, needed heavy lifting and trained,



BOBIE WALLINEN / Anchorage Daily News

Please see Back Page, WATTS Bobbie Watts

care, failed to take patients to scheduled doctor appointments, failed to keep patients clean and dress their wounds, failed to provide diabetics with proper blood tests and diet, left old people sitting on toilets or in wet diapers, borrowed money from old people in their

care, and in general "willfully, intentionally, or recklessly inflicted physical pain, injury or mental distress to residents of the facility."

Efforts to reach the Batchelders over three days, through their local attorney, Roger Beaty, and by leaving a message

with a woman who answered the phone at their new location in Bangor, Maine, were unsuccessful.

According to investigators, "One male resident, who was diagnosed with Alzheimer's disease, was repeatedly subjected to

Please see Back Page, HOME

HOME: Ombudsman finds abuse and neglect

Continued from Page A-1

cruel and malicious teasing ... in the form of coming up behind him and grabbing him by the trunk and lifting him up, squirting him in the face for long periods of time, or verbally poking fun at his limited mental faculties."

Two residents, including the Alzheimer's victim, died at the home this summer after managers neglected to obtain medical attention for them, the report says, but investigators did not link the deaths to the alleged neglect.

The ombudsman would have recommended the Batchelders' license be revoked, the report says, but they got out of the business in the middle of the investigation and left the state. The home is now operated by a new owner under a different name.

Acting ombudsman Suzanne Armstrong also has asked the U.S. Postal Service to investigate the Batchelders for obstructing the mails by allegedly intercepting mail addressed to a resident. Her report accuses the Batchelders of interfering in the ombudsman's investigation by attempting to intimidate people cooperating with the probe.

The investigation was precipitated in May by two complaints, including one from Bobbie Watts, whose father-in-law lived at Friendship Home from March to June. A double amputee with diabetes, lupus and heart disease, he died June 12, six days after Watts moved him to another home.

Watts said she was referred to Friendship Home by Alaska Regional Hospital. She visited her father-in-law, Paul Watts, 69, almost daily during designated visiting hours. She "shook off" her early concerns about prescriptions not being picked up and

complaints about not getting enough food because she knew he wanted to come home.

"They tried to convince me it wasn't true, that he had Alzheimer's," Watts said in an interview.

Assisted-living homes are intended to be a less restrictive, less expensive environment for people who can't live on their own or with relatives, but who don't require a full-blown nursing home. Watts said she and her husband paid \$3,000 a month for her father-in-law to stay at Friendship Home.

The home was intended to be transitional, Watts said, a place where Paul Watts would learn how to move from his bed to a wheelchair and the bathroom on his own. Watts had cared for her father-in-law for about two years before his second leg was amputated. She says no one told her she could have gotten therapists and public health nurses to work with Paul at his Airport Heights home instead.

Alaska Regional Hospital declined to discuss specifics of the Watts case, but Gail McGill, director of quality management, said all available resources for post-hospital care are discussed with all families.

The hospital did not make any recommendation, but merely provided the Watts with a list of state-licensed facilities, McGill said. "We explain to them we don't make recommendations because ... we don't have the opportunity to visit places and check them out."

Virginia Smiley, licensing coordinator for the state Division of Senior Services, said having a state license means only that the facility is available and meets minimum standards, not that a home is recommended. Smiley's agency assumed oversight of the state's 66 assisted-living homes for old people

on July 1 from the Division of Family and Youth Services, which licensed the Batchelders in the 1980s.

Before the current investigation, state records show investigators confirmed other complaints against the Batchelders, including neglect of a patient who was found to be dirty, dehydrated, malnourished and with bed sores in 1991; and in 1993 for having more residents than allowed by their license.

Smiley and Armstrong, the acting ombudsman, said that Friendship Home still could be legally operating if the Batchelders hadn't gotten out voluntarily, because the state declined to revoke their license until the investigation was completed.

Armstrong said her office suggested to people inquiring about Friendship Home during the investigation that they not use the facility.

Watts' complaint, filed May 19 while her father-in-law was still a Friendship Home resident, generated the most extensive multiagency investigation in the history of the Long Term Care Ombudsman's Office, Armstrong said.

The Medicaid Fraud Unit in the Attorney General's Office got a search warrant in June to examine conditions at the home and seize records, said assistant attorney general Peter Gamache. His office got involved because several of the home's 16 residents received Medicaid.

The ombudsman and the Board of Nursing recommended Friendship Home be closed, Armstrong said. But DFYS decided it could safely remain open with monitoring, which was done for about two weeks at the end of June and beginning of July, she said. DFYS also required the Batchelders to hire a nurse to oversee patient care and dispense medicines.

The ombudsman's office helped one resident, Idesta Green, 82, move out of Friendship Home in August, concerned about her condition and possible retaliation for her cooperation, Armstrong said.

"They took my mail," Green said in an interview Friday at an assistant-living home run by Providence Hospital, where she now is apparently flourishing. "It was dark and you didn't get any care. ... They would put you on the pot and you would sit there for a couple of hours because you couldn't get off."

Gamache said his office is investigating possible criminal violations based on the complaints against the Batchelders, but Alaska doesn't have patient-neglect or abuse laws, he said. "If you have a straight case of a vulnerable adult not being fed or bathed or generally cared for properly, that's wrong but it's not unlawful."

Gamache said he's not sure conditions at Friendship Home "were qualitatively much worse than other places. ... It was a difference in degree, not in specie," he said. "Let's face it, living in an institution's a drag."

During the course of the four-month investigation, the ombudsman's office interviewed 24 people including cooperative current and past employees, Armstrong said.

"What cannot be amply stated," said the ombudsman's report, "is the sadness and frustration expressed by former employees and residents at the living conditions present at Friendship Home, Inc. It appears that the residents ... were provided only minimal tools for existence; food enough to survive, medical attention only when withholding of such might clearly result in catastrophe, and a place to sit in idleness."

WATTS: On a mission

Continued from Page A-1

watchful eyes as he recuperated from surgery and learned to live without legs.

An investigation by the state long-term care ombudsman concluded Watts was neglected by the owners and staff of Friendship Home, one of more than 60 "assisted-living" boarding homes licensed by the state to care for three or more elders or infirm adults.

Although the ombudsman did not conclude that Watts died of neglect, Bobbie Watts believes he did, and that she should have known something was wrong and gotten him out of Friendship Home earlier.

She moved him after he told her the staff was charging him for water. He died six days later.

"When he passed away, there was that guilt," she said, "being that I placed him there. . . . I have all the what-ifs and all this guilt eating at me."

Instead of letting it eat her up, Watts is turning the guilt into action on behalf of Alaska's "elders," as she calls them. First on her to-do list, now that the investigation she initiated is done, is to fax a copy of the Friendship Home report to licensing officials in every state. The former owners of Friendship Home "should never, ever again be allowed to take care of one elderly person," she said.

Paul Watts, a retired track-repair supervisor for the Alaska Railroad, was more like a beloved father than a father-in-law, Bobbie said. "He was a real good guy. He made you feel important, you know. He gave a damn."

Raised in Las Vegas in a dysfunctional family, Bobbie Watts left home at 14. "There was a lack of compassion and caring in my environment when I grew up, and I always wanted to be different."

She survived a "wild" period and came to Alaska in 1980 — "for the great adventure, and to get as far away from my family as I could." Now 35, Watts has spent the last decade raising children and dogs, caring for a husband of 13 years, doing volunteer work and making the kind of home she always wanted. Now she wonders if her personal barricades against life's roughest edges left her more gullible than she should have been.

Although she saw her

father-in-law almost daily during regulated visiting hours, brought food and made cookies for him and other residents, Watts said, it took her a long time to figure out that residents might be treated differently when she wasn't around.

"I could not conceive that someone would do this," Watts said. "It took me a little while to catch on. . . . To think I had the poor man there since March. It gives me the creeps."

When she finally figured out something was wrong, Watts filed a complaint with the long-term care ombudsman, a monitor required by the federal government. More determined than ever after Paul Watts died, she followed every twist of the investigation. Weeks turned into months, but she stuck to it, calling regulators and politicians, writing letters, checking repeatedly on what progress was being made. Somewhere along the way, Bobbie Watts, "stay-at-home mom," evolved into Bobbie Watts, unstoppable activist for the elderly.

She even went to work briefly for the people who took over Friendship Home after Paul died, and helped clean it up.

Watts said she's lost 25 pounds since filing her complaint in May. But after months of give and take, acting long-term care ombudsman Suzan Armstrong considers Watts "a real valuable find" for her office.

"She's a very effective communicator, very compassionate, very driven," Armstrong said. "I was constantly being inspired by her, being fueled by her energy."

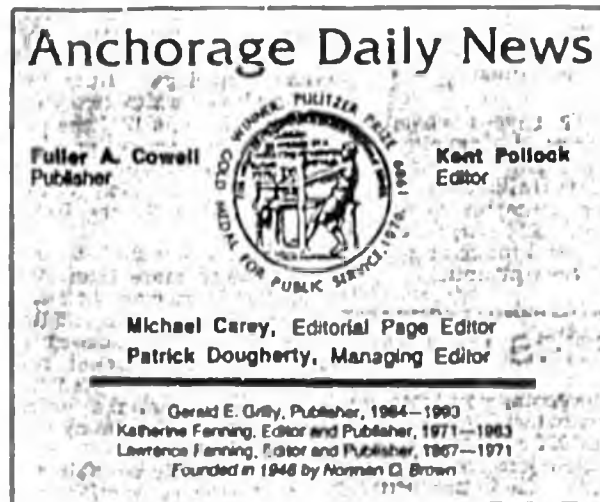
The ombudsman's office has plans for a program in which volunteers make unannounced visits to state-licensed homes — 380 beds in "assisted-living homes" and 758 nursing home beds around the state.

Armstrong hopes to entice Watts to help organize it. Watts can hardly wait.

"I want those owners to be scared of me when I walk in the door," she said. "I want them people shaking in their boots."

"I never knew I could cause so much trouble," Watts said with grim satisfaction after the report condemning practices she complained of at Friendship Home was released last week. "I was never a troublemaker anywhere until here."

"I've got it. I can take 'em on and then some."



Friendship Home

Owners, caregivers mistreated elderly

The Friendship Home, a boarding facility licensed by the state to care for ailing old people, was sorely misnamed. Judging from a recent state ombudsman's report, the Anchorage business should have been named the Home for the Abuse, Neglect and Exploitation of Old People.

Treating the elderly in an inhumane manner in any setting, particularly a state-licensed facility that should meet certain standards, is galling.

Old people's infirmities should inspire compassion in caregivers.

But while food was in short supply at Friendship Home, ample doses of contempt were fed to old people. The facility residents were willfully, intentionally and recklessly abused and neglected, according to the long-term care ombudsman's report. In the midst of a multiagency investigation, Friendship owners Debi and Tracy Batchelder sold the business and left for the Lower 48.

Like most states, Alaska does require that such elder mistreatment be reported to the authorities when it is discovered. Unlike some states, Alaska does not specifically make abuse, neglect or exploitation of the elderly a crime, as it does the mistreatment of vulnerable and defenseless children.

What happens, then, when an investigation uncovers abuses, as is the case of the Friendship Home? State officials are of differing opinions. Assistant attorney general Peter Gamache says that, "If you have a straight case of a vulnerable adult not being fed or bathed or generally cared for properly, that's wrong but it's not unlawful." James Kohn, deputy director of the Division of Senior Services, says he believes there is room within current state law to prosecute those who commit such offenses.

In any case, while allegations of abuse and neglect were substantiated in the Friendship Home investigation, the state attorney general's office is largely focusing on possible criminal charges relating to misuse of Medicaid funds and supplies. Apparently it's easier to prosecute someone for Medicaid fraud than to prosecute a caregiver for withholding treatment from a sick, old person.

Assisted-living facilities are a growth business nationwide and in Alaska. If the Friendship Home is any indication, state government must make sure oversight of such facilities matches that growth.

STATE OF ALASKA
Office of the Long Term Care Ombudsman

Report of Investigation

Date: November 30, 1995

Case No: 95-0132-A1

Respondent: Staff and Owners of Friendship Home, Inc.

Allegations: It is alleged that:

1. The staff and owners of Friendship Home, Inc., have willfully, intentionally, or recklessly inflicted physical pain, injury, or mental distress to residents of the facility. Owners of Friendship Home, Inc., are Debi and Tracy Batchelder and Friendship Home, Inc., is located at 2721 West 69th Avenue, Anchorage, Alaska.
2. The staff and owners of Friendship Home, Inc., have intentionally failed to provide essential care or services necessary to maintain the physical and mental health of the very vulnerable and frail older Alaskans who reside therein.
3. The staff and owners of Friendship Home, Inc., have unjustly or improperly used the property of another person or another person's resources for their own profit or advantage.
4. The owners of Friendship Home, Inc., contrary to law, have operated their licensed foster home in Anchorage above the 5-person capacity for which they were licensed; have operated an unlicensed home in Anchorage; have operated an unlicensed home in Fairbanks; and have operated their licensed residential care facility in Anchorage above the 16-person capacity for which they are licensed.

5. The owners and staff of Friendship Home, Inc., have administered over-the-counter medications to residents without benefit of medical supervision; have adjusted dosage levels of potent antipsychotic drugs without benefit of medical supervision; have administered the medications of a resident to another for which the medication was not prescribed; and have endangered residents in so doing.
6. The owners of Friendship Home, Inc., have intentionally interfered with the Office of the Long Term Care Ombudsman and have retaliated against persons perceived to have cooperated with the Long Term Care Ombudsman's investigation.

Allegation No. 1: The staff and owners of Friendship Home, Inc., have willfully, intentionally, or recklessly inflicted physical pain, injury, or mental distress to residents of the facility.

First, this allegation consists of several specific allegations of abuse perpetrated by certain employees and former employees against specific residents:

- 1) On or about May 23, 1995, Allen Hart, a former employee of Friendship Home, Inc., was rough with one of the female residents, causing bruising, while the resident was attempting to leave Friendship Home, Inc.
- 2) Stacy Miller, a former employee of Friendship Home, Inc., was rough getting the residents in and out of bed on an ongoing basis. Specifically, Ms. Miller would throw residents in bed and roughly pull them out of bed. This rough treatment reportedly began soon after Ms. Miller started her employment on August 17, 1994, and lasted until Ms. Miller ended her employment with Friendship Home, Inc., on July 19, 1995.
- 3) Autumn Tucker, sometime manager of Friendship Home, Inc., was verbally abusive with several of the residents. Specifically, when asked by the residents when morning medications would be made available to them, Ms. Tucker was overheard saying "I'm just real f—ing busy and I don't have the f—ing time" to the residents. This occurred sometime during the period April - May, 1995.

4) Stacy Miller was verbally and physically abusive with one of the residents. Specifically, Ms. Miller was overheard saying "You're really f—ing pissing me off" and next slapped the resident's hand. This occurred sometime during the period April - May, 1995. This resident, who has since passed away, had Alzheimer's Disease.

5) Stacy Miller and Allen Hart were physically abusive with a resident. Specifically, Ms. Miller and Mr. Hart squirted water from a bottle at the resident's face for a 30-minute period, and laughed at the resident. The resident first tried to defend himself by waving his arms and trying to stop Ms. Miller and Mr. Hart. The resident then tried to hug Ms. Miller and Mr. Hart in an effort to stop them from squirting him. The resident eventually held his head in his hands and shook his head in order to get them to stop. This occurred sometime during the period April - May, 1995. This resident, who has since passed away, had Alzheimer's Disease.

6) Stacy Miller was physically abusive with a resident. Specifically, Ms. Miller, while applying eye drops to a resident, forced the dropper into the eye of the resident, causing the resident to resist because of pain. Ms. Miller then attempted to restrain the resident while forcing the dropper in the resident's eye until the drops had been dispensed. The dropper made direct and painful contact with the resident's eyeball. The resident's eye appeared bloodshot for a period of time after. This occurred sometime during the period April - May, 1995.

7) Stacy Miller was verbally and physically abusive to a resident on several occasions. Specifically, Ms. Miller prepared insulin shots for one of the diabetic patients who is also wheelchair bound and came towards him saying "I'm going to stick you." The resident was frightened and attempted to defend himself. Ms. Miller would laugh, restrain the resident, and quickly jab the needle in the abdominal area of the resident. This occurred several times during the period April - May, 1995.

8) Debi and Tracy Batchelder told one resident that she would be changing internists, despite the fact that she had seen one internist for several years and was happy with him. Debi and Tracy Batchelder persisted and the resident acquiesced when pressured to do so.

9) Debi and Tracy Batchelder pressured a resident to remain at Friendship Home, Inc., despite her being eligible to reside at the Pioneers' Home and her strong desire to move to the Pioneers' Home. The resident first became eligible to transfer to the Anchorage Pioneers' Home on June 17, 1994, and she declined on the same day.

Aside from specific allegations of abuse, Allegation No. 1 also encompasses the mental anguish experienced by residents for a variety of reasons and reported by both employees and residents. This mental anguish was a result of alleged neglect of the residents' nutritional needs wherein residents were not served ample portions of meals and were not offered snacks to supplement those meals. It is reported that several residents complained of being hungry and that at least one resident lost a great deal of weight because she was not eating and not being assisted with eating.

Residents in need of assistance to reposition or shift their weight either in chairs or in bed in order to prevent skin breakdown are reported to have been frequently and consistently ignored. Further, residents wishing to be taken to the toilet or assisted with getting off the toilet (sometimes after an hour had elapsed) are reported to have been frequently ignored.

The residents' need for meaningful activity during waking hours is allegedly ignored and most residents sit idle during the day with the television as the only means of activity. It is alleged that little or no periodicals, reading materials, games, or movies are provided for the residents' enjoyment. It is also alleged that residents are put to bed as early as 5:30 - 6:00 p.m., and awakened as early as 3:30 - 4:00 a.m., despite their personal desire to either stay up longer or sleep until later in the morning.

Many of the residents are alleged to have complained or cried out in pain, only to have their cries ignored. This allegation will be further discussed at Allegation No. 2, but is also pertinent in this discussion of alleged neglect resulting in mental anguish. Several residents are alleged to have been placed in their room with the call button either not working or placed far enough away so the resident is unable to use it. Persistent residents with more acute health problems are alleged to have been viewed as troublesome and ignoring their wishes used as a means of punishment.

Allegation No. 2: The staff and owners of Friendship Home, Inc., have intentionally failed to provide essential care or services necessary to maintain the physical and mental health of the very vulnerable and frail older Alaskans who reside therein.

- 1) Friendship Home, Inc., did not fill a prescription for one of its residents in a timely manner causing that resident to go without needed prescription drug treatment for a period of 5 days from May 17, 1995, to May 22, 1995.
- 2) It was reported by former employees that have worked at Friendship Home, Inc., over the last 2 years that the owner of Friendship Home, Inc., frequently neglected to fill many of the residents' medication trays, causing those residents to go without prescribed medication.
- 3) It is reported by former employees that have worked at Friendship Home, Inc., over the last year that owners or managers of Friendship Home, Inc., have retroactively filled out medication sheets indicating that residents received daily medication when, in fact, they had not, and the person signing the sheets was not on site to give the medication. In other cases, staff and owners of Friendship Home, Inc., have not filled out medication sheets at all for residents prescribed with daily medication.
- 4) Debi Batchelder, Tracy Batchelder, and Autumn Tucker have not immediately notified physicians when medical attention becomes necessary for some of the residents, and in some cases, not at all. At least one resident died before getting medical attention, despite repeated requests by staff who witnessed her deteriorating condition over a 2-day period and were gravely concerned. Another resident was reported as possibly having a seizure on May 17, 1995. Autumn Tucker was notified by staff at 7:00 a.m., of the possible seizure but no medical attention was sought.
- 5) Friendship Home, Inc., is not giving regularly scheduled baths for some its residents and several of the residents are reportedly dirty and bad-smelling for lack of adequate bathing.
- 6) Friendship Home, Inc., is not properly recording progress notes on many of its residents, and in the case of one resident, not at all. The proper recording of progress notes is essential to providing continuity of care, noting exceptions to normal care, and noting follow-up when problems are reported. In this case, large gaps in time occur between progress notes on residents. Progress notes for May, 1995, begin in the middle of May for most of the residents and at least 4 residents did not have progress notes recorded for the month of May, 1995 at all. Several notations appear reporting complaints of pain or seemingly extreme symptoms, but little or no follow-up is recorded. Several employees allege that the recording of progress notes was sporadic and, more often than not, depended on whether state supervision was occurring at the time.

7) Owners and staff of Friendship Home, Inc., are not properly monitoring many of the residents to prevent falls, and owners of Friendship Home, Inc., are neglectful in acquiring bedrails for residents that need them, despite being asked repeatedly by staff to do so.

8) Friendship Home, Inc., did not follow its American Diabetics Association (ADA) nutritional menu for meal planning despite its being posted in a common area and the Batchelder's claims that they followed an approved ADA menu cycle. Several former employees that have worked at Friendship Home, Inc., over a period spanning the last 2 years allege that the menu was almost never followed. Instead, owners of Friendship Home, Inc., purchased inexpensive, bulk frozen food for the residents that is high in sodium and fat. Food stores frequently ran out and one former employee reported that he had to shop for food supplies for the residents with his own money. It is alleged that the prevailing theme was to cut corners rather than provide balanced, adequate meals for the residents.

9) Friendship Home, Inc., is leaving some of its residents in bed for prolonged periods of time thereby causing the residents to develop bed sores. It is alleged that treatment for bed sores is sporadic and sometimes not at all.

10) Friendship Home, Inc., although aware that one of its residents was refusing meals for several days, did not notify a physician or the resident's family. This neglect is alleged to have occurred in May 1995. Another resident, who cannot feed herself, was reportedly left with plates of food in front of her, but she is frequently not provided assistance by staff to eat other than a few bites. This neglect is alleged to have occurred between March and May 1995.

11) A resident of Friendship Home, Inc., has been diagnosed as having a fractured pelvic bone. This resident screamed or complained of pain from at least May 16, 1995, yet went without medical attention until May 24, 1995. Untrained staff "diagnosed" this resident with herpetic lesions and were careful to show other staff the lesions and warn them to wear gloves while assisting this resident. One staff member informed the owners of Friendship Home, Inc., that this resident was in need of medical attention and attempted to consult a home health nurse who was caring for another resident. The staff member terminated her employment with Friendship Home, Inc., in frustration over the situation.

12) A resident of Friendship Home, Inc., was witnessed by several employees to have a dark discharge and was complaining of pain from at least early in May, 1995. As of July 2, 1995, no medical attention was sought for the resident despite several employees urging Autumn Tucker and Debi Batchelder to seek medical attention for the resident.

13) Friendship Home, Inc., failed to assist one of its residents in keeping a May 31, 1995, medical appointment and told the resident's family that the physician's office had called to cancel the appointment. When contacted the physician's office stated that the resident was a "no show" and that it had not canceled the appointment.

14) Friendship Home, Inc., has not had a licensed nurse on staff or on contract from September, 1994 until the end of May, 1995. Sometime during the period September, 1994, to May, 1995, Debi and Tracy Batchelder employed a family member they claimed was a licensed nurse who, in fact, was not a licensed nurse.

15) Friendship Home, Inc., failed to clean and dress wounds of one of its residents who was a double amputee and suffered from a skin condition due to renal kidney disease. This resident, who was subsequently relocated to another facility on June 6, 1995, was diagnosed as being pre-gangrenous as a result of improper care while at Friendship Home, Inc. This resident was also the resident to go without the prescription Lasix for a period of 5 days due to Friendship Home, Inc.'s failure to have the medication refilled. That resident died on June 12, 1995. The cause of death is unknown at this time.

16) Friendship Home, Inc., frequently does not adequately staff the facility during the shift of Autumn Tucker, a family member who cares for her own family upstairs from the main facility. During those times, the 16 residents are cared for by one person, who is also responsible for cooking and serving the meals. At least one resident fell while a staff member was in the facility alone and had called upstairs for assistance. Since no one appeared from upstairs to assist the staff person in a timely manner, the resident spent approximately one hour waiting to be helped up. This incident occurred between March and April of 1995.

17) Residents of Friendship Home, Inc., frequently sit in soiled and wet diapers for prolonged periods of time. This neglect was reported by employees that have worked for Friendship Home, Inc., over the last one year period.

18) A resident of Friendship Home, Inc., began to show signs of illness as early as June 4, 1995, and no later than June 6, 1995. The resident was weak, listless, congested, coughing, and would not eat. Two caregivers informed the nurse employed by the Batchelders and Autumn Tucker that the resident seemed extremely ill and needed to see a doctor immediately. The nurse remarked that he had approached Autumn Tucker about the resident but was told not to worry about it. The nurse also stated that the resident "just has a cold." The resident died on June 8, 1995. No medical attention was sought for the resident prior to her death. The resident's family was not contacted until after her death.

19) On June 14, 1994, a resident of Friendship Home, Inc., with Alzheimer's Disease walked out of the facility unsupervised and was seen by a neighbor falling to his knees by the side of the road. This resident was taken to the Providence Hospital emergency room and diagnosed with a hip fracture.

20) On June 30, 1995, a resident was taken to the Providence Hospital emergency room because of frequent and severe vomiting. The emergency room physician was able to stop the vomiting and advised Friendship Home, Inc., to follow-up with the resident's personal physician that week or immediately for any new or increasing symptoms. Later that evening the resident started vomiting again. A staff member apprised Stacy Miller, who was living upstairs with the Batchelders, that the resident was vomiting again and that he needed medical attention. No one from upstairs came down to attend to the resident until the staff member on duty called to report that the resident had died at 3:40 a.m. the following morning. The staff member was not trained in CPR, despite being left alone in the facility to care for the residents, nor was the staff person informed as to which residents were to be resuscitated if necessary.

Allegation No. 3: The staff and owners of Friendship Home, Inc., have unjustly or improperly used the property of another person or another person's resources for one's own profit or advantage.

1) Friendship Home, Inc., keeps all supplies for incontinence in a shared store, regardless of whether or not that resident is on the Medicaid waiver program. Additionally, test strips belonging to diabetic residents on the Medicaid waiver program are reportedly shared with residents not on the Medicaid waiver program. Additionally, it has been reported that one resident's Medicare supplies were shared with other residents sometime in the period between May 1992 and May 1993. When questioned by an

employee, Debi Batchelder reportedly replied that it was okay - that resident owed some supplies back to the Home.

2) Monthly charges for one resident were \$3,000 for board and care and \$500 for medications. This resident had prescriptions totaling less than \$100.00 per month, yet the owners of Friendship Home, Inc., informed the resident that she owes them more money.

3) Resident personal funds were mismanaged by Friendship Home, Inc. Specifically, one resident's funds were taken by the owners of Friendship Home, Inc., for "safekeeping" and were never given back to the resident, despite her having asked about them. This reportedly occurred between the period of October 1994 and May 1995.

4) A resident reportedly wrote a check for \$500.00 to the owners of Friendship Home, Inc., despite that fact she has guardians who pay all bills for services provided by Friendship Home, Inc. This occurred between the period November 1994 and February 1995.

5) On June 6, 1994, the owners of Friendship Home, Inc., secured a loan from a resident in the amount of \$4,500. Reportedly this loan was for the purchase of a van to be used by the owners of the Home to transport residents of the Home. Although there appears to be some credit for the loan on the resident's books, not all of the \$4,500 appears to have been credited, nor has any interest been paid for the loan.

6) Sometime during the period from March 10, 1995, and June 6, 1995, Terry January, an aide for Friendship Home, Inc., borrowed money from one of the residents and never repaid it.

7) One resident of Friendship Home, Inc., was covered by both the Medicaid Waiver program and the resident's family for the same 2-month period - April - May, 1995. Friendship Home, Inc., has stated that they will not reimburse the resident's family for the duplicative payments.

8) Friendship Home, Inc., has withheld mail from at least one resident for a period of approximately 2 years starting in 1993. That mail includes bills for goods and services that the resident has not had an opportunity to pay. When one of the resident's creditors was contacted, they stated that they had contacted Debi Batchelder several times regarding the overdue bill and she stated that she would check and get back in touch with the creditor. Ms. Batchelder never contacted the creditor and bill remains unpaid.

Allegation No. 4: The owners of Friendship Home, Inc., contrary to law, have operated their licensed foster home above the 5-person capacity for which they were licensed; have operated an unlicensed home in Anchorage; have operated an unlicensed home in Fairbanks; and have operated their licensed residential care facility above the 16 person capacity for which they are licensed.

1) Between the period of July 1992 and May 1993, Debi and Tracy Batchelder operated their foster home over the 5-person capacity for which they were licensed. Specifically, residents were increased in number gradually until the residents numbered 12 or 13. When a staff person inquired about the situation Debi Batchelder stated that they had applied for an adult residential care facility level II license with a 16-person capacity and that since they had applied, it was all right to take in more than 5 persons.

2) From the period February 1, 1995, to May 27, 1995, Debi Batchelder, Tracy Batchelder, and Autumn Tucker operated an unlicensed "holding house" for prospective residents of Friendship Home, Inc. This residence is located at 2601 West 69th Avenue.

3), Reportedly operating on a tip from an unidentified "friend" at a state government office, Debi and Tracy Batchelder of Friendship Home, Inc., relocated an extra 17th resident to the holding house when it was learned that an inspection was imminent. This transfer occurred sometime between February 1995 and May 1995. The Friendship House is only licensed for 16 residents.

4) On May 27, 1995, while residing at the holding house, 4 residents were evacuated because of a fire and were placed in the Bonanza Lodge, an Anchorage motel. Those residents were subsequently relocated to an unlicensed facility in Fairbanks, Alaska. When visited by a social worker from the Division of Family and Youth Services, the owners stated at first that they were merely renting an apartment to the residents. The owners next stated that they had been given a temporary license from the Division of Senior Services. The Division of Senior Services did not have the authority to issue temporary or permanent licenses at that time, and when contacted, representatives from the Division of Senior Services stated that at no time did it issue a license to Friendship Home, Inc., prior to the temporary license issued on July 1, 1995.

Allegation No. 5: The owners and staff of Friendship Home, Inc., have administered medications to residents without benefit of medical supervision; have adjusted dosage levels of potent antipsychotic drugs without benefit of medical supervision; have administered the medications of a resident to another for which the medication was not prescribed; and have endangered residents in doing so.

(1) Friendship Home, Inc., has administered insulin to its some of its diabetic patients without testing their blood sugar first. This allegation was widely reported by staff employed at Friendship Home, Inc., as early as January 1995 up to May 1995.

(2) Friendship Home, Inc., allowed untrained/uncertified staff to administer medications, including subcutaneously, to the residents. This administration of medications was not delegated by a licensed nurse.

3) One resident of Friendship Home, Inc., was given the prescription drug Haldol to control "rambunctiousness." This prescription was for a different person residing at the Home. This administration of Haldol occurred between October 1994 and May 1995.

4) Two residents of the holding house were given the prescription drug Haldol to control "rambunctiousness." Haldol is an extremely potent antipsychotic drug with single dose effects that last for two to three days. This prescription was for a different person who resides at Friendship Home, Inc. This administration of Haldol occurred between February and May of 1995.

5) Some residents of Friendship Home, Inc., who have prescriptions for Haldol are being given the drug in varying doses to control rambunctiousness. Specifically, the owners of Friendship Home, Inc., are instructing staff to "jack up" the Haldol prescriptions and slowly withdraw the drug from the resident's system, causing that resident to sleep for long periods of time. This variation of doses administered is done without contacting the residents' physicians. This variation of dosage levels of Haldol was per Debi Batchelder's or Autumn Tucker's order. At least 2 residents of Friendship Home, Inc., were given varying dosage levels of Haldol and both of those residents exhibited extreme symptoms as a result.

6) Friendship Home, Inc., administered an over-the-counter sleep medication to a resident without regard to the physical effect such medication may have on the resident. This is in lieu of getting a prescribed sleep medication refilled for the resident. When the resident's physician

was contacted it was learned that the particular over-the-counter sleep medication may have a particularly bad effect on the resident given his kidney disease. This administration of over-the-counter sleep medication reportedly occurred in June 1995.

Allegation No. 6: The owners of Friendship Home, Inc., have intentionally interfered with the Long Term Care Ombudsman and have retaliated against persons perceived to have cooperated with the Long Term Care Ombudsman's investigation.

1) Operating on speculation that a particular resident's complaints were the reason for the Ombudsman's investigation, the owners of Friendship Home, Inc., enforced new, stricter eating policies for that resident as a form of retaliation. Specifically, the resident's option to order food from restaurants and have staff assist him was withdrawn by Debi Batchelder, who ordered her staff to serve the resident nothing but food prepared for all Friendship Home, Inc., residents. This alleged retaliation occurred in late May and early June of 1995.

2) An employee of Friendship Home, Inc., was contacted by Robert Collins, a family member of the Batchelders, and told that her husband (also an employee) would be in a lot of trouble if either she or her husband were to cooperate with the Ombudsman's investigation.

3) Employees of Friendship Home, Inc., have been threatened and manipulated in an effort to stop them from cooperating with the Ombudsman's investigation. Specifically, several employees have been warned that the Batchelders have a friend high up in State Government and that if a complaint is made, the Batchelders would be informed of the complaint and the person would be fired.

4) Several former employees report feeling threatened by Autumn Tucker. Specifically, the employees reported that Ms. Tucker is candid in her threats against anyone who "crosses her" and to one listener, threatened to kill anyone who crosses her.

5) An employee of Friendship Home, Inc., was allegedly fired for cooperating with the Office of the Long Term Care Ombudsman. Specifically, the employee was sent a letter early in July 1995 accusing the employee of being rude to residents and for soliciting drugs from the Batchelder's daughters. The employee stated that he had not previously been counseled for being rude to residents, nor had he attempted to solicit

drugs from anyone. The employee stated that he was fired as a means of retaliation.

6) An employee of Friendship Home, Inc., was allegedly fired for cooperating with the Office of the Long Term Care Ombudsman. Specifically, in a letter dated July 3, 1995, to the employee from Tracy Batchelder, Mr. Batchelder stated that the employee was fired for "several incidents of inappropriate behavior" on her part. The employee stated that she had called Mr. Batchelder to request an employee meeting in order to address several problems and concerns that she and other employees had while working with Stacy Miller, the principal subject or co-subject of allegation No. 1, incident Nos. 2, 4, 5, 6, and 7. The employee stated that she was never counseled for inappropriate behavior prior to her termination. The employee further stated that she was warned not to discuss the residents with the nurse monitor from the Division of Senior Services, and that she was treated coldly by Debi Batchelder when it was perceived that she had cooperated with the nurse monitor.

7) An employee of Friendship Home, Inc., was threatened with firing after it was learned that she had been to the Office of the Long Term Care Ombudsman for purposes of an interview. Specifically, Debi Batchelder called the home of the employee several times to ascertain her whereabouts and was told by the employee's husband that she had gone to the Ombudsman's office. When the employee next reported for work, Ms. Batchelder informed the employee that her "friend" from the state had told her that the employee showed up for an interview with the Ombudsman. Ms. Batchelder went further to demand that the employee admit she lied during the interview or else leave her employment with Friendship Home, Inc. Rather than make any such admission, the employee left her employment with Friendship Home, Inc.

8) On July 12, 1995, Suzan Armstrong, Assistant Ombudsman, and Gail Green, Adult Protective Services, visited Friendship Home, Inc., to interview two residents on different matters. At one point the interview was interrupted by Debi Batchelder, who demanded to know if the interviewers had permission from one of the resident's guardians. Armstrong stated that the nature of the interview did not legally require permission from the guardian and Ms. Batchelder appeared to have been satisfied. Upon leaving the interview, Ms. Batchelder approached Armstrong and stated that the resident's guardian was holding on the telephone to speak with her. After briefly informing the guardian that a call back would be more appropriate, Armstrong returned to the Ombudsman's Office and called the guardian back. The guardian informed Armstrong that Ms. Batchelder had

told her the Ombudsman's Office was there that day to immediately remove the resident from the premises in conjunction with an attempted closure of the facility. Armstrong informed the guardian that Ms. Batchelder has not told the truth about the matter.

9) On Friday, August 11, 1995, Armstrong spoke with Autumn Tucker in order to ascertain when a specific resident could legally move from the facility pursuant to the 30-day notice requirement and to ask if it was Friendship Home, Inc.'s policy to assist its residents with relocation. Armstrong specifically stated that Friendship Home, Inc., would not, in any way, be required to assist the resident any more than its policy for all residents. On Monday, August 14, 1995, the resident was moved from the facility, a full day before planned or anticipated by the new facility. A representative from the new facility stated that the Batchelders told her that the Ombudsman's Office demanded the resident be moved a day early and also demanded that they assist the resident with the move. The elderly resident was quite distressed about the nature and timing of the move.

BACKGROUND

This investigation was initiated by a telephone complaint on May 19, 1995, and a letter complaint, dated May 23, 1995, from a separate source. The Ombudsman's Office contacted Adult Protective Services in the Division of Senior Services, the Division of Family and Youth Services, and the Medicaid Provider Fraud Unit of the Attorney General's Office. Given the fact that several entities were involved in the investigation and/or outcome, it was decided that the Ombudsman's Office would lead the investigation and conduct joint interviews with the Attorney General's Office.

Because of the gravity of the allegations against Friendship Home, Inc., possible emergency closure of the facility was discussed on June 19, 1995, with representatives from the Division of Family and Youth Services, Adult Protective Services, and the Attorney General's Office. However, after a search warrant was served on the facility and representatives from the Division of Family and Youth Services (the licensing authority prior to July 1, 1995) inspected the facility, it was decided that the facility could remain open with conditions. Primarily, Friendship Home, Inc., was required to hire a nurse to oversee the care of the residents and dispense medications. Representatives from the Division of Family and Youth Services and Adult Protective Services were to daily monitor Friendship Home, Inc., to ensure strict compliance with the conditions and verify resident safety.

METHODOLOGY

During the course of the investigation, 24 people were interviewed consisting of current employees of the Home, past employees, residents, family members and guardians of the residents, and staff of other entities having some contact with Friendship Home, Inc. Additionally, voluminous amounts of medical and financial information was obtained either by consent or search warrant. The findings of this investigation are a direct result of the interviews conducted and the information reviewed during the course of this investigation.

FINDINGS¹

Allegation No. 1: The staff and owners of Friendship Home, Inc., have willfully, intentionally, or recklessly inflicted physical pain, injury, or mental distress to residents of the facility.

Substantiated.

As previously discussed, nine specific incidents were reported regarding the willful, intentional, or reckless infliction of abuse of the residents of the facility. Of those nine, eight were substantiated by eyewitness reports. Additionally, Stacy Miller, one of the subjects of allegation No. 1, incident No. 5, admitted to squirting the resident with a water bottle. The only incident not eyewitnessed is allegation No. 1, incident No. 1, involving Allen Hart handling a female resident roughly when she tried to leave the facility. The sole reporter of the incident is the resident. This resident, while seemingly lucid and able to communicate, is very distraught about her living situation and has voiced many complaints about staff in the past. While there is no dispute that the resident did try to leave the facility and that Allen Hart brought her back inside, the degree and type of persuasion used by Mr. Hart is at dispute. Therefore, without any witnesses, allegation No. 1, incident No. 1 cannot be substantiated.

¹ During the course of this investigation, 56 total incidents were alleged regarding Friendship Home, Inc. For purposes of simplicity, those 56 allegations were divided into 6 general allegations with specific incidents enumerated following each allegation. Since each of the six allegations are tied with a specific set of incidents in numerical order, they will be referred to throughout the section on Findings as follows: "Allegation No 1, incident No. 2," "allegation No. 4, incident No. 2" and so on.

The narrative section in Allegation No. 1, involving complaints of small meals portions, either not offering or refusing to provide snacks, not shifting bed- and chair-fast persons, rigid bed and wake-up times, residents crying out in pain, and punishment of residents by ignoring them have all been corroborated by a large number of persons involved with Friendship Home, Inc.

Allegation No. 2: The staff and owners of Friendship Home, Inc., have intentionally failed to provide essential care or services necessary to maintain the physical and mental health of the very vulnerable and frail older Alaskans who reside therein.

Substantiated.

All but one incident enumerated in this allegation were either substantiated by several reports of such, factually checked by the Ombudsman's Office, or both. For example, allegation No. 2, incident No. 1, alleging that Friendship Home, Inc., went five days before refilling a medication for one of its residents, was verified directly with the pharmacy that filled the prescription.

Allegation No. 2, incident No. 8, alleging that the posted A.D.A. cycle menu was not followed was reported by several employees and verified by directly ascertaining what was being cooked and served and inventorying the food stores.

Allegation No. 2, incident No. 13, alleging that Friendship Home, Inc., failed to assist one of its residents in keeping a medical appointment and lied to the resident's family about why the appointment was missed was directly verified by contacting the physician's office and ascertaining that the resident was a "no show."

Allegation No. 2, incident No. 14, was verified by checking a list of all employees of Friendship Home, Inc., and ascertaining with the Alaska State Board of Nursing which, if any, of the employees were licensed to practice nursing in the State of Alaska. Additionally, the Alaska Native Medical Center was contacted because the Batchelders claimed their family member worked as a nurse there in the past. Alaska Native Medical Center had no such person on their list of former employees.

Allegation No. 2, incident No. 15, alleging that Friendship Home, Inc., failed to clean and dress wounds of one of its residents was verified by direct

observation and recording of the resident's condition by the Ombudsman's Office, interviews with several persons involved in the resident's care, and taking testimony as to his condition up to, and immediately after, leaving Friendship Home, Inc.

Allegation No. 2, incident No. 19, involving a resident of Friendship Home, Inc., walking out of the home and breaking his hip was verified by checking with the Providence Hospital emergency room physician and speaking with Autumn Tucker about the incident the same day it happened.

Allegation No. 2, incident No. 20, involving the death of a resident of Friendship Home, Inc., after exhibiting symptoms that necessitated further medical attention, was verified by obtaining emergency room records from Providence Hospital and interviewing a Friendship Home staff person who was on duty the night of the incident, a staff person that was off duty but present during the incident, and a family member present at the emergency room.

Allegation No. 3: The staff and owners of Friendship Home, Inc., have unjustly or improperly used the property of another person or another person's resources for one's own profit or advantage.

Substantiated.

Although the Batchelders first began to take Medicaid waivers for their residents no earlier than February of 1995, at least one account of sharing Medicare supplies among residents was reported prior to 1995, and several accounts of sharing Medicaid Waiver supplies were reported. One resident's Medicare supplies were shared among the residents because Ms. Batchelder felt the resident "owed" the home. During a May 1995 unannounced visit to the home, the Ombudsman's Office verified that the only test strips at the facility belonged to one Medicaid Waiver resident even though there were at least three residents being given insulin for diabetes at that time. Supplies for incontinence were unmarked and housed in one area of the facility, and numerous employees reported that diapers are shared among residents, regardless of the type of payment for their care.

Allegation No. 3, incident No. 2 cannot be substantiated. Initially, it was reported that the resident was being charged a total of \$3500 a month - \$3000 a month for care and \$500 a month for prescriptions, despite the fact that the dollar sum of her prescriptions was approximately \$100 per month.

However, it was later learned that the resident was only being charged \$3000 a month for her care and approximately \$100 a month for her prescriptions.

Allegation No. 3, incident No. 4 cannot be substantiated. Although the resident's family reported that the resident stated she had given the Batchelder's \$500 with a personal check, despite the fact that all of her bills are paid by the family, a check of the resident's bank records reveal no such check made out to the Batchelder's or Friendship Home, Inc. Several checks for cash appear on the statements, but it cannot be ascertained that any of the money was given to the Batchelders.

Allegation No. 3, incident No. 5 was verified by Friendship Home, Inc.'s own ledger. A loan in the amount of \$4500 was made by the resident to the Batchelders. The resident stated that the loan was so the Batchelders could purchase a van in order to transport residents. Further, although several credits to the resident's account appear in the ledger, the entire amount is not recorded as having been paid off, and no interest appears to have been paid to the resident.

Allegation No. 3, incident No. 8 involves several packets of unopened mail addressed to a resident being confiscated from the Batchelder's personal residence. The unopened mail included several bills for good and services. The Ombudsman's Office called one of the creditors on July 5, 1995. The creditor reported that they had spoken with Debi Batchelder three times to ascertain when the bill would be paid. This bill, for \$37.70, is for prescription drugs and dates back to late 1993. On June 21, 1994, Ms. Batchelder stated that she would bring a check to pay for the prescriptions. Ms. Batchelder neither appeared with a check or called the pharmacy about the overdue amount. The account remains overdue but has not been sent to a collection agency because of its amount. The resident was not given this bill, nor apprised of the overdue amount.

Although not specific allegations in this Report of Investigation, the Ombudsman's Office learned that from approximately May 1992 to May 1993, Debi and Tracy Batchelder paid a full time staff member in cash, with no funds taken out for income tax or employment security tax. Allegedly, Tracy Batchelder informed the staff member that she did not have to bother reporting her income to the IRS and that they were not going to report the income, either. Additionally, one full-time staff member and at least 2 part-time staff persons employed at the "holding house," were paid under the table and in cash for their services.

Allegation No. 4: The owners of Friendship Home, Inc., contrary to law, have operated their licensed foster home above the 5-person capacity for which they were licensed; have operated an unlicensed home in Anchorage; have operated an unlicensed home in Fairbanks; and have operated their licensed residential care facility above the 16 person capacity for which they are licensed.

Substantiated.

Allegation No. 4, incident No. 1, involving the Batchelders operating their 5-person foster home over-capacity was reported by former employees and verified by checking the Division of Family and Youth Services (DFYS) complaint file on Friendship Home, Inc. Although DFYS investigated a complaint about the Batchelders being over-capacity and found that, in fact, the Batchelders were operating over-capacity, it was reported to this Office that the Batchelders would hide residents and resident files when DFYS workers would visit for follow-up.

Allegation No. 4, incident No. 2, the operation of a "holding house" for prospective residents of Friendship Home, Inc., was widely reported by former and current employees, as well as family members who housed their loved ones at the holding house in hopes of getting a bed at the Friendship Home, Inc. Although Debi and Tracy Batchelder maintain that the other home was operated by their daughter, Autumn Tucker, family members and staff alike report that Debi Batchelder represented the home as part of the Friendship Home, Inc. Employees working at the holding house were paid, in cash, by Tracy Batchelder, Debi Batchelder, or Autumn Tucker. Additionally, supplies were purchased for both homes at the same time and by the Batchelders. Residents were shuffled between the two homes - either by moving a resident of the holding house to the larger house when a bed became available, or by moving persons in excess of the #16 capacity to the holding house in order to avoid being caught over-capacity.

Also indicative of the relationship between the holding house and Friendship Home, Inc., is the fact that Debi and Tracy Batchelder transported 3 holding house residents to Fairbanks after a fire occurred in the holding house on May 27, 1995. This fire was verified directly by contacting the Anchorage Fire Department and receiving a fire incident report. Since housing 3 or more residents in an unlicensed facility constitutes a violation of the statutes and regulations governing adult residential care facilities, a representative from the Division of Family and Youth Services (DFYS) in Fairbanks was contacted by the Ombudsman's Office and requested to make an

unannounced visit on the Batchelders. DFYS verified that the Batchelders had 3 persons living with them in their Fairbanks home. Debbie Batchelder offered to send one of the residents home to Anchorage because a bed had recently become available in their 16-bed facility in Anchorage.

Allegation No. 4, incident No. 3, involving a resident being moved between the Friendship Home and the holding house and previously discussed above, was reported by several employees and former employees. What is particularly striking is that, apparently, this resident was first placed in the 16-bed home in Anchorage, next moved to the smaller "holding house" when an inspection was imminent, next moved to a Fairbanks home after the fire in Anchorage occurred, and subsequently flown back to Anchorage after DFYS paid its surprise visit to the Fairbanks home. It is no wonder then that this resident, who has been described as having a significant degree of dementia, was wandering around the neighborhood and fell, breaking his hip (See Allegation No. 2, incident No. 17). The Batchelders moved this resident three times in the space of 3 months - between February and May of 1995, and each time the resident started to wander, he was walking in the direction of the holding house.

Allegation No. 4, incident No. 4 was verified by interviews with employees and family members of the holding house residents and by obtaining a fire incident report from the Anchorage Fire Department. Also obtained for purposes of substantiating this incident is a report by Deanna Burrows, DFYS Social Worker - Fairbanks.

Allegation No. 5: The owners and staff of Friendship Home, Inc., have administered medications to residents without benefit of medical supervision; have adjusted dosage levels of potent antipsychotic drugs without benefit of medical supervision; have administered the medications of a resident to another for which the medication was not prescribed; and have endangered residents in so doing.

Substantiated.

All separate incidents of abuse of prescription drugs were widely reported by staff whose work experience with Friendship Home, Inc., dates as far back as three years. Additionally, the Ombudsman's Office verified that only 1 resident had diabetes test strips during a May 24, 1995, surprise visit to the Home. During a search of the Batchelder's private quarters, a prescription

bottle of Haldol was found that belonged to a resident that had died several months earlier. It is noteworthy that the bottle of Haldol was found in the kitchen with other medicines and vitamins used regularly and that it was reported that this resident's Haldol was used by the Batchelders on other residents not prescribed Haldol themselves.

Several persons reported that untrained, unlicensed staff were administering prescription drugs to residents, including insulin shots. During the interview process, one staff member was asked if she had given insulin shots. At first this staff member stated that she only assisted the residents in giving themselves insulin shots. When confronted with the information that several people had reported differently, the staff member admitted that, in fact, she had not merely assisted with insulin shots, but she had administered them without the resident participating in the process. It was reported that the Batchelders asked many staff persons to administer medications, as well as to learn how to administer insulin shots. Several certified nurses aids refused to do so because they were untrained by licensed medical staff and the duties had not been delegated by a licensed nurse. One untrained, unlicensed employee stated that she was taught how to give insulin shots by Autumn Tucker who gave her an orange to practice on for a few days. Ms. Tucker is neither a licensed nurse or a certified nurse's aid.

Allegation No. 6: The owners of Friendship Home, Inc., have intentionally interfered with the Office of the Long Term Care Ombudsman and have retaliated against persons perceived to have cooperated with the Long Term Care Ombudsman's investigation.

Substantiated.

Allegation No. 6, incident Nos. 5 and 6, involve two employees being fired from Friendship Home, Inc., Neither of the employees were apprised that their job performance was under question. Both employees were perceived by the Batchelders to be cooperating with the Ombudsman's investigation, and both were intimidated because of the perceived participation. Nonetheless, although the termination of Allen Hart for retaliatory reasons is likely, it cannot be substantiated. Mr. Hart is the principal subject of allegation No. 1, incident No. 5, involving abuse of a resident; that allegation is substantiated in this Report, and this type of behavior was cited by the Batchelders as one of the reasons for firing Mr. Hart.

Allegation No. 6, incident No. 7, involves another employee who was told by Debi Batchelder that either she had to admit that she had lied to the Ombudsman's office or leave her position with Friendship Home, Inc., immediately. She left her job immediately. The employee regained her job with Friendship Home, Inc., shortly thereafter.

Allegation No. 6, incident No. 8, involves a visit to Friendship Home, Inc., on July 12, 1995, by Gail Green of Adult Protective Services and Suzan Armstrong, the Assistant Ombudsman. Reports of both employees is on file with the Division of Senior Services.

Allegation No. 6, incident No. 9, involves a resident being moved from Friendship Home, Inc., by Autumn Tucker and Tucker's misrepresentations about the move to the management of the new facility. A report regarding this incident is on file with the Ombudsman's Office, as well as a report from a representative of the new facility where the resident was relocated.

CONCLUSION:

As stated above, all six allegations against Friendship Home, Inc. have been substantiated. During the course of this investigation it was widely reported that the owners of Friendship Home, Inc., Debi and Tracy Batchelder, had very little regard for the frail, elderly residents in their care, and instead, were very concerned with the financial state of the business. Time and time again, employees and former employees commented that money was far more important to the Batchelders than the residents' health, safety, welfare, and rights. This became painfully clear during the course of this investigation. What cannot be amply stated in this report is the sadness and frustration expressed by former employees and residents at the living conditions present at Friendship Home, Inc. It appears that the residents of Friendship Home, Inc., were provided only minimal tools for existence; food enough to survive, medical attention only when withholding of such might clearly result in catastrophe, and a place to sit in idleness.

When residents or staff would complain about the conditions, retribution was swiftly handed out. Residents were ignored and rebellious staff fired. This exacerbated the problems stemming from high staff turnover. Lists of employees dating back almost 3 years were obtained from Friendship Home, Inc., and showed that at least 58 employees had worked at the home during that period. A large number of these employees were hired and fired or quit within a 6-8 week period. Several of the residents reported that they would no sooner get comfortable with the care given to them by new

employees when these employees were suddenly gone. Particularly haunting, also, is the countless reports of residents repeated expressions of gratitude for tasteful food served in ample portions by the few staff that cared to do so or gratitude for the "special" attention given them by lifting them from the toilet before the usual half or full-hour time frame elapsed.

As a final part of this section, some of the allegations have been integrated in a narrative fashion to try to illustrate the level of neglect and abuse that even one resident had to live through at Friendship Home, Inc. One male resident, who was diagnosed with Alzheimer's Disease, was repeatedly subjected to cruel and malicious teasing. This teasing was in the form of coming up behind him and grabbing him by the trunk and lifting him up, squirting him in the face for long periods of time, or verbally poking fun at his limited mental faculties. It was also reported that staff frequently became impatient with this resident when he would wander around the home or hover. This is the same resident that was reported to have been abused by a staff member who was witnessed cursing at him and slapping his hand. It is impossible to imagine what this particular resident perceived about his life. It appears that he was quite verbal in his protestations about the teasing, and, at times, would become quite angry or sad when the persons charged with his care would not listen to him when he said "no." Sadly enough, this is the same resident who began vomiting on June 30, 1995, and without proper medical attention, died on July 1, 1995.

SYSTEMIC ISSUES

During the course of this investigation, several systemic issues were identified. These issues will be addressed by separate report in the near future.

RECOMMENDATIONS

Before the conclusion of this investigation, the Batchelders took steps to divest themselves of Friendship Home, Inc., and it is presently being operated by a separate entity. Not surprisingly, it has been reported that the condition of Friendship Home, Inc., and its residents immediately after the Batchelders left the facility were deplorable. The residents were hungry, dirty, and grateful for any amount of attention and activity that was directed towards them. The beds, bedding, floor, furnishings, and appliances were also dirty. Had the Batchelders chosen to retain their positions as owners/managers of Friendship Home, Inc., the Office of the Long Term

Care Ombudsman would have recommended that the Batchelders' assisted living license be immediately revoked pursuant to AS 47.33.550. Since the Batchelders and Autumn Tucker no longer have an assisted living license, the Office of the Long Term Care Ombudsman recommends the following:

1. Neither Debi Batchelder, Tracy Batchelder, or Autumn Tucker be allowed to hold a license for assisted living in Alaska at any time in the future .
2. The U.S. Postal Inspector of the United States investigate Debi and Tracy Batchelder for obstruction of mails (18 U.S.C. 1701), obstruction of correspondence (18 U.S.C. 1702), and delay or destruction of mail (18 U.S.C. 1703).
3. The Alaska State Department of Law, Attorney General's Office, Medicaid Provider Fraud Unit continue its investigation of the Batchelders and Autumn Tucker for the numerous criminal statutes that may have been violated including several violations of AS 44.21.237 - Interference with the Long Term Care Ombudsman.

EXIT INTERVIEWS

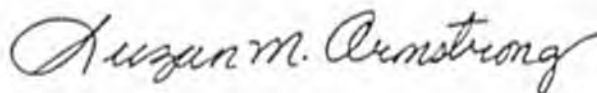
Interviews with Allen Hart and Stacy Miller were conducted on June 12, 1995, and July 19, 1995, respectively. Additionally, a follow-up telephone interview was conducted with Allen Hart on September 5, 1995. Both Miller and Hart were informed as to the allegations against them and given an opportunity to respond.

A copy of this report was submitted to Debi and Tracy Batchelder and Autumn Tucker on November 30, 1995. The Batchelders and Autumn Tucker were given 10 working days to respond to the Report of Investigation.

DISTRIBUTION

Copies of this report are submitted to the Debi Batchelder, Tracy Batchelder, Autumn Tucker, Division of Senior Services; Division of Family and Youth Services; the Department of Law, Medicaid Provider Fraud Unit; the U.S. Postal Service, Office of the Inspector General; Anchorage Postmaster; and to the complainants.

Respectfully submitted,



Suzan M. Armstrong
Assistant Long Term Care Ombudsman²

² Mr. William O'Connor, the former Long Term Care Ombudsman, oversaw the drafting of this report of investigation and concurred with the findings.

SB

217

FISCAL NOTE

No. 1
 Bill Version: SB 217
 (S) Publish Date: 1/12/96

STATE OF ALASKA
1996 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act relating to eligibility for the longevity bonus; and providing for an effective date." BRU: Longevity Bonus
 Sponsor: Rules Committee Component: Longevity Bonus Grants
 Requestor: Governor COMPONENT SERIAL NO. #26

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITUR	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	(6,000.0)	(6,000.0)	(6,000.0)	(6,000.0)	(6,000.0)	(6,000.0)
MISCELLANEOUS						
TOTAL OPERATING	(6,000.0)	(6,000.0)	(6,000.0)	(6,000.0)	(6,000.0)	(6,000.0)

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE

1002 Federal Receipts						
1003 GF Match						
1004 GF					.000.0)	(6,000.0)
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
Total					.000.0)	(6,000.0)



CURTIS C. LOMAS
PROGRAM OFFICER

STATE OF ALASKA
 DEPT. OF HEALTH & SOCIAL SERVICES
 DIVISION OF PUBLIC ASSISTANCE
 350 MAIN STREET
 LEGISLATIVE LIAISON
 WELFARE REFORM

P.O. BOX 110640
 JUNEAU, ALASKA 99813-0640
 PHONE: (907) 465-3392
 FAX: (907) 465-5164
 E-MAIL: CULPINHA@STATE.ALASKA.GOV

Estimate of current year (FY 96)

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill would limit eligibility for the Longevity Bonus Program to those seniors whose income does not exceed \$60,000 for a single person, or \$80,000 for a couple. Anyone with income exceeding those amounts would be suspended from the program, but could requalify if their income status changed. The bill would also permanently disqualify anyone who is absent from the state for 180 days or more in a one-year period. Although the amount of savings anticipated from this bill is an estimate, because income data is not collected on bonus recipients at this time, it is expected that the income maximum will reduce program costs by approximately 8%, or \$6,000.0 in FY97. However, if this estimate is too high, the program would then need a supplemental appropriation to cover the difference in FY97.

Prepared by: Connie J. Sipe Phone: 563-5654
 Division: Division of Senior Services Date: _____

Approved by Commissioner: Mark B. ... Date: 1/9/96
 Agency: Department of Administration

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further distribution information call the Governor's Legislative Office

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Rev. 6-78

Central Microfilm Services
Department of Education
State of Alaska

FISCAL NOTE

No. 1
 Bill Version: SB 217
 (S) Publish Date: 1/12/96

STATE OF ALASKA
 1996 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act relating to eligibility for the longevity
bonus; and providing for an effective date." BRU: Longevity Bonus
 Sponsor: Rules Committee Component: Longevity Bonus Grants
 Requestor: Governor COMPONENT SERIAL NO. #26

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITUR	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	(6,000.0)	(6,000.0)	(6,000.0)	(6,000.0)	(6,000.0)	(6,000.0)
MISCELLANEOUS						
TOTAL OPERATING	(6,000.0)	(6,000.0)	(6,000.0)	(6,000.0)	(6,000.0)	(6,000.0)

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	(6,000.0)	(6,000.0)	(6,000.0)	(6,000.0)	(6,000.0)	(6,000.0)
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
Total	(6,000.0)	(6,000.0)	(6,000.0)	(6,000.0)	(6,000.0)	(6,000.0)

Estimate of current year (FY 96) cost: \$ _____

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill would limit eligibility for the Longevity Bonus Program to those seniors whose income does not exceed \$60,000 for a single person, or \$80,000 for a couple. Anyone with income exceeding those amounts would be suspended from the program, but could requalify if their income status changed. The bill would also permanently disqualify anyone who is absent from the state for 180 days or more in a one-year period. Although the amount of savings anticipated from this bill is an estimate, because income data is not collected on bonus recipients at this time, it is expected that the income maximum will reduce program costs by approximately 8%, or \$6,000.0 in FY97. However, if this estimate is too high, the program would then need a supplemental appropriation to cover the difference in FY97.

Prepared by: Connie J. Sipe Phone: 563-5654
 Division: Division of Senior Services Date: _____

Approved by Commissioner: Mark Boger Date: 1/9/96
 Agency: Department of Administration

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further distribution information call the Governor's Legislative Office



110 BELL STREET
 ANCHORAGE ALASKA 99511
 PHONE (907) 465-3282
 FAX (907) 465-5151
 MAIL STOP 8000000000000000

STATE OF ALASKA
 DEPT OF HEALTH & SOCIAL SERVICES
 DIVISION OF PUBLIC ASSISTANCE
 100 WARD STREET
 ANCHORAGE ALASKA 99511
 MAIL STOP 8000000000000000

PROGRAM OFFICER
CURTIS C. LOMAS



FISCAL NOTE

No. 2

STATE OF ALASKA
1996 LEGISLATIVE SESSION

Version: SB 217
(S) Publish Date: 1/12/96

Revision Date: _____	Dept. Affected: <u>Health and Social Services</u>
Title: <u>An Act relating to eligibility for the longevity bonus; and providing for an effective date.</u>	BRU: <u>Public Assistance</u>
Sponsor: <u>Rules Committee</u>	Component: <u>OAA-ALB Hold Harmless</u>
Requestor: <u>Governor Knowles</u>	COMPONENT SERIAL NO. <u>223</u>
	See also (SN#): _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	(1,915.1)	(2,160.2)	(2,030.5)	(1,908.7)	(1,794.2)	(1,686.5)
MISCELLANEOUS						
TOTAL OPERATING	(1,915.1)	(2,160.2)	(2,030.5)	(1,908.7)	(1,794.2)	(1,686.5)

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGES IN REVENUES						
---------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	(1,915.1)	(2,160.2)	(2,030.5)	(1,908.7)	(1,794.2)	(1,686.5)
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	(1,915.1)	(2,160.2)	(2,030.5)	(1,908.7)	(1,794.2)	(1,686.5)

Estimate of any current year (FY96) cost: 90.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Federal law governing the Supplemental Security Income (SSI) program allows the SSI program to exclude state funded payments when determining eligibility for federal SSI benefits if such payments use a person's income to determine eligibility for those payments. This legislation will allow the SSI program to disregard Alaska Longevity Bonus payments from income, and eliminates the need for Alaska Longevity Bonus Hold Harmless funds to replace lost SSI benefits. Because of the SSI program's retrospective budgeting processes, this legislation will not affect ongoing SSI recipients until the benefit month of September 1996. Therefore the decrease in ALB Hold Harmless expenditures for FY97 only reflects 10 months for FY97. Note: This legislation does not eliminate the need for Alaska Longevity Bonus Hold Harmless funds for Medicaid services.

Prepared by: Jim Nordlund, Director
 Division: Division of Public Assistance
 Approved by Com: Karen Perdue, Commissioner
 Agency: Department of Health & Social Services

Phone: 465-2680
 Date: 01/10/96
 Date: 1/10/96

PREPARED TO PRODUCE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information, call the Governor's Legislative Office

FISCAL NOTE

No. 3

STATE OF ALASKA
1996 LEGISLATIVE SESSION

Bill Version: SB 217

(S) Publish Date: 1/12/96

Revision Date: _____	Dept. Affected: <u>Health and Social Services</u>
Title: <u>An Act relating to eligibility for the longevity bonus; and providing for an effective date.</u>	BRU: <u>Medical Assistance</u>
Sponsor: <u>Rules Committee</u>	Component: <u>Medicaid ALB Hold Harmless</u>
Requestor: <u>Governor Knowles</u>	COMPONENT SERIAL NO. <u>231</u>
	See also (SN#): _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGES IN REVENUES ()						
-------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: 0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Federal law currently permits the Alaska Medicaid program to disregard the Alaska Longevity Bonus, under most circumstances, when determining client income. Under federal law, Medicaid cannot disregard the Bonus when determining eligibility for Medicaid categories that use the income standard for residents of institutions. This legislation will not change the requirement that the Alaska Medicaid program count this income when determining eligibility for these Medicaid categories. Therefore, Medical Assistance will continue to spend small amounts of funds on the ALB Hold Harmless program.

Prepared by: Jon Sherwood *Jon Sherwood*
Division: Medical Assistance

Phone: 465-3355
Date: 01/07/96

Approved by Com.: Karen Perdue, Commissioner *Karen Perdue*
Agency: Department of Health & Social Services

Date: 1-7-96

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
For further distribution information, call the Governor's Legislative Office

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

P.O. BOX 110200
JUNEAU, ALASKA 99811-0200
PHONE: (907)465-2200
FAX: (907)465-2135

January 19, 1996

The Honorable Bert Sharp, Chair
Senate State Affairs Committee
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Mr. Chair:

I would request that you schedule a hearing on SB 217 "An act relating to eligibility for the longevity bonus; and providing for an effective date" as soon as possible.

As you are aware, the present longevity bonus program is available to all seniors regardless of need. The Governor's proposal would limit the bonus by placing an income maximum on individuals eligible to receive the payment. Individuals with income in excess of \$60,000 annually, or couples with a combined income in excess of \$80,000 would be disqualified from receipt of the bonus payment for a year. Any individual disqualified solely due to the income maximums limitation would be eligible to restart the bonus if their income fell below the income maximums in a subsequent year. In addition, the legislation adds a provision that would permanently disqualify individuals that were absent from the state for more than 180 days in a year through their own choice. This is the same eligibility requirement for receipt of the permanent fund dividend. While this would not impact a tremendous number of people, there are a few who take advantage of the present program by living elsewhere, but return to the state within the 90 consecutive day limitation, simply to maintain their longevity bonus program eligibility.

We estimate that these changes could save as much as \$6,000,000 annually to the ongoing cost of the longevity bonus program. In addition, by having a "means" test, even one as generous as that proposed, the state will no longer find it necessary to make a "hold harmless" payment to recipients of SSI. Under the federal rules governing the Adult Public Assistance "SSI" payments, any program that benefits the targeted population group of the federal program, that contains a means test, does not need to be counted in the federal calculation of benefits. Recipients of SSI payments would, therefore, no longer have their federal assistance payments reduced as a result of receiving the longevity bonus payments. The Department of Health and Social Services has indicated that this will save the state general fund over \$1,900,000 in FY 97.

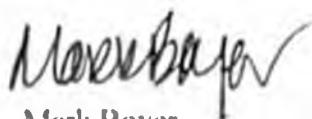
Senator Bert Sharp

-2-

January 19, 1996

I appreciate your consideration of an early hearing on this proposed legislation. If you have any questions please contact Alison Elgee at 465-5668.

Sincerely,



Mark Boyer
Commissioner

MB/nn

cc: Connie Sipe
Director
Division of Senior Services
Department of Administration

Alison Elgee
Deputy Commissioner
Department of Administration

Elmer Lindstrom
Special Assistant
Department of Health and Social Services

TONY KNOWLES
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

P O Box 110001
Juneau, Alaska 99811-0001
(907) 485-3500
Fax (907) 485-3532

217

January 12, 1996

The Honorable Drue Pearce
President of the Senate
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear President Pearce:

Under the authority of art. III, sec. 18 of the Alaska Constitution, I am transmitting a bill that makes Alaska senior citizens with high incomes ineligible to receive the longevity bonus. The bill also disqualifies longevity bonus recipients who are absent from the state, for reasons within their control, for 180 days or more within any one-year period. I believe that these changes in the program are necessary as a cost containment measure as we look for ways to reduce state spending and to address our budget gap.

The income maximum portion of this bill would disqualify a senior citizen from receiving the bonus if his or her gross income exceeds \$60,000 a year. A married couple would be disqualified if the spouses' combined gross income exceeds \$80,000 a year.

Although the 1993 amendments to the bonus statutes, which closed the program to people not applying by the end of this year, will eventually lead to reduced costs for the longevity bonus, the short-term savings have been relatively small, as expected. We estimate that enacting the income maximum for eligibility could reduce the cost of the program by about eight percent, or about \$6 million annually.

I am aware that many seniors within the state oppose "needs-basing" the bonus program, somehow equating it to welfare. This bill does not do that. Approximately 92 percent of seniors currently on the program, or more than 27,000 people, would see no change in their bonuses. Setting income caps at a relatively high level does not

The Honorable Drue Pearce

January 12, 1996

Page 2

limit the bonus to only those senior citizens who rely on it for the necessities of life. Instead, the high cap is intended to take the bonus away from only those recipients who should not be even minimally affected by the loss.

The bill looks only at income, and not assets, so that recipients with moderate incomes will continue to receive the bonus even if they own valuable but nonliquid assets, such as homestead property or a residence that has greatly increased in value over the years. The bill also provides that a recipient disqualified by reason of the income maximum is not permanently disqualified. If his or her income drops, or circumstances change, the recipient can become eligible again. This will protect recipients on fixed incomes who enjoy a one-time gain from the sale of a residence or some other asset.

Similarly, the bill contains a special provision for persons who become eligible for the longevity bonus by age and residency in 1996 and apply before January 1, 1997, but are disqualified because of the income maximum. If those persons subsequently become eligible, they will be entitled to \$100 a month payments.

The second part of the bill is intended to address a specific problem: bonus recipients who spend little of the year in Alaska, but time their absences so that they are never out of Alaska for more than 90 days at a time. The bill would disqualify recipients who are out of the state for 180 days or more in any one-year period, excluding absences beyond the recipient's control. This is in keeping with the original intent of the program to assist seniors who are truly residents of Alaska.

I urge your prompt consideration and passage of this bill.

Sincerely,



Tony Knowles
Governor

Longevity Bonus Program
Estimated Participants by Payment Level

Payment Level	FY96			FY97			FY98		
	Estimated Warrants	Estimated Participants	Estimated Payments	Estimated Warrants	Estimated Participants	Estimated Payments	Estimated Warrants	Estimated Participants	Estimated Payments
\$250/mo	244,231	21,109	\$61,057,750	239,896	20,734	\$59,974,000	225,054	19,452	\$56,263,500
\$200/mo	31,227	2,699	\$6,245,400	30,600	2,645	\$6,120,000	29,690	2,566	\$5,938,000
\$150/mo	25,758	2,862	\$3,863,700	33,107	2,861	\$4,966,050	32,593	2,817	\$4,888,950
\$100/mo	<u>9,468</u>	<u>1,578</u>	<u>\$946,800</u>	<u>28,404</u>	<u>3,156</u>	<u>\$2,840,400</u>	<u>35,774</u>	<u>3,092</u>	<u>\$3,577,400</u>
	310,685	28,248	\$72,113,650	332,007	29,397	\$73,900,450	323,111	27,927	\$70,667,850
Payment Level	FY99			FY00			FY01		
	Estimated Warrants	Estimated Participants	Estimated Payments	Estimated Warrants	Estimated Participants	Estimated Payments	Estimated Warrants	Estimated Participants	Estimated Payments
\$250/mo	210,505	18,194	\$52,626,250	196,056	16,945	\$49,014,000	181,758	15,709	\$45,439,500
\$200/mo	28,690	2,480	\$5,738,000	27,639	2,389	\$5,527,800	26,539	2,294	\$5,307,800
\$150/mo	31,679	2,738	\$4,751,850	26,449	2,286	\$3,967,350	25,269	2,184	\$3,790,350
\$100/mo	<u>34,560</u>	<u>2,987</u>	<u>\$3,456,000</u>	<u>33,472</u>	<u>2,893</u>	<u>\$3,347,200</u>	<u>32,350</u>	<u>2,796</u>	<u>\$3,235,000</u>
	305,433	26,399	\$66,572,100	283,616	24,513	\$61,856,350	265,916	22,983	\$57,772,650

Note: In FY96, "Estimated Participants" is based upon actual payment information for November 1995, adjusted for absences and pending applications. Participants receive an average of 11.57 warrants per year, due to absences. Because of variations in payment level due to program phaseout, the \$150 level reflects 9 months of participation in FY96, and the \$100 level reflects 6 months participation in FY96 and 9 months in FY97.

LONGEVITY BONUS PROGRAM DATA FROM FY86 THROUGH CLOSEOUT

Fiscal Year	Warrants	Payments	Base Forecast			Base Forecast		
			Fiscal Year	Warrants	Payments	Fiscal Year	Warrants	Payments
Actual Expenditures			2005	191,485	\$41,429,650	2026	2,590	\$410,750
1986	176,097	\$44,024,250	2006	175,189	\$37,695,650	2027	1,641	\$245,950
1987	187,773	\$46,943,250	2007	159,344	\$34,079,500	2028	894	\$124,100
1988	199,976	\$49,994,000	2008	143,948	\$30,590,700	2029	447	\$57,050
1989	213,394	\$53,348,500	2009	129,054	\$27,237,200	2030	198	\$22,250
1990	228,691	\$57,172,700	2010	114,811	\$24,051,550	2031	49	\$4,900
1991	240,278	\$60,069,500	2011	101,319	\$21,058,550	2032	0	\$0
1992	252,295	\$63,073,750	2012	88,576	\$18,247,700			
1993	266,430	\$66,607,500	2013	76,635	\$15,635,000			
1994	281,907	\$70,419,900	2014	65,543	\$13,239,550			
1995	296,382	\$72,735,500	2015	55,404	\$11,072,050			
Base Program Forecast			2016	46,314	\$9,141,800			
1996	310,685	\$72,113,650	2017	38,173	\$7,436,550			
1997	332,007	\$73,900,450	2018	30,932	\$5,948,650			
1998	323,111	\$70,667,850	2019	24,591	\$4,663,100			
1999	305,433	\$66,572,100	2020	19,201	\$3,585,300			
2000	283,616	\$61,858,350	2021	14,760	\$2,712,200			
2001	265,916	\$57,772,650	2022	11,066	\$1,995,950			
2002	241,830	\$53,070,400	2023	8,125	\$1,432,750			
2003	224,881	\$49,133,350	2024	5,829	\$998,550			
2004	208,083	\$45,248,950	2025	3,933	\$649,450			

Note: Projections are based upon actual program information through August 1995. Forecasts for out-years are, by their nature, speculative. Beginning in 1998, forecasts will become more certain as the program will have been closed for one year and variables affecting program costs will be reduced.

LONGEVITY BONUS PROGRAM

Current and Potential Recipients

Report as of January 30, 1996

Active Enrolled Participants -

People who are eligible to receive benefit checks.

26,414

Applications Pending -

People whose application is currently being processed.

202

Suspended: No Stubs -

People who are temporarily suspended for not returning their validation stub. It is likely that these people will come back on the program. If they do not respond within 90 days, their status is changed to Suspended: No Activity.

51

Suspended: Absence -

People suspended (within last 90 days) while they are out of the state. It is unlikely that those who are in this status for more than 90 days will come back on the program.

123

Suspended: Nursing Home/Mental Facility/Incarceration -

These people can begin receiving bonuses when they get out of the facility.

513

Suspended: No Activity -

People who have not been in contact with this office within the past 180 days. It is not likely that anyone in this status for more than 180 days will come back on the program.

17

Suspended: One Year Disqualify -

People who have been out of the state for more than 90 days, but may re-qualify for the program before 1997.

21

TOTAL:

27,341

Total Warrants Issued 2-1-96:

\$ 6,148,700

JAN 23 1996

January 20, 1996

The Honorable Dru Pearce
President of the Alaska Senate
State Capitol
Juneau, Alaska 99801-1182

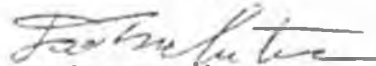
Dear Senator Pearce:

I recently received a letter (dated January 17, 1996) from the Division of Senior Services, Department of Administration, informing Alaskan Seniors of the Governor's proposal to place an income ceiling for eligibility for the State's longevity bonus. A copy of my response to that letter is attached.

I would appreciate it if you would forward a copy of my comments to any committees that might be considering this proposal.

Thank you.

Sincerely,



Ted McIntire
8302 Gladstone St.
Juneau, Ak, 99801

January 20, 1996

Connie J. Sipe
Director Senior Services Division
Department of Administration
P.O. Box 110211
Juneau, Alaska 99811-0211

Dear Ms. Sipe:

I am writing in response to your letter to Alaskan Seniors to say that I am not terribly impressed with the Governor's proposal to make people above a certain income level ineligible for their longevity bonus. Some of my thoughts on the subject are as follows:

The original intent of the bonus was to acknowledge the contributions to the state of those who were long-time residents. To limit eligibility for the bonus on the basis of income, changes the program to one of old-age assistance.

To set a fixed income level point that separates the fully eligible from the ineligible seems unfair and arbitrary; e.g., a pioneer with an income of \$59,500 might be eligible for a bonus of \$3,000 annually while his neighbor who is otherwise qualified but has an income of \$500 more would receive no bonus at all.

Your letter didn't indicate whether or not participants whose income exceeded the eligibility cap for one, or more, years would become eligible again if their income dropped below the disqualification level. For participants to lose eligibility permanently as a result of one good financial year would be grossly unfair.

If the intent of the longevity bonus program is to become an old-age assistance program, it would seem fairer, and probably save more money, if the full bonus limit were to be set nearer to the poverty level and then reduced as a percentage of income over that level.

I understand that your letter could contain only a brief description of the Governor's proposal. If you are aware of details that would resolve any of my misgivings, I would appreciate hearing about them.

Sincerely

Ted McIntire
8302 Gladstone St.
Juneau, AK, 99801

cc: President of the Alaska Senate ✓
Speaker of the Alaska House

SB

219

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO: SB 219

Revision Date: _____ Dept. Affected: Public Safety
 Title: Disposal of firearms and ammunition by the BRU: Alaska State Troopers
state and municipalities. Component: Detachments
 Sponsor: Senator Miller
 Requestor: _____ COMPONENT SERIAL NO. 0799

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

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ()	-0-	-0-	-0-	-0-	-0-	-0-
Revenue Code						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 95) impact: \$ _____

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

This bill does not have a fiscal impact on the Division of Alaska State Troopers.

Prepared By: Lt. Dan Lowden Phone: 465-5505
 Division: Alaska State Troopers Date: January 24, 1996
 Approved by Commissioner: *Dale Smith* Date: 1/24/96
 Agency: Ronald L. Otte, Department of Public Safety

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

FISCAL NOTE

Revision Date: January 23, 1996 Dept. Affected: Community & Regional Affairs
 Title: An Act relating to the disposal of firearms and ammunition by the state or a municipality BRU: none
 Component: none
 Sponsor: Sen. Miller, Leman, Sharp, et.al.
 Requestor: Senate State Affairs COMPONENT SERIAL NO. _____

Expenditures/Revenues: (Thousands of Dollars)

	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
OPERATING						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0

REVENUE FUND SOURCE: _____

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

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

Estimate of current (FY94) impact \$ none

ANALYSIS: (Attach a separate page if necessary)

This legislation would have no fiscal impact on the department.

Prepared by: Remond Henderson, Director (Remond Henderson) Phone: 465-4708
 Division: Division of Administrative Services Date: 1/23/95
 Approved by Commissioner: [Signature] Date: 1/23/95
 Agency: Community & Regional Affairs

News from the Senate Majority

Alaska State Legislature

Senator Mike Miller

Contact: 907 465-4976

For Immediate Release: January 30, 1996

Firearm Bill Restores State Revenue Source

Juneau -- Legislation to restore a valuable Alaska revenue source by allowing the State to sell surplus firearms moved from the Senate State Affairs Committee Tuesday.

Senator Mike Miller (R-North Pole) sponsor of Senate Bill 219, explains why this bill makes for good government policy. "I introduced SB 219 to prevent the wanton waste of salable firearms that add approximately \$150,000 in revenue annually into the state's coffers. This legislation allows the firearms to be sold to normal law abiding citizens through federally licensed firearm dealers," said Senator Miller.

The Knowles administration decided to destroy surplus firearms in June of last year that the state either confiscated or owned as excess firearms from state troopers. This destruction to date has cost the State of Alaska nearly \$14,000 in lost revenues.

Senator Miller noted that SB 219 directly challenges the Knowles administration philosophy that all firearms are bad. "I believe these firearms can be sold to law abiding citizens and that the Legislature has a responsibility to protect the property of the State against an administration bent on destroying valuable, revenue producing state assets -- especially considering the current state revenue shortfall," said Miller.

Handguns will be added back to the list of salable firearms under SB 219 while sawed-off shotguns, unregistered fully automatic firearms, and firearms which are defected or in poor condition will continue to be destroyed.

SB 219 will be discussed next in the Senate Judiciary Committee.

Broadcast Note: A radio actuality is available from Senator Miller by calling 800-478-6540 Press 2 for the Senate Line then 3 to hear Senator Miller.

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 1/12/96

FURTHER: Judiciary

Date of 5-Day Notice: 1/25/96
 (in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 1/30/96

The State Affairs Committee considered SB 219

"An Act relating to the disposal of firearms and ammunition by the state or a municipality."

and recommends:

- be replaced with _____ CS _____
- adopt previous _____ CS _____
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

Senate Bill:
 same title
 new title
 House Bill:
 same title
 technical title
 new: SCR# _____

SIGNING/DO PASS	DP	OSJIER RECOMMENDATIONS	NR	DNP	AM
<i>Wm A. Roman</i>	✓	<i>[Signature]</i>		✓	
<i>ROD E. HAY</i>	✓				
<i>Wm H. Doherty</i>	✓				
<i>[Signature]</i>	✓				
CHAIR: <i>[Signature]</i>	✓				

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

<i>Public Safety</i>	<i>1/24/96</i>	<i>0</i>	
<i>Comm. & Reg. Aff</i>	<i>1/23/96</i>	<i>0</i>	

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

Alaska State Legislature

SENATOR

MIKE MILLER

Mailing Address

11911 Coalman, Suite 101

Fairbanks, Alaska 99701

Ph: (907) 488-0962

Fax: (907) 488-4271

Write to: _____

State Capitol

Juneau, Alaska

99801-1182

Ph: (907) 465-4976

Fax: (907) 465-3893

Senate District 12

Senate

Memorandum

To: Senator Bert Sharp
Chairman, State Affairs Committee

From: Senator Mike Miller

RE: Scheduling SB 219

Date: January 23, 1996

I respectfully request that you schedule SB 219 for a hearing at your earliest convenience. This is in response to the Administration's decision to destroy seized and surplus firearms rather than sell them at auction, as has been the practice. SB 219 prevents the destruction of these weapons and allows the sale of forfeited firearms and ammunition through federally licensed firearms dealers.

Alaska State Legislature

SENATOR

MIKE MILLER

Mailing Address

11911 Cushman, Suite 101

Fairbanks, Alaska 99701

Ph: (907) 488-0862

Fax: (907) 488-4221

White House

State Capitol

Juneau, Alaska

99801-1102

Ph: (907) 465-4926

Fax: (907) 465-2003

Senate

Senate District 12

Sponsor Statement

The purpose of SB 219 is to restore the right of the State of Alaska to sell surplus firearms, and end the recent practice of destroying such firearms rather than reselling them. This bill will result in funds being generated for the State from the sale of such firearms.

For over ten years, the State of Alaska sold surplus firearms at public auction. Recently, such sales, at least for handguns, was discontinued and the State began to destroy surplus handguns rather than offer them for sale.

On June 20, 1995, Commissioner of Administration Mark Boyer, wrote a memo to the Governor's Chief of Staff, Jim Ayers, regarding the disposal of the State's "surplus firearms". Mr. Boyer stated: "Receipts received from the disposal of these firearms contribute to the funding of the Property Management Program". The "Property Management section has sold excess service revolvers and confiscated firearms for the past decade". There is no evidence that firearms disposed of by the Surplus Property Program have ever been involved in a crime. Despite these facts, Mr. Boyer proposed "only hunting rifles and shotguns (should) be sold at public auction" and that "hand guns would be destroyed".

Mr. Ayers approved, saying "This is clearly in the public interest and better government". Destruction of these firearms is not in the public interest and does nothing to promote better government. Such destruction of valuable state assets, prevents the sale of usable firearms through federally registered dealers to citizens who would use these firearms in a law abiding manner. Such destruction, also deprives the state of an important revenue source.

On September 14, 1995, fifty surplus firearms, including desirable collectors items, and surplus State trooper guns, were destroyed by a cutting torch. State estimates show the firearms destroyed had a market value of \$13,925.00.

Over 500 surplus firearms await destruction. These firearms represent significant potential revenue to the State of Alaska if they are sold at public sale.

Other firearms, such as sawed-off shotguns and unregistered fully automatic firearms, cannot be lawfully sold. Under State law, such firearms must be destroyed. Firearms which are, because of their quality, or because of defects or poor condition, unsafe for use, shall continue to be destroyed.

The Legislature has a responsibility to protect the property of the State against an administration bent on destroying valuable, revenue producing assets, especially in view of the current revenue shortfall.

GUNS: State scraps plan to destroy surplus stock

Continued from Page B-1

wise valuable, and that it was illegal to destroy state property that could be profitably sold.

The subtext of the dispute is the old good guns vs. bad guns debate. The administration and a local victims' group think reducing the number of handguns in circulation will reduce the number used in crimes. Ross and his colleagues say guns aren't bad, but that people who misuse them are.

Knowles still does not want to sell handguns to the public, Otte said. "He simply does not think that is good policy."

But the reaction to destroying the guns — described by Otte as "fairly mixed" — was apparently critical enough to convince the administration to abandon the new policy.

Now only illegal or mechanically unsafe weapons will be destroyed, Otte said. Long guns will be sold, as previously planned. Antiques, curios

and collectibles will be kept and perhaps given to museums. Some of the guns will be loaned to gun safety programs around the state for use in firearms education.

Additionally, a better inventory system will be designed and better efforts made to find owners before anything is sold. Inventories will be made available to police agencies around the state who might be able to use some of the weapons.

Sales of what's left will be restricted to police officers and law enforcement agencies.

"This meets all of the tests of all the people the governor has heard from," Otte said Wednesday.

It doesn't meet Ross's test. And he doubts the board of the Alaska Gun Collectors Association will agree to dismiss the lawsuit. "I'm pleased with this first step," Ross said. "Probably the next step is to work with the Legislature to fine tune how they will be required to dispose of them."

State's guns spared

Buyers limited to peace officers

By SHEILA TOOMEY
Daily News reporter

The Knowles administration has backed off its decision to destroy state surplus guns rather than sell them at auction, as has been the practice.

Citing "lots of input from the public," Public Safety Commissioner Ron Otte said legal guns the state can't use will now be sold to a licensed dealer who promises to resell them only to police officers and law enforcement agencies.

The retrenchment is "a good first step" toward settling a lawsuit filed in September by the Alaska Gun Collectors Association, said attorney Wayne Anthony Ross.

But it's not enough, said Ross, who represents the gun collectors.

To restrict sales to police officers doesn't make sense," Ross said. "The idea of banning citizens from purchasing them is philosophically repugnant."

Reflecting a position he first adopted when he was mayor of Anchorage, Knowles decreed in September that the 300 or so seized, found and surplus handguns in the state's possession should not be returned to the street by auctioning them to the general public, as had been done for at least 10 years.

In a test run, 50 guns were cut up by welders on Sept. 14, after a Superior Court judge refused to issue an injunction to stop their destruction. Ross argued that inadequate efforts had been made to find the owners of the lost and unclaimed weapons, that many of the guns were collector's items or other-

Anchorage Daily News Thursday, January 18, 1996

WEAPONS DESTROYED
 PROPERTY DESTRUCTION #23574
 SEPTEMBER 13, 1995

NOTES: ESTIMATED MARKET FOR MOST WEAPONS IS AS LISTED IN GUN TRADER'S GUIDE, 18TH EDITION
 THE PROPERTY MANAGEMENT SECTION HAS NO RECORDS REGARDING WEAPONS ACQUISITION.

ITEM #	MANUFACTURER	CALIBER	SERIAL #	LENGTH	ACTION	DEPARTMENT	TAR #	REPORTED AS	ESTIMATED MARKET VALUE	ESTIMATED SALES VALUE
1	Uzi 45	45	002753		Auto	Public Safety	57887	Evidence	\$900.00	\$0.00
2	Winchester 12 gauge, Md 1200	12 ga	L1332784	under 18"	Pump	Public Safety	3718E	Forfeiture	\$200.00	\$0.00
3	Winchester 12 gauge, Md 1300	12 ga	L2571702	under 18"	Pump	Public Safety	3719E	Forfeiture	\$250.00	\$0.00
4	High Standard 12 gauge Y 19	12 ga	J243379	under 18"	Pump	Public Safety	1176E	Confiscation	\$200.00	\$0.00
5	Mossberg 12 gauge, Md 500 A	12 ga	L545693	under 18"	Pump	Public Safety	3719E	Forfeiture	\$200.00	\$0.00
6	Western Field 12 gauge, Md M550ABD	12 ga	G387206	under 18"	Pump	Public Safety	1176E	Excess	\$250.00	\$0.00
7	Ingram 9 mil	9 mm	I2345		Auto	Public Safety	6788E	Excess	\$150.00	\$0.00
8	Interlac 22		221043731		Auto	Public Safety	3719E	Forfeiture	\$795.00	\$0.00
9	RPB, Inc	9 mm	453070		Auto	Public Safety	6788E	Excess	\$150.00	\$0.00
10	Ingram 9 mil	9 mm	2-2000450		Auto	Public Safety	6788E	Excess	\$795.00	\$0.00
11	Interdynamic 9 mil	9 mm	00557		Auto	Public Safety	6788E	Excess	\$150.00	\$0.00
12	Corby 9 mil	9 mm	890023597		Auto	Public Safety	6788E	Excess	\$250.00	\$0.00
13	Corby 8 mil	9 mm	890023598		Auto	Public Safety	6788E	Excess	\$250.00	\$0.00
14	Colt 223		223MH024082		Auto	Public Safety	59825	Forfeiture	\$975.00	\$0.00
15	H & R 10 gauge, Md 176	10 ga	AX625811	under 18"	Single	Public Safety	6788E	Excess	\$145.00	\$0.00
16	Mossberg, Md 600 AT	12 ga	G958778	under 18"	Pump	Public Safety	67705	Excess	\$175.00	\$0.00
17	H & R Survival Rifle (12-1615)16	22	41043	under 15"	Single	Public Safety	6788E	Excess	\$95.00	\$0.00
18	Fie, Md TFX22	22	1X56782		Rev	Public Safety	5787*	Unclaimed	\$95.00	Damage-\$50.00
19	Tilon Tiger 39	38	0081420		Auto	Public Safety	3719*	Unclaimed	\$160.00	\$150.00
20	Ruger Blackhawk 41	41	41147-20422		Rev	Public Safety	3719*	Forfeiture	\$210.00	\$200.00
21	Smith & Wesson 357, Md 27-230	357	11200560		Rev	Public Safety	3719*	Forfeiture	\$295.00	\$250.00
22	Ruger 9 mil	9 mm	301-51879		Auto	Public Safety	3719*	Forfeiture	\$265.00	\$225.00
23	Smith & Wesson 22, Md 48-431	22	243K915		Rev	Public Safety	3719*	Forfeiture	\$295.00	\$250.00
24	Ruger 357	357	157101257		Rev	Public Safety	3719*	Forfeiture	\$270.00	\$250.00
25	Beretta J&O	380	A24580Y		Auto	Public Safety	3719*	Forfeiture	\$265.00	\$250.00
26	Llama 45	45	A85675		Auto	Public Safety	3719*	Forfeiture	\$265.00	\$250.00
27	Lorcin 25	25	168197		Auto	Public Safety	3719	Forfeiture	\$130.00	\$100.00
28	Ruger 22	22	255751		Rev	Public Safety	37191	Unclaimed	\$185.00	\$150.00
29	Crossman Pellet	None			Auto	Public Safety	37191	Unclaimed	\$35.00	\$25.00
30	Ruger 357	357	172-42390		Rev	Public Safety	37191	Forfeiture	\$270.00	\$250.00
31	Colt 357, Md Trooper MKV 33	357	62105V		Rev	Public Safety	37191	Forfeiture	\$260.00	\$250.00

Weapons Destroyed
9/13/95

JAN 22 '96 13:48 ROSS & MILLER

P.7/24

WEAPONS DESTROYED
PROPERTY DESTRUCTION #23574
SEPTEMBER 13, 1995

32	Glock 10 mil	9 17 (3)	10 mm	UM108US	Auto	Public Safety	37191	Forfeiture	\$475.00	\$500.00
33	Smith & Wesson 38, Md W-S 34	(20)	38	103591	Rev	Public Safety	37191	Unknown	\$180.00	\$75.00
34	Colt 22, Md Huntsman p 15	(10)	22	051720S	Auto	Public Safety	37191	Forfeiture	\$285.00	\$300.00
35	Smith & Wesson 45	8 36 (28)	45	1HA5091	Auto	Public Safety	37191	Forfeiture	\$435.00	\$400.00
36	AMT 380	8 36 (28)	380	004470	Auto	Public Safety	37191	Forfeiture	\$170.00	\$150.00
37	Interams 38	1-27 (15)	38	0404674	Auto	Public Safety	37191	Unclaimed	\$245.00	\$200.00
38	Balkal KB Inc	P-27 (15)	380	A012750	Auto	Public Safety	37191	Forfeiture	\$120.00	\$100.00
39	Ruger 357 Blackhawk	P-27 (15)	357	135994	Rev	Public Safety	37191	Forfeiture	\$210.00	\$180.00
40	Smith & Wesson 38, Md 36P-37	(25)	38	338211	Rev	Corrections	68917	Excess	\$225.00	\$150.00
41	Smith & Wesson 357		357	ADC8483	Rev	Corrections	68917	Excess	\$265.00	\$210.00
42	Smith & Wesson 357		357	AVJF4747	Rev	Corrections	68917	Excess	\$285.00	\$210.00
43	Smith & Wesson 357		357	A0B2517	Rev	Corrections	68917	Excess	\$285.00	\$210.00
44	Smith & Wesson 357		357	ABC4368	Rev	Corrections	68917	Excess	\$285.00	\$210.00
45	Smith & Wesson 357	36 (24)	357	AAM8261	Rev	Corrections	68917	Excess	\$285.00	\$210.00
46	Smith & Wesson 357		357	ABC3839	Rev	Corrections	68917	Excess	\$285.00	\$210.00
47	Smith & Wesson 357		357	ACLS262	Rev	Corrections	68917	Excess	\$285.00	\$210.00
48	Smith & Wesson 357		357	ACLS07	Rev	Corrections	68917	Excess	\$285.00	\$210.00
49	Smith & Wesson 357		357	ABC3684	Rev	Corrections	68917	Excess	\$285.00	\$210.00
50	Smith & Wesson 357		357	A0B8500	Rev	Corrections	68917	Excess	\$285.00	\$210.00
									\$13,925.00	\$9,285.00

JAN 22 '96 13:49 RUSS & MINER

Wayne
Anthony
Ross

Law Offices of
ROSS & MINER

A Professional Corporation
327 East Fireweed Lane, Suite 201
Anchorage, Alaska 99503

Wayne Anthony Ross
Edward L. Miner

(907) 276-5307
(907) 276-6672 - FAX

January 4, 1996

To the members of the Alaska Legislature:

Re: Wilful destruction of valuable State property by State officials;
Lawsuit filed by AK Gun Collectors Association to attempt to end
such practice

Dear Legislator:

On June 20, 1995, Mark Boyer, Commissioner of the Alaska Department of Administration, wrote a memo to Jim Ayers, the Governor's Chief of Staff, regarding the disposal of the State's "surplus firearms".

The memo said that the State's Property Management section had accumulated "approximately 600 firearms since the last disposal of firearms in August (1994)" and that "(r)ceipts received from the disposal of these firearms contribute to the funding of the Property Management Program". The memo stated that, in the past, the disposal process "recirculates legal firearms", and the "Property Management section has sold excess service revolvers and confiscated firearms for the past decade". The memo further stated that "(t)here is no evidence that firearms disposed of by the Surplus Property Program have ever been involved in a crime". (Emphasis mine.) Despite this fact, the memo recommended that "only hunting rifles and shotguns (should) be sold at public auction" and that "(h)andguns would be destroyed".

Mr. Ayers, the Governor's COS, penned a note to the memo which stated: "Mark - This is clearly in the public interest and better government. Thank you." Without notice to the public, the Administration then set about implementing the destruction of these firearms.

On 13 September 1995, after learning of the proposed, and imminent, destruction of these firearms which are, among other things, an important source of revenue for the State, the Alaska Gun Collectors Association (AGCA) filed a complaint in Superior Court seeking an injunction against the State, the Department of Public Safety, and the Department of Administration, to prevent the destruction of these firearms.

Plaintiff's Motion for Temporary Restraining Order was denied when Assistant Attorney General James Baldwin told the court that the State was only going to destroy "Saturday Night Specials, sawed-off shotguns, and assault weapons". Mr. Baldwin later advised a concerned citizen that Sgt. Michael Marrs and LT Skip Coile, AST, "reviewed the firearms and determined there were no antique or collectible firearms on the list to be

January 4, 1996

Page - 2 -

destroyed".

Fifty surplus firearms were destroyed by a cutting torch on 14 September 1995. Most of these firearms were not "Saturday Night Specials, sawed-off shotguns, and assault weapons". Many of these firearms were, in fact, collectors items. By the State's own estimate, the fifty firearms that were destroyed had a market value of \$13,925.00.

On or about the 26th of September 1995, the AGCA filed an amended complaint again seeking an injunction and seeking, among other things, damages against the Governor, his COS (Mr. Ayers), the Commissioner of Administration (Mr. Boyer), and the Commissioner of Public Safety (Mr. Otte), "personally, in favor of... the State of Alaska, for the total value of each and every firearm they have destroyed or will destroy in the future...".

The defendants filed an answer, on or about 25 October 1995, admitting that "before September of 1995 surplus firearms were disposed of by sale" but stating that "the policy of the defendant State of Alaska is to refrain from selling surplus and forfeited handguns directly to the public". Defendants admitted "that on September 14, 1995 approximately 50 deadly weapons were destroyed" but denied any conspiracy, denied that public notice was required before destruction, and denied that the "weapons belonged to anyone other than the defendant Department of Administration". For affirmative defenses, the defendants claimed, among other things, that the plaintiffs lack standing to bring the suit, that the defendants are immune from suit, and that the defendants "were authorized by law to destroy deadly weapons transferred to the Department of Administration as surplus state property".

Plaintiff has been furnished with a list of the firearms that were destroyed, as well as a list of firearms that are proposed for future destruction.

Defendants have recently filed a Motion to Dismiss plaintiff's Complaint, alleging, among other things, immunity and that plaintiff lacks standing to bring the suit in question. The plaintiff has not yet responded to that Motion.

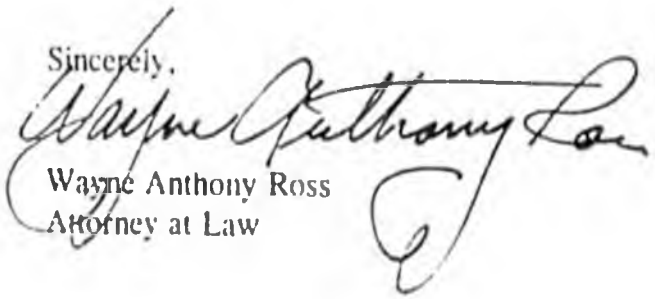
While the AGCA, and its more than 300 members, believes it has standing to bring such a suit, the Legislature is really the body who has the responsibility to protect the property of the State, and thus the people of Alaska, against an Administration bent on destroying valuable, revenue producing, state assets to further its own political agenda. This is particularly true in view of the current revenue shortfall that the State is experiencing.

It is respectfully requested that the Legislature intervene in this suit, against the Administration, on behalf of the people of the State. It is also requested that the Legislature adopt legislation this session that will prevent such destruction of State assets in the future.

Should you have any questions, please feel free to contact me.

• January 4, 1996
Page - 3 -

Sincerely,

A handwritten signature in cursive script that reads "Wayne Anthony Ross". The signature is written in dark ink and is positioned above the typed name and title.

Wayne Anthony Ross
Attorney at Law

cc
AGCA

276-5307

JUN 21 1995

TO: Jim Ayers
Chief of Staff
Office of the Governor

ADMINISTRATIVE OFFICE
Date: June 20, 1995

FROM: Mark Boyer *M. Boyer*
Commissioner
Department of Administration

SUBJECT: Surplus Firearms Disposal Decision Briefing

*Mark -
This is clearly
in the public's interest
and better government.
Thank you
J. A.*
cc'd CS

OBJECTIVE:

Prudent disposal of state-owned and confiscated firearms.

APPLICABLE STATUTES: AS 22.20.120, AS 12.36.060, AS 34.45.060, AS 44.68.110, AS 36.30.070

PROBLEM STATEMENT:

The Property Management section accumulated approximately 600 firearms since the last disposal of firearms in August. The statutes (AS 12.36.60) governing confiscated deadly firearms require the Commissioner of Public Safety to dispose of the firearms. The Commissioner may declare the firearms surplus and transfer them to the Surplus Property Program for sale to the public. Excess State Trooper firearms are also transferred to the Surplus Property Program and sold to the public. Illegal firearms, such as sawed-off shotguns, are destroyed by Public Safety and are not included in sales. Receipts received from the disposal of these firearms contribute to the funding of the Property Management Program.

With the rise of violent crimes and shootings in Anchorage, a local group has objected to public auctions of firearms without background checks. Large-volume, low-cost State disposal of handguns make it very easy and inexpensive for anyone to buy a handgun. Critics argue our disposal sales could put firearms in the hands of criminals or be used in a violent crime. Some cities and organizations in other states offer rewards and trade-ins to remove handguns from general circulation and destroy them to protect the public safety. To date, our disposal process recirculates legal firearms.

ADMINISTRATIVE OFFICE (JUNE 20, 1995)

With the enactment of the federal Brady Bill, some have argued the State should conduct a background check prior to selling handguns. Federal law considers the State a private owner. We do not hold a federal firearms license nor can we obtain one. Since federal law considers the State a private owner, we are not required to conduct background checks. The State of Alaska has the means to conduct background checks, however, it has been suggested that to do so could be construed as a violation of individual rights.

BACKGROUND:

Property Management section has sold excess service revolvers and confiscated firearms for the past decade. In years past, these firearms have been included in auctions where a variety of items are sold. Because of changes in the federal law (Brady Bill) and not knowing how these changes would effect the sale of State property, we opted not to include these items in the normal auction setting.

In Anchorage, on August 9, 1994, Property Management section conducted its first exclusive firearms auction. There were 341 line items and proceeds were \$59,977.00—approximately 25% of our annual state budget. However, this sale also generated a substantial amount of negative press coverage reaching as high as the Governor's Chief of Staff. A local television station covered the sales as a news item with the spin that we were remiss by not obtaining background checks. A group known as Victims of Violent Crimes criticized the sale of firearms as inappropriate because the firearms could be used in violent crimes. Handgun sales have the potential of generating quick press-worthy controversy. Mid-level officials in the Departments of Public Safety and Administration were interviewed the morning of the last auction—by early afternoon the Commissioners of Public Safety and of Administration and the Chief of Staff were involved in the issue. This issue generated instant controversy and has the potential of eliciting emotional responses from various groups on either side of the issue.

Currently, Property Management has over 600 firearms in its control. Sixty of the firearms are rifles or shotguns and the remainder are handguns. We continue to receive large quantities of lost, abandoned, and confiscated firearms. The Department of Public Safety advises they will excess more shortly. The change-out of Public Safety service revolvers has increased our inventory. Our facilities to store large volume of firearms for extended periods of time is limited. The most efficient means of disposal is a separate firearms auction this summer. In the interim, we will request Public Safety to retain confiscated and excess firearms in their facilities due to our limited secure storage capacity.

OPTIONS:

1. Status Quo—Sell firearms as a part of our normal auction activities (keeping a low profile), or/and continue to conduct exclusive firearms sales. Neither type of sale would include background checks.

2. Require our auctioneer to conduct background checks on handgun sales as part of our contract requirements. All of our auctioneers in the past ten years have had federal firearms licenses as a part of their business.
3. Discontinue the disposal of firearms through sales.
4. Sell only rifles, which are typically used by hunters, and destroy handguns.
5. Sell only to licensed gun dealers by permitting only licensed dealers to participate in firearms auctions.

DISCUSSION:

Option 1 allows the sale of firearms to continue in the same manner as in past years. This option is well within the law because the Brady Bill does not apply to the State. One of the complaints we have heard is the State does not prevent placing firearms in the hands of criminals. There is no evidence that firearms disposed of by the Surplus Property Program have ever been involved in a crime. While there is no way to ensure the firearms would not be used improperly, Brady Bill background checks should, at a minimum, be performed for handguns if full disposals are to continue. This alternative redistributes handguns to the public without background checks. Continuation of this disposal method is not recommended.

Option 2 continues public auctions of all firearms and requires handgun sales background checks utilizing the auctioneer as a licensed firearms dealer. However, it has been argued that this is a breach of an individual's civil rights. Further, firearms purchasers might challenge our right to conduct background checks and could file suit on the matter. Since federal law sets the minimum requirements, we believe the State could adopt the federal requirement or stronger policies.

This is the method utilized by the Municipality of Anchorage to sell their firearms. According to Fred Kaltenback, Deputy Chief of Procurement, to date they have had no complaints. If they receive a complaint, he believes the Municipality would discontinue the sales and destroy all excess firearms. This option ensures a background check but is not recommended since it recirculates all types of handguns to the general public.

Option 3 discontinues the sale of firearms. Adopting this policy also would severely impact the Property Management budget as approximately 25% of our state budget is derived from this source and would require a contract with cost to the State for certified destruction of firearms. Criticism from firearms buyers, including sportsman hunters, could be expected. This option is not recommended as it prevents sales of hunting rifles and significantly impairs our program receipt capabilities.

Option 4 sells only hunting rifles and shotguns at public auction. Handguns would be destroyed. We estimate that 90% or more of the firearms received for disposal are handguns.

Hunting rifles and shotguns make up a small number of the collected or abandoned firearms. This policy would result in a loss of revenue, but would contribute to anti-crime efforts. There are benefits to public safety by removal of handguns from property disposal. Many of these weapons, known as "Saturday Night Specials," are easy to conceal and could readily be involved in a violent crime.

It would prevent the likelihood of handguns falling into the hands of someone who would use it to commit a crime. It would be appropriate for Public Safety to supervise the destruction of handguns and certify what firearms are appropriate to transfer for public disposal sales. Hunting rifles and shotguns disposed of by Public Safety or excess to State needs would be sold at public auction. While subject to criticism from firearms buyers, it could be part of the administration's anti-crime initiatives and reduce the odds of a State-disposed handgun ever being involved in a violent crime or injury.

Option 5 permits only licensed gun dealers to submit bids on firearms for disposal. The Brady Bill requires all licensed gun dealers to conduct background checks prior to selling handguns. The issue of the Brady Bill background checks would be resolved with this alternative. Under this option, invitations to the firearms disposal auctions would be sent to licensed gun dealers. An auction would be conducted, but only licensed dealers would be allowed to participate. On the negative side, the firearms would be sold at lower prices to gun dealers and resold to the public at higher prices. Aside from the loss of revenue, the eventual outcome of this option is the same as option 1.

RECOMMENDATIONS

Option 4 is recommended as the best disposal policy. Handguns would no longer be recirculated to the general public, but destroyed by the Department of Public Safety. Hunting rifles and shotguns would be sold to the public.

Security and storage will no longer be a problem since handguns make up the 90% of the firearms and would be destroyed by Public Safety. General Services will receive a certificate of destruction listing the destroyed handguns and continue to receive receipts for hunting rifles and shotguns sold to the public.

The benefits of this alternative include:

- an estimated 650 handguns this fiscal year and approximately 300 handguns in future fiscal years will be taken out of circulation,
- x
- the potential for use of these handguns in the commission of a violent crime or accidental injury is eliminated;
- x

organized citizen groups, such as Victims of Violent Crimes, critical of firearms disposals in the past should be satisfied with the limited disposal and background checks;

x

firearms used for hunting will still be available to the general public, sportsmen, and hunters, and will bring in the highest per firearm disposal sales prices for the program;

x

the opportunity for critical press during disposal actions is reduced; and

removal of handguns designed for use as concealed weapons ("Saturday Night Specials") is in the best interest of Public Safety.

This alternative should be pursued as the most responsible and prudent approach to firearms disposal for excess State-owned and confiscated firearms.

James H. [Signature]
Approved _____ Date 6/20/96

_____ Disapproved _____ Date _____

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

ALASKA GUN COLLECTORS)
ASSOCIATION, INC.,)

Plaintiff,)

vs.)

STATE OF ALASKA, the)
ALASKA DEPARTMENT OF PUBLIC)
SAFETY, the ALASKA)
DEPARTMENT OF ADMINISTRATION,)
GOVERNOR TONY KNOWLES, JIM)
AYERS, MARK BOYER, and)
RON OTTE,)

Defendants.)

Case No. 3AN-95-07791 Civil

AFFIDAVIT OF NORMAN B. GRANT, JR.

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

Norman B. Grant, Jr., being first duly sworn, deposes
and states:

1. My name is Norman B. Grant, Jr. My address is Bcx 9-1909, Anchorage, Alaska 99509.
2. I have a B.S. degree from Harvard University. I have also taken two years of machine tooling at Lowell Institute

AFFIDAVIT OF NORMAN B. GRANT, JR. PAGE 1

LAW OFFICES OF
ROSS & MINER
A PROFESSIONAL CORPORATION
217 EAST FREWLED LANE, SUITE 201
ANCHORAGE, ALASKA 99503
TELEPHONE (907) 276-5307

of Technology, gunsmithing courses from Colorado College, and courses in small engine and computer science at U.A.A.

3. I have been employed, from time to time, in retail sales of firearms at Great Northern Guns in Anchorage, Alaska.

4. I have been a collector of firearms since 1946 and have participated in most of the major gun shows in Alaska since the late 1960's.

5. I am a member of the following gun collecting organizations:

- A. The Ohio Gun Collectors Association;
- B. The Dallas Arms Collectors;
- C. The Mannlicher Collectors Club;
- D. The Mossberg Collectors Association; and
- E. The Savage 24 Collectors. I am a founder of the Savage 24 Collectors.

6. I am a former member and Director of the Alaska Gun Collectors Association, and one of its founders.

7. I served for several years on the Gun Collectors Committee of the National Rifle Association of America. I am also

a founder of the Alaska Society for the Preservation of Gun Collecting, which is in its formative stage.

8. I have been a firearms auctioneer, both in Alaska and elsewhere.

9. I have been an annual attendee at the NRA National Gun Collectors Seminars held throughout the country for the last five years, since the Seminars' inception.

10. I am a retired NRA certified NRA Rifle and Pistol Instructor.

11. I have judged firearms displays for a number of years, both locally and nationally.

12. I served as a consultant for the National Firearms Museum Selection Committee in Washington, D.C. As such, I participated in determining which firearms in the National Firearms Museum should be kept in the permanent collection, and which firearms should be deaccessioned.

13. I have been qualified as an expert on firearms in both the Alaska State and Federal courts, and have testified as such in various cases.

AFFIDAVIT OF NORMAN B. GRANT, JR. PAGE 3