

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9705 SENATE RULES

**SB**

**141**

# ALASKA STATE LEGISLATURE

*Interim:*

600 East Railroad Avenue  
Wasilla, Alaska 99654  
(907) 376-3370  
(907) 376-3157 Fax

*Session:*

State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-6600  
Fax (907) 465-3805

## SENATOR LYDA GREEN

SENATE DISTRICT N  
MEMO

TO: Senator Tim Kelly  
Chairman, Senate Rules

FROM: Senator Lyda Green

RE: CSSB141(FIN)

DATE: April 29, 1997

SB141 is the final bill that is part of the package of reform legislation I introduced this session. I would appreciate a Rules Committee hearing on Wednesday, April 30, 1997.

However, after discussions with Del Smith, Deputy Commissioner, Department of Public Safety, I encourage the Rules Committee to consider a CS.

The CS clarifies an ambiguity in SB141. The change would deny any Alaskan convicted of two Class A misdemeanors in any six year period the ability to apply or continue to hold a concealed carry permit. This change removes the last significant objection from the Department of Public Safety (with the exception of out-of-state permits where we have agreed to disagree).

I have already provided committee members with the Senate Finance committee substitute. I supported all but one of the changes. I have attached information regarding the bill, the changes, the amendments I opposed, and some relevant background information. More back-up is available if desired.

0-LS0706J  
Luckhaupt  
4/28/97

RECEIVED

VPSB.....

**CS FOR SENATE BILL NO. 141( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTIETH LEGISLATURE - FIRST SESSION**

**BY**

**Offered:  
Referred:**

**Sponsor(s): SENATOR GREEN**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to permits to carry concealed handguns; and relating to the  
2 possession of firearms."

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

4 \* **Section 1.** AS 11.61.200(a) is amended by adding a new paragraph to read:

5 (12) knowingly possesses a firearm that is concealed on the person after  
6 having been convicted of a felony or adjudicated a delinquent minor for conduct that  
7 would constitute a felony if committed by an adult by a court of this state, a court of  
8 the United States, or a court of another state or territory.

9 \* **Sec. 2.** AS 11.61.200 is amended by adding new subsections to read:

10 (h) For purposes of (a)(12) of this section, a firearm on a person is concealed  
11 if it is covered or enclosed in any manner so that an observer cannot determine that  
12 it is a firearm without removing it from that which covers or encloses it or without  
13 opening, lifting, or removing that which covers or encloses it. A firearm on a person  
14 is not concealed if it is unloaded and is encased in a closed container designed for

1 transporting firearms.

2 (i) It is an affirmative defense to a prosecution under (a)(12) of this section  
3 that

4 (1) either

5 (A) the defendant convicted of the prior offense on which the  
6 action is based received a pardon for that conviction;

7 (B) the underlying conviction upon which the action is based  
8 has been set aside under AS 12.55.085 or as a result of post-conviction  
9 proceedings; or

10 (C) a period of 10 years or more has elapsed between the date  
11 of the defendant's unconditional discharge on the prior offense or adjudication  
12 of juvenile delinquency and the date of the violation of (a)(12) of this section,  
13 and the prior conviction or adjudication of juvenile delinquency did not result  
14 from a violation of AS 11.41 or of a similar law of the United States or of  
15 another state or territory; and

16 (2) at the time of possession, the defendant was

17 (A) in the defendant's dwelling or on land owned or leased by  
18 the defendant appurtenant to the dwelling; or

19 (B) actually engaged in lawful hunting, fishing, trapping, or  
20 other lawful outdoor activity that necessarily involves the carrying of a weapon  
21 for personal protection.

22 \* Sec. 3. AS 11.61.220(b) is amended to read:

23 (b) In a prosecution under (a)(1) of this section, it is an affirmative defense  
24 that the defendant, at the time of possession, was

25 (1) in the defendant's dwelling or on land owned or leased by the  
26 defendant appurtenant to the dwelling;

27 (2) actually engaged in lawful hunting, fishing, trapping, or other lawful  
28 outdoor activity that necessarily involves the carrying of a weapon for personal  
29 protection; [OR]

30 (3) the holder of a valid permit to carry a concealed handgun under  
31 AS 18.65.700 - 18.65.790, the [DEADLY] weapon [CONCEALED] was a concealed

1 handgun as defined in AS 18.65.790, and the possession did not occur in a  
2 municipality or established village in which the possession of concealed handguns is  
3 prohibited under AS 18.65.780 - 18.65.785; or

4 (4) lawfully able to carry a concealed handgun in public in the state  
5 where the defendant resides or was the holder of a valid permit to carry a  
6 concealed handgun issued by another state or a political subdivision of another  
7 state and

8 (A) the weapon was a concealed handgun as defined in  
9 AS 18.65.790;

10 (B) the possession did not occur in a municipality or  
11 established village in which the possession of concealed handguns is  
12 prohibited under AS 18.65.780 - 18.65.785; and

13 (C) if applicable, the defendant was considered a permittee  
14 under AS 18.65.748.

15 \* Sec. 4. AS 11.61.220(c) is amended to read:

16 (c) The provisions of (a)(2) [(a)(1), (2),] and (4) of this section do not apply  
17 to a peace officer acting within the scope and authority of the officer's employment.

18 \* Sec. 5. AS 11.61.220(d) is amended to read:

19 (d) In a prosecution under (a)(2) of this section, it is

20 (1) an affirmative defense that

21 (A) the defendant, at the time of possession, was

22 (i) the holder of a valid permit to carry a concealed  
23 handgun under AS 18.65.700 - 18.65.790 or under the law of  
24 another state or a political subdivision of another state; or

25 (ii) lawfully able to carry a concealed handgun in  
26 public in the state where the defendant resides;

27 (B) the loaded firearm was a concealed handgun as defined  
28 in AS 18.65.790;

29 (C) the possession occurred at a place designated as a  
30 restaurant for the purposes of AS 04.16.049 and the defendant did not  
31 consume intoxicating liquor at the place;

1                    (D) the possession did not occur in a municipality or  
2                    established village in which the possession of concealed handguns is  
3                    prohibited under AS 18.65.780 - 18.65.785; and

4                    (E) if applicable, the defendant was considered a permittee  
5                    under AS 18.65.748;

6                    (2) a defense that the defendant, at the time of possession, was on  
7                    business premises

8                    (A) [(1) ON BUSINESS PREMISES] owned by or leased by the  
9                    defendant; or

10                    (B) [(2) ON BUSINESS PREMISES] in the course of the  
11                    defendant's employment for the owner or lessee of those premises.

12 \* Sec. 6. AS 11.61.220 is amended by adding a new subsection to read:

13                    (h) The provisions of (a)(1) of this section do not apply to a peace officer

14                    (1) of this state who is certified by the Alaska Police Standards Council  
15                    as a peace officer; or

16                    (2) employed by another state or a political subdivision of another state  
17                    who is at the time of the possession certified as a peace officer by the other state and  
18                    is acting within the scope and authority of the officer's employment.

19 \* Sec. 7. AS 18.65.700(a) is amended to read:

20                    (a) The department shall issue a permit to carry a concealed handgun to a  
21                    person who

22                    (1) applies in person at an office of the Alaska State Troopers;

23                    (2) qualifies under AS 18.65.705;

24                    (3) submits a completed application on a form provided by the  
25                    department, that provides the information required under AS 18.65.705 and 18.65.710  
26                    and is executed under oath; with each application form provided by the  
27                    department, the department shall provide a copy of the state laws and regulations  
28                    relating to concealed handguns, which must include a concise summary of where,  
29                    when, and by whom a handgun can be carried under state and federal law;

30                    (4) submits two complete sets of fingerprints on Federal Bureau of  
31                    Investigation approved fingerprint cards that are of sufficient quality so that the

1 fingerprints may be processed; the fingerprints must be taken by a person, group, or  
2 agency approved by the department; the department shall maintain a list of persons,  
3 groups, or agencies approved to take fingerprints and shall provide the list to the  
4 public upon request;

5 (5) submits evidence of competence with handguns as provided in  
6 AS 18.65.715;

7 (6) provides two frontal view color photographs of the person taken  
8 within the preceding 30 days that include the head and shoulders of the person and are  
9 of a size specified by the department;

10 (7) shows a valid Alaska driver's license or identification card at the  
11 time of application;

12 (8) does not suffer a physical infirmity that prevents the safe handling  
13 of a handgun; and

14 (9) pays the application fee required by AS 18.65.720.

15 \* Sec. 8. AS 18.65.700(b) is amended to read:

16 (b) The department shall either approve or reject an application for a permit  
17 to carry a concealed handgun under (a) of this section within 30 [15] days of receipt  
18 of [PERMIT ELIGIBILITY INFORMATION FROM THE FEDERAL BUREAU OF  
19 INVESTIGATION OR OTHER AGENCY NECESSARY TO MAKE A  
20 DETERMINATION CONCERNING] the application. If the department has not  
21 received necessary fingerprint eligibility information from another agency by the  
22 end of this 30-day period, and the applicant is otherwise eligible, the department  
23 shall issue a conditional permit to the applicant subject to immediate revocation  
24 under the procedure provided in AS 18.65.740(a) - (c) if the fingerprint  
25 information subsequently discloses that the applicant is ineligible for a permit  
26 [THE DEPARTMENT SHALL REQUEST PERMIT ELIGIBILITY INFORMATION  
27 UNDER THIS SUBSECTION WITHIN FIVE DAYS OF THE RECEIPT OF THE  
28 APPLICATION]. The department shall notify the applicant in writing of the reason  
29 for a rejection.

30 \* Sec. 9. AS 18.65.700 is amended by adding a new subsection to read:

31 (e) The department shall issue a permit to carry a concealed handgun to an

1 honorably retired peace officer of this state who applies for a concealed handgun  
2 permit within one year of the officer's retirement and who satisfies the requirements  
3 of this subsection. To qualify for a permit under this subsection, an honorably retired  
4 peace officer must satisfy (a)(1) - (3) and (6) - (9) of this section and, unless the  
5 honorably retired peace officer has qualified with a handgun within five years of the  
6 officer's retirement, must also satisfy (a)(5) of this section. The department may not  
7 require an honorably retired peace officer applying under this subsection to comply  
8 with (a)(4) of this section to receive a permit. The department shall issue the permit  
9 without submitting information to or receiving permit eligibility information from the  
10 Federal Bureau of Investigation. The department may adopt regulations to define an  
11 "honorably retired peace officer" and the evidence that must be submitted to establish  
12 eligibility under this subsection.

13 \* Sec. 10. AS 18.65.705 is repealed and reenacted to read:

14 **Sec. 18.65.705. Qualifications to obtain a permit.** A person is qualified to  
15 receive and hold a permit to carry a concealed handgun if the person

16 (1) is 21 years of age or older;

17 (2) is eligible to own or possess a handgun under the laws of this state  
18 and under federal law;

19 (3) is a resident of the state and has been for the 90 days immediately  
20 preceding the application for a permit;

21 (4) has not been convicted of two or more class A misdemeanors of  
22 this state or similar laws of another jurisdiction within the six years immediately  
23 preceding the application; and

24 (5) has demonstrated competence with handguns as provided in  
25 AS 18.65.715.

26 \* Sec. 11. AS 18.65.710(a)(3) is amended to read:

27 (3) a statement that the applicant has been furnished with a copy of the  
28 state laws and regulations relating to concealed handguns [AS 18.65.700 -  
29 18.65.790], has read those sections, and understands them:

30 \* Sec. 12. AS 18.65.720 is amended to read:

31 **Sec. 18.65.720. Fees.** The department shall charge a nonrefundable fee for the

1 processing of the application for and initial issuance of a permit, renewal of a permit,  
 2 or replacement of a permit. The fees shall be set by regulation and must be based on  
 3 the actual costs incurred by the department. However, the fee for the processing of an  
 4 application and initial issuance of a permit may not exceed \$99 [\$125], and the fee for  
 5 renewal of a permit or replacement of a permit may not exceed \$30 [\$60].

6 \* **Sec. 13.** AS 18.65.735(a) is repealed and reenacted to read:

7 (a) The department shall immediately suspend a permit to carry a concealed  
 8 handgun if a permittee becomes ineligible to hold a permit under AS 18.65.705.

9 \* **Sec. 14.** AS 18.65.740(a) is amended to read:

10 (a) A permit to carry a concealed handgun shall be immediately revoked by  
 11 the department when the permittee

12 (1) becomes disqualified to receive and hold a permit under  
 13 AS 18.65.705;

14 (2) is convicted of two class A misdemeanors of this state or similar  
 15 laws of another jurisdiction within a six-year [FIVE-YEAR] period if at least one of  
 16 the convictions occurs after the application;

17 (3) knowingly supplied a false or fraudulent answer, statement, or  
 18 document, or made a material misstatement or omission, in connection with an  
 19 application for a permit or renewal or replacement of a permit.

20 \* **Sec. 15.** AS 18.65 is amended by adding a new section to read:

21 **Sec. 18.65.748. Permit holders from other jurisdictions considered Alaska**  
 22 **permit holders.** A person holding a permit to carry a concealed handgun from  
 23 another state or a political subdivision of another state or who may lawfully carry a  
 24 concealed handgun in public in the state where the person resides is a permittee under  
 25 AS 18.65.700(b) for purposes of AS 18.65.750 - 18.65.765 if the person

26 (1) has not been in Alaska for more than 90 consecutive days; or

27 (2) has informed the Department of Public Safety of the person's  
 28 presence in the state and address within the state and of the jurisdiction issuing the  
 29 person's permit.

30 \* **Sec. 16.** AS 18.65.755(a) is repealed and reenacted to read:

31 (a) A permittee may not possess a concealed handgun

1 (1) within a residence, other than the permittee's residence, unless the  
2 permittee has first obtained the express permission of an adult residing there to bring  
3 a concealed handgun within the residence; and

4 (2) anywhere a person is prohibited from possessing a handgun under  
5 state or federal law.

6 \* Sec. 17. AS 18.65.790(3) is amended to read:

7 (3) "concealed handgun" means a firearm, that is a pistol or a revolver,  
8 and that is covered or enclosed in any manner so that an observer cannot determine  
9 that it is a handgun without removing it from that which covers or encloses it or  
10 without opening, lifting, or removing that which covers or encloses it; however,  
11 "concealed handgun" does not include a shotgun, rifle, [DERRINGER OR OTHER  
12 MINIATURE HANDGUN.] or a prohibited weapon as defined under AS 11.61.200  
13 [; IN THIS PARAGRAPH.

14 (A) "DERRINGER" MEANS A HANDGUN THAT HAS  
15 INDIVIDUAL BARRELS FOR EACH CARTRIDGE IT IS CAPABLE OF  
16 FIRING AND LACKS A MANUFACTURER'S INSTALLED TRIGGER  
17 GUARD THAT COMPLETELY ENCIRCLES THE TRIGGER AND WHICH  
18 IS PART OF THE FRAME; AND

19 (B) "MINIATURE HANDGUN" MEANS A HANDGUN  
20 THAT HAS A BARREL LENGTH OF THREE AND ONE-HALF INCHES  
21 OR LESS AND LACKS A MANUFACTURER'S INSTALLED TRIGGER  
22 GUARD THAT COMPLETELY ENCIRCLES THE TRIGGER AND WHICH  
23 IS PART OF THE FRAME];

24 \* Sec. 18. AS 18.65.715(b), 18.65.725(a)(3), and 18.65.755(b) are repealed.

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*Session:*

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## SENATOR LYDA GREEN

SENATE DISTRICT N

### SB 141

#### **Revisions to Alaska's Concealed Handgun Permit Law:**

**Smaller, smarter government: less bureaucracy and more clarity for citizens**

The intent of SB141 is simple:

There is NO reason the permitted few should be more restricted than the unregulated many. Treat people and their handguns equally. All Alaskans, who are not otherwise prohibited by federal or state law from owning or possessing handguns, can carry handguns openly in certain places and can carry concealed without a permit in certain places. If an Alaskan wants to carry a concealed handgun in more places, we should do no more than require fingerprinting, training, and background checks.

With the exception of the recognition of out-of-state permits and the lowering of the permit fee, the Alaska Peace Officers Association supports SB141.

The Police Chiefs of Barrow, Valdez and Wasilla have testified in favor of, or spoken favorably, about SB141.

SB141 is endorsed by the Alaska Outdoor Council and the National Rifle Association.

The Department of Public Safety supports portions of the bill and opposes some portions. The Department is primarily opposed to recognition of out-of-state permits and is cautious about the effect of changing the standards for where you can carry and who can apply.

### **OBSERVATIONS**

There have been almost 6,300 permits issued in Alaska for carrying concealed handguns since that right was recognized in state law in 1994. The Department of Public Safety has done a remarkable job of ensuring fair and speedy processing of applications.

However, Alaskans have voiced some complaints on overly restrictive and confusing prohibitions and regulations leading to a burdensome waste of time. Many of these stipulations were included in the original legislation due to courteous consideration of the dire predictions of mayhem in the streets from some members of the legal

community and law enforcement. None of those dire predictions has proven accurate during years of experience and it is appropriate to restore equal rights for law-abiding citizens.

For the most part, the law is working. Crime is down. According to the information we have from the Department of Public Safety, of 6,000 permittees, not one person has used their concealed handgun to commit a crime.

Similar legislation (SB177) passed last session by large majorities, but was vetoed by the Governor. Even though legislation last year prohibited anyone from drinking and carrying a concealed handgun, some felt that whether one was drinking or not, no concealed handguns should be allowed in bars. In the spirit of compromise, we have drafted SB141 to allow concealed handguns in restaurants regulated under AS 04.16.049 and not in bars. Further objection was voiced in Senate State Affairs by the Department of Public Safety regarding a permittee drinking in a restaurant. Although current law already makes it illegal to carry firearms while intoxicated, Senator Green supports amending SB141 to specifically prohibit permittees from drinking intoxicating beverages in restaurants (**amended Section 5**).

This bill does not change other existing state or federal law restricting carrying weapons in bars or schools. Other existing laws restricting handguns in bars and schools remain in force.

If SB141 is passed, the simple effect would be that anywhere you can carry a handgun openly (which you can do without training, without background checks, without fingerprinting, and without a permit) you will be able to carry a permitted concealed handgun.

If 300,000 adult Alaskans can legally carry a handgun openly, there is no reason to have greater restrictions for the 6,000 Alaskans who have been fingerprinted, checked, trained and permitted.

The existing law is too restrictive, too confusing and too expensive. For example, under current law you are prohibited from walking into a financial institution with a permitted concealed handgun, but you are allowed to take the handgun out and carry it openly into the bank. Existing law too often turns common sense on its head.

**Sections 1 and 2** amend Alaska criminal statutes to make clear that no felon, even a non-violent felon, would ever be able to apply for a concealed carry permit.

**Sections 3, 5 and 14** of the bill make several things much cleaner and easier to enforce. If a person is a concealed handgun permit holder from another state and comes to Alaska to visit, we will recognize that permit. However, that person is responsible for following the laws regulating Alaskan permit holders. In addition, Section 12 requires that the visitor must, within 90 days, inform the Department of Public Safety of their presence so that, just as with Alaskan permit holders, the Department knows who is allowed to carry concealed handguns in Alaska.

These amendments simply recognize the equality of all Americans as requested by SJR14, which supports legislation in the U.S. Congress seeking nationwide recognition of concealed carry permits issued by any government agency or subdivision.

**Sections 3 and 5** also improve definitions and still attempt to permit a municipality or village to prohibit possession of concealed handguns.

**Section 5** leaves existing law intact and bars are off limits to concealed handguns but SB141 does allow access to restaurants identified under AS 04.16.049. If the Alcohol Beverage Control Board finds that a business, or a specific area of a business, is not a bar, you will be allowed to carry concealed. The proposed committee substitute amends SB141 to also prohibit a permittee from consuming intoxicating liquor in the restaurant.

**Sections 7 and 8** ensures that the applicant for a permit receives a copy of the state law and regulations and certifies the applicant read them. The bill also requires the Department of Public Safety to compile a concise summary of where, when and by whom a handgun can be carried under state and federal law. The Department is already working to compile this summary.

**Section 8** requires the Department to process the permit within 30 days if the permittee is otherwise eligible without having to wait for weeks or months for the F.B.I. to complete fingerprinting checks. The Department is given authority to immediately revoke a conditional permit whenever it receives information from checking fingerprinting making the permittee ineligible. This conforms statute to what is actually being done already in practice

**Section 10** simplifies the standards for qualifications to apply for a permit.

Under existing law, in order to carry openly you must be 21 years of age or older and be allowed by state or federal law to own or possess a handgun.

Under existing state law, in order to carry concealed during recreation activities, in your dwelling, in your business, where you are employed or on land owned or leased by the person (see AS 11.61.220) you must be 16, and you must be allowed by state and federal law to own or possess a firearm.

Under existing law, in order to carry concealed in other places than those mentioned above, you must acquire a permit. If SB141 is passed, in order to do that you must be 21, you must be allowed by state and federal law to own or possess a firearm, you must be a 90 day resident of the state immediately preceding your application for a concealed handgun permit, you must receive training and education and you must demonstrate competence with a handgun.

**A restrictive laundry list of prohibitions tailored only for the fingerprinted, trained, permitted carriers make little sense when state law allows almost any adult to carry openly, and, in many cases concealed, without a**

permit. Federal and state law already address who may own or possess a handgun.

**Section 12** reduces the fees from \$125 to \$99 for initial application and from \$60 to \$30 for renewal or replacement to better reflect the true cost. Almost every other state have even lower fees or no fees at all. This should still leave the Department with at least \$40 for processing each permit above the costs for F.B.I. and background checks.

**Section 13** amends language to clearly give the Department the authority to immediately suspend permits for anyone who is ineligible under state or federal law to own or possess a handgun.

**Section 15** repeals a long list of special prohibitions that don't apply to open carry or, in some cases, to concealed carry unpermitted. Instead, there is a flat prohibition for possession of a concealed handgun wherever federal or state law prohibits possession of a handgun.

A restrictive laundry list of prohibitions tailored only for the fingerprinted, trained, permitted carriers make little sense when state law allows you to carry openly in those places. Federal and state law already address where handguns can be possessed. In addition, any private business has the right to post signs prohibiting carrying handguns whether concealed or open. Violators would be subject to criminal trespass statutes (the penalty can be just as severe for criminal trespass as current law prohibiting permittees from carrying in certain places).

**Section 16** simplifies definitions so that shotguns, rifles and all weapons prohibited under AS 11.61.200 do not qualify for concealed carry. Otherwise, just as in every other state, any handgun not otherwise prohibited by state or federal law is treated equally. The Senate State Affairs Committee has received testimony from women requesting they be allowed to apply and train for a permit to carry handguns designed for concealed carry. There are no examples, apparently, anywhere in the United States, where a permittee has used a derringer or "miniature" handgun in a crime.

**Section 17** repeals renewal training requirements; sections no longer justified under the principle "if you can carry open, you can carry concealed." AS 18.65.715(b), 18.65.725(a)(3), ~~18.65.740(a)(2)~~, 18.65.755(b), and 18.65.755(c).

**Sections 4, 6 and 9** are included to make special provisions for certain peace officers and the carrying of concealed handguns. While there are objections to making special provisions for certain individuals, it is not unreasonable to amend the bill to provide special exemptions for peace officers. This especially seems reasonable in light of the increasing support from peace officers and their organizations for the concept of concealed carry by law-abiding citizens.

I urge the adoption of SB141 to continue to excellent record set this year by the State Senate toward reducing government regulation and taking practical steps to make Alaska's government smaller and smarter.

\* Deleted by Sen. Donley's amendment.

# FISCAL NOTE

**STATE OF ALASKA**  
**1997 LEGISLATIVE SESSION**

**BILL NO:** N 5  
 Bill Version: CSSB 141 (STA)  
 (S) Publish Date: 4-3-97

Revision Date: 03/28/97 Dept. Affected: Public Safety  
 Title: Concealed Handguns BRU: Alaska State Troopers  
 Component: Detachments

Sponsor: Sen. Green  
 Requestor: S. STA COMPONENT SERIAL NO. 0799

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

	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
<b>OPERATING</b>						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS. CLAIMS						
MISCELLANEOUS	5.0					
<b>TOTAL OPERATING</b>	5.0	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>	5.0	-0-	-0-	-0-	-0-	-0-
<b>CHANGE IN REVENUES ( )</b>	(37.8)	(37.8)	(37.8)	(37.8)	(37.8)	(37.8)
Revenue Code						

**FUNDING: (Thousands of Dollars)**

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

Estimate of current year (FY 97) 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 will have fiscal impact on AST depending on further clarification of some parts and depending on modifications to others. An indeterminate fiscal note is being submitted at this time. Some areas of concern are noted on the attachment.

Prepared By: F/Sgt. Robert Gorder Phone: 269-5650  
 Division: Alaska State Troopers Date: 03/28/97

Approved by Commissioner: Ronald L. Otte Date: 3-31-97  
 Agency: Department of Public Safety

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Attachment to CSSB 141 fiscal note.

The areas of greatest fiscal concern are as follows:

1. Changes proposed by this bill in the areas of qualifications, suspension and revocation, domestic violence, nationwide reciprocity, etc. will require DPS to undertake a regulation project to modify existing regulations and add new regulations to administer the new provisions in this bill. The average regulation project costs approximately \$5000.00.
3. Provisions outlining national reciprocity will require modification to the statewide information system (APSIN) or will require the creation of a LAN/WAN based information system that can be made accessible to law enforcement agencies statewide, 24 hours a day.
4. Reduction of the permit fee from a maximum of \$125.00 (actual fee has been set at \$122.00) to a new maximum fee of \$99.00 will have an effect on the costs to the division. Currently, the costs to operate the ACHP are just being offset by the revenues collected. Any reduction in the fees will require the division to absorb the shortfall. How much that will be depends on the amount of permits processed. An estimated \$23 per permit would have to be absorbed.

# ALASKA STATE LEGISLATURE



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## SENATOR LYDA GREEN SENATE DISTRICT N

### CSSB141(FIN)

A committee substitute, which I supported, was adopted initially by Senate Finance. The changes in SB141 (version X) are reflected in the sponsor statement and sectional commentary.

Two additional amendments were adopted in Senate Finance and one amendment was rejected.

Senator Phillips offered an amendment (adopted 4-3) to mandate that in all cases, for each visit to the home, a person entering a home or property must announce that he or she is carrying a permitted concealed handgun. The homeowner is given no choice in the matter, but is required under Senator Phillips' amendment to force all visitors to announce they are carrying a permitted handgun. Failure to announce constitutes a class B misdemeanor for the permittee. No provision is made for anyone who does not wish to subject visitors to their home to this strange mandate. That new criminal penalty and mandate appears unenforceable, insignificant, and somewhat specious.

Senator Donley offered an amendment (adopted unanimously), which I supported, to leave in statute the provision that a repeat class A misdemeanor violation will result in the loss of a concealed carry permit.

Senators Adams and Phillips introduced an amendment that would have amended criminal law to prohibit carrying handguns openly or permitted concealed in a number of places. This amendment failed 2-5. I objected to this amendment on several points.

First, SB141 is about permitting concealed handguns, not about extending gun control to various locations around Alaska.

Second, SB141 is simply about extending the same right to carry to fingerprinted, background checked, trained permittees as currently enjoyed by almost every adult in Alaska to carry open.

Finally, SB141 does not alter existing law restricting open carry anywhere in Alaska. SB141 repeals special provisions in law that restricted only permitted concealed carry. Given the experience of every other state with permitted concealed and given Alaska's experience during the last three years, there is no reason to continue to be more restrictive with our background checked, trained, fingerprinted permittees than the some 300,000 adults free to carry handguns openly.

**SB**

**143**

# FISCAL NOTE

**STATE OF ALASKA**  
**1997 LEGISLATIVE SESSION**

**BILL NO. SB143**

Revision Date: \_\_\_\_\_ Dept Affected: Military and Veterans Affairs  
 Title: An Act relating to education benefits for BRU: Alaska National Guard  
members of the Alaska National Guard, Alaska Naval Militia... Component: Office of the Commissioner  
 Sponsor: Senate Rules  
 Requestor: (S) STA Component Serial No. #414

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL EXPENDITURES</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CHANGE IN REVENUES ( )</b>	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost: \$ none

**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)

There is no anticipated impact to the Department of Military & Veterans Affairs with implementation of this legislation.

Prepared by: Carol Carroll, Director *Carol Carroll* Phone: 465-4730  
 Division: Administrative Services Date: 2-Apr-97  
 Approved by Commissioner: *Carol Carroll* Date: 4/2/97  
 Agency: Military and Veterans Affairs

0-LS0765\E  
Ford  
3/21/97

CS FOR SENATE BILL NO. 143( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATE RULES COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to education benefits for members of the Alaska National Guard,  
2 Alaska Naval Militia, or Alaska Territorial Guard."

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

4 \* Section 1. AS 26.05.295(a) is amended to read:

5 (a) Each active enlisted member of the Alaska National Guard or the Alaska  
6 Naval Militia who has completed the initial voluntary enlistment period of service that  
7 fulfills the mandatory requirement for military service under 50 U.S.C. App. 451 - 456,  
8 458 - 471 (Military Selective Service Act of 1967) is [AND A PERSON WHO  
9 SERVED IN THE ALASKA TERRITORIAL GUARD FOR 90 DAYS OR MORE OR  
10 WHOSE SERVICE WAS FOR LESS THAN 90 DAYS BECAUSE OF INJURY OR  
11 DISABILITY INCURRED IN THE LINE OF DUTY ARE] eligible for educational  
12 assistance benefits in Alaska educational facilities. [NOTWITHSTANDING THE

13 REFERENCE TO MANDATORY MILITARY SERVICE REQUIREMENTS, EACH  
14 ACTIVE ENLISTED FEMALE MEMBER IS FULLY ELIGIBLE FOR

1 ~~EDUCATIONAL ASSISTANCE BENEFITS UNDER THIS SECTION AFTER~~  
2 ~~COMPLETING SIX YEARS OF ENLISTED SERVICE.]~~

3 \* Sec. 2. AS 26.05.295(b) is amended to read:

4 (b) Except as provided in this subsection, educational [EDUCATIONAL]  
5 programs and monetary benefits available to persons under (a) of this section are based  
6 on and equivalent to those of the federal Veterans Administration education program.  
7 Educational assistance may only be provided for a program or class in which the  
8 person is a student in good standing.

9 \* Sec. 3. AS 26.05.296(a) is amended to read:

10 (a) To the extent funds are available, the adjutant general may [SHALL]  
11 authorize the payment of up to 100 [NOT MORE THAN 50] percent of the cost of  
12 tuition and required fees for each active [OR RETIRED] member of the Alaska  
13 National Guard or the Alaska Naval Militia [AND EACH PERSON WHO SERVED  
14 IN THE ALASKA TERRITORIAL GUARD FOR 90 DAYS OR MORE OR WHOSE  
15 ALASKA TERRITORIAL GUARD SERVICE WAS FOR LESS THAN 90 DAYS  
16 BECAUSE OF INJURY OR DISABILITY INCURRED IN THE LINE OF DUTY,]  
17 if the member [OR PERSON] attends an educational, vocational, or technical training  
18 school in this state. The adjutant general may prioritize categories of education  
19 benefits to encourage recruitment and retention of Alaska National Guard  
20 members. Payments authorized under this section for active [OR RETIRED] members  
21 of the Alaska National Guard or the Alaska Naval Militia continue so long as the  
22 active member is a student in good standing in the educational program or class  
23 and participates satisfactorily in unit training activities [OR A RETIRED MEMBER  
24 IS ON THE RETIRED LIST AND PURSUES THE COURSE OF STUDY IN A  
25 MANNER ACCEPTABLE TO THE SCHOOL. PAYMENTS AUTHORIZED  
26 UNDER THIS SECTION FOR PERSONS WHO SERVED IN THE ALASKA  
27 TERRITORIAL GUARD CONTINUE AS LONG AS THE PERSON PURSUES THE  
28 COURSE OF STUDY IN A MANNER ACCEPTABLE TO THE SCHOOL].

29 \* Sec. 4. AS 26.05 is amended by adding a new section to read:

30 Sec. 26.05.298. Definition for AS 26.05.295 and 26.05.296. In AS 26.05.295  
31 and 26.05.296, "good standing" means the student is enrolled, attending, and meeting

1 the minimum requirements for successful completion of the program or class.

2 \* Sec. 5. AS 26.05.295(c), 26.05.295(d), and 26.05.296(b) are repealed.



Official Business

# Alaska State Legislature

## Senate

### Rules Committee

State Capitol  
Juneau, AK. 99801-1182

#### SPONSOR SUMMARY

#### SB 143 - National Guard Tuition Assistance

Senate Bill 143 would make refinements in the Alaska National Guard tuition assistance program. This modestly funded DMVA program is one of the tools available to the Adjutant General for improving skill levels among personnel, in response to the emerging needs of the Guard.

This bill will strengthen the Guard's recruitment and retention goals, and give more discretion to the Adjutant General for applying educational benefits to the organization's most pressing needs. It will also afford enlisted personnel college and other schooling opportunities necessary for entry into the officer corps, should enlisted Guard members pursue that career path.

In Section 1 of the bill, active enlisted personnel are targeted as the group made eligible for educational assistance in ALASKA educational facilities. Retirees and former members of the Alaska Territorial Guard are excluded from eligibility in order to emphasize the DMVA recruitment and retention objectives. Funds are simply not available for a broader range program.

Section 2 provides that recipients of educational benefits be students in good standing in the program or class undertaken.

Section 3 of Senate Bill 143 gives the Adjutant General the latitude to authorize payment levels up to 100% for tuition and required fees at institutions in Alaska. It also allows the AG to prioritize categories of educational benefits to support vital recruitment and retention objectives.

Section 4 defines a student in good standing for purposes of the program.

Section 5 repeals the noted statute references as unnecessary. The first removes the provision for calculating retirees' eligibility, the second removes the ineligibility for benefits under more than one program, and the third removes the ineligibility if the member is qualified for federal benefits.

If there are questions, please contact Tim Benintendi at 3770.

**Cross references.** — For transition provisions relating to the 1981 and 1983 amendments to this section, see § 7, ch. 56, SLA 1981, and § 2, ch. 62, SLA 1983, in the Temporary and Special Acts.

**Effect of amendments.** — The 1990 amendment added the language beginning "and if the department requires" at the end of paragraph (c)(3).

**Sec. 26.05.270. Payment of military claims.** All bills, claims, and demands for military purposes shall be certified and audited as prescribed by law and shall be paid from the state general fund in the normal manner upon submission of vouchers by the adjutant general. If the organized militia, or any part of it, is called into active service of the state in case of war, disaster, insurrection, rebellion, tumult, riot, invasion, breach of peace, or to execute or enforce the law, vouchers for legally allowed pay and expenses for this service or compensation for injuries shall be drawn upon the general fund of the state treasury and paid out of money in that fund not otherwise appropriated. (§ 29 ch 150 SLA 1955; am § 3 ch 19 SLA 1968)

**Sec. 26.05.280. Transportation, subsistence, and supplies.** There shall be provided by the state, transportation and subsistence for all officers and enlisted persons who are ordered into active service by the state for encampment, field duty, or other duty. Necessary transportation, stores and subsistence for troops when ordered on duty shall be contracted by the proper officers and paid for as other military bills. Contracting under this section is governed by AS 36.30 (State Procurement Code). (§ 30 ch 150 SLA 1955; am § 10 ch 141 SLA 1972; am § 26 ch 106 SLA 1986)

**Editor's notes.** — Because of the amendment of § 69, ch. 106, SLA 1986 by § 27, ch. 65, SLA 1987, the 1986 amendment of this section by § 26, ch. 106, SLA 1986 is effective January 1, 1988.

Armed Forces to recover from manufacturer or seller for injury caused by defective military material, equipment, supplies, or components thereof. 38 ALR3d 1247.

**Collateral references.** — Right of member of

**Sec. 26.05.290. Further equipment and armories.** The governor may requisition from the Secretary of Defense the arms and equipment that are available for state forces, and make available to state forces the facilities of state armories not required by the federal government and their equipment as may be available. (§ 31 ch 150 SLA 1955)

**Sec. 26.05.295. Educational assistance for enlisted personnel.** (a) Each active enlisted member of the Alaska National Guard or the Alaska Naval Militia who has completed the initial voluntary enlistment period of service that fulfills the mandatory requirement for military service under 50 U.S.C. App. 451 — 456, 458 — 471 (Military Selective Service Act of 1967) and a person who served in the Alaska Territorial Guard for 90 days or more or whose service was for less than 90 days because of injury or disability incurred in the line of duty are eligible for educational assistance benefits in Alaska educational facilities. Notwithstanding the reference to mandatory military service requirements, each active enlisted female member is fully eligible for educational assistance benefits under this section after completing six years of enlisted service.

(b) Educational programs and monetary benefits available to persons under (a) of this section are based on and equivalent to those of the federal Veterans Administration education program.

(c) For the purposes of computing eligible benefits under this section when the eligibility is based on being an active enlisted member of the Alaska National Guard or the Alaska Naval Militia, each retirement point earned as a member of the Alaska National Guard or the Alaska Naval Militia is equivalent to one day's active military service. Computation of credit for retirement points is based on the retirement credits record in accordance with existing federal National Guard and Reserve regulations.

(d) Persons applying for or receiving educational assistance benefits under this section are ineligible to apply for or receive benefits under AS 26.05.296. (§ 1 ch 248 SLA 1970; am §§ 13, 14 ch 34 SLA 1973; am §§ 1, 2 ch 132 SLA 1976; am §§ 6, 7 ch 93 SLA 1991)

**Effect of amendments.** — The 1991 amendment, effective September 30, 1991, in subsection (a), substituted "and a person who served in the Alaska Territorial Guard for 90 days or more or whose service was for less than 90 days because of injury or disabil-

ity incurred in the line of duty are" for "is" in the first sentence; and, in subsection (c), inserted "when the eligibility is based on being an active enlisted member of the Alaska National Guard or the Alaska National Militia" in the first sentence.

**Sec. 26.05.298. Tuition assistance.** (a) To the extent funds are available, the adjutant general shall authorize the payment of not more than 50 percent of the cost of tuition and required fees for each active or retired member of the Alaska National Guard or the Alaska Naval Militia and each person who served in the Alaska Territorial Guard for 90 days or more or whose Alaska Territorial Guard service was for less than 90 days because of injury or disability incurred in the line of duty, if the member or person attends an educational, vocational, or technical training school in this state. Payments authorized under this section for active or retired members of the Alaska National Guard or the Alaska Naval Militia continue so long as the active member participates satisfactorily in unit training activities or a retired member is on the retired list and pursues the course of study in a manner acceptable to the school. Payments authorized under this section for persons who served in the Alaska Territorial Guard continue as long as the person pursues the course of study in a manner acceptable to the school.

(b) Persons who have established eligibility for educational assistance benefits under 38 U.S.C. 1651 — 1687 (Veterans Administration education program), AS 26.05.295, or any other educational benefits by having served in active or reserve forces of the United States other than those mentioned in (a) of this section are not eligible for tuition assistance under this section. (§ 3 ch 132 SLA 1976; am § 6 ch 56 SLA 1981; am § 8 ch 93 SLA 1991)

**Effect of amendments.** — The 1991 amendment, effective September 30, 1991, rewrote subsection (a).

**Sec. 26.05.300. Statement of policy on military justice.** An offense committed by a member of the militia, organized or unorganized, shall be tried in civil courts and prosecuted by civil authorities except offenses of a purely military nature. This policy shall be executed and carried into effect at all times and applies to all encampments, armory drill periods, and parade periods in addition to any duty performed by the militia under AS 26.05.070. (§ 32 ch 150 SLA 1955)

**Collateral references.** — Rights of members of Armed Forces to bring actions in civilian courts against their superiors, federal cases, 76 L. Ed. 2d 891.

**Sec. 26.05.310. Military courts for the Alaska militia.** (a) Except in organizations in the service of the United States, military courts in the Alaska militia, including the Alaska National Guard and the Alaska Naval Militia, are of three kinds: general, special, and summary courts-martial.

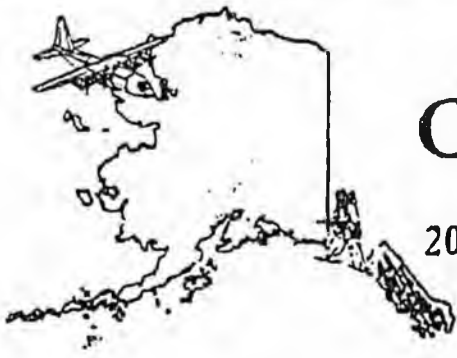
(b) When practicable considering finances, personnel, and administration, military courts shall be constituted like similar courts provided for by the laws and regulations governing the armed forces of the United States and shall follow the forms and procedure prescribed for those courts. (§ 33 ch 150 SLA 1955; am § 15 ch 34 SLA 1973)

**Collateral references.** — 54 Am. Jur. 2d, Military and Civil Defense, § 210 et seq. 57 C.J.S., Militia, §§ 24, 25.

Jurisdiction of court martial as to conviction and sentence of member of National Guard unit. 15 ALR2d 392.

Rights of members of Armed Forces to bring actions in civilian courts against their superiors, federal cases, 76 L. Ed. 2d 891.

**Sec. 26.05.320. General court-martial.** (a) A general court-martial of the Alaska National Guard or the Alaska Naval Militia shall be convened only by order of the



# ALASKA NATIONAL GUARD OFFICER'S ASSOCIATION

200 West 34th Avenue, Suite 727 Anchorage, Alaska 99503  
(907) 333-3259

February 7, 1997

Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

**SUBJECT: Alaska State Tuition Exemption Program (A-STEP)**

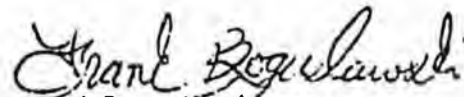
On behalf of the Alaska National Guard Officer's Association, I request your help in sponsoring/supporting a bill to establish an Alaska State Tuition Exemption Program to provide educational benefits to Alaska National Guard members. College education has become a significant obstacle for many of our future National Guard leaders. Today, our young talented Alaskans cannot become officers without college education.

To maintain a viable National Guard in Alaska to meet the needs of the state and nation, it is imperative to attract the best and the brightest young Alaskans. A number of other states, to include Oklahoma and Louisiana, have already implemented such programs. The results have been very positive in terms of increased readiness of the National Guard and promoting mature behavior among citizen soldiers through higher education.

What about cost? In many cases, tuition exemption is not "lost" revenues as many Guardsmen using A-STEP would not otherwise have been paying tuition to attend college. A-STEP participants would provide other revenues to the school through room, board, books, and fees. When combined with National Guard pay, a college education would be within reach for a greater number of Alaskans.

Thank you for your continued support of the Alaska National Guard. If you can help our Citizen Soldiers take A-STEP to a better and more professional life, I and my legislative affairs committee stands ready to assist with draft proposals or additional information you may require. My phone number is 333-3259 and my local representatives in Juneau are: Captain Duff Mitchell who can be contacted at 789-8393 (pager) or 790-2722 (home), or First Lieutenant Don Mercer at 789-2855.

Sincerely,

  
Frank Boguslawski  
President

**SB**

**149**

# FISCAL NOTE

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

1  
Bill Version: SB 149  
(S) Publish Date: 4-4-97  
Dept. Affected: Health and Social Services  
BRU: Medical Assistance  
Component: Medicaid Facilities  
COMPONENT SERIAL NO. 230  
See also (SN#): \_\_\_\_\_

Revision Date: \_\_\_\_\_  
Title: An Act relating to rates, reports, and inspections of health facilities under AS 47.07.  
Sponsor: Senate HESS  
Requestor: Senate HESS

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

**FUND SOURCE**

(Thousands of Dollars)

FUND SOURCE	FY98	FY99	FY00	FY01	FY02	FY03
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/ Mental Health						
Other (please specify)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITION :**

POSITION	FY98	FY99	FY00	FY01	FY02	FY03
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY97) cost: \$0.0

**ANALYSIS:** (Attach a separate page if necessary)

The attached bill amends AS 47.07.074 to clarify that the Department of Health and Social Services is authorized to consider the department's audits of financial and statistical information submitted by health care facilities, for the purpose of establishing Medicaid payment rates for such facilities. This bill also addresses the timing of the submission of reports by health facilities, and provides that Medicaid audits may be conducted less than annually on health care facilities.

Jny  
3/20/97
 Prepared by: Jack Nielson BJ Phone: 562-1996  
 Division: Medical Assistance/MRAC Date: 03/28/97  
 Approved by Commissioner: Karen Perdue, Commissioner [Signature] Date: 4-2-97  
 Agency: Department of Health & Social Services

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# Alaska State Legislature



Senator Gary Wilken, Chairman  
Senator Loren Leman, Vice Chairman  
Senator Lyda Green  
Senator Jerry Ward  
Senator Johnny Ellis

State Capitol  
Room 510  
Juneau, Alaska 99801  
(907) 465-3762

## Senate Committee on Health, Education and Social Services

### SENATE HESS COMMITTEE SPONSOR STATEMENT

#### SB 149 - Health Care Facility Audits & Reports

SB 149 clarifies that Medicaid audits may be used in the Medicaid rate setting process. This is a necessary clarification, since a recent rate appeal decision prevented the State from being able to set rates based on 1993 and 1994 Medicaid audits.

In addition to this, SB 149 repeals a State filing deadline that has been superseded by Federal deadlines. Even though the Alaska Department of Health & Social Services requires facilities to file a year-end report within 120 days after the year's end, it is often difficult for facilities to obtain needed documents from Federal payment intermediaries such as Blue Cross of Washington & Alaska in that time, since the Federal Government does not require filing for up to five months past the end of the year. This discrepancy in State and Federal deadlines has created a need for the 120-day deadline to be changed. SB 149 allows the Commissioner to change the State deadline to match the Federal one.

Finally, SB 149 adds language that acknowledges that it is not necessary for DHSS to audit every facility every year for Medicaid. Since facilities are audited by their independent C.P.A.'s every year, there should be no reason for DHSS to duplicate that audit effort, providing that the facility in question has no history of audit problems and the amount of Medicaid paid to that facility is not material compared to the total Medicaid budget. This acknowledgment is a first step in helping to facilitate a process which could be designed to reduce the administrative burden that DHSS and the facilities experience in auditing every facility every year, whether there is need to or not.

This bill has the support of the Administration, and the Alaska State Hospital and Nursing Home Association.

**SB**

**150**

# FISCAL NOTE

**STATE OF ALASKA**

**BILL** : 6  
**NO:** Bill Version: CS3B 150 (FIN)  
 (S) Publish Date: 4-11-97

**1997 LEGISLATIVE SESSION**

Revision Date: 4/11/97 Dept. Affected: Public Safety  
 Title: Public Employee: Moving, comp. time & PERS DPS Statewide Support  
 Component: Commissioner's Office  
 Sponsor: Senate Finance  
 Requestor: S. Finance COMPONENT SERIAL NO. 0523

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

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL EXPENDITURES</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CHANGE IN REVENUES ( )</b>	-0-	-0-	-0-	-0-	-0-	-0-
Code      Revenue						

**FUNDING: (Thousands of Dollars)**

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

Estimate of current year (FY 97) 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.)**  
 No fiscal impact is anticipated to the Department of Public Safety

Prepared By: Sandy Perry-Provost, Special Assistant to the Commissioner Phone: 465-4322  
 Division: Commissioner's Office Date: 4/11/97  
 Approved by Commissioner: *Ronald L. Otte* Date: 4/11/97  
 Agency: Ronald L. Otte, Dept. of Public Safety

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**PUBLIC SAFETY EMPLOYEES ASSOCIATION  
"REPRESENTING ALASKA'S FINEST"**

4300 Boniface Parkway, #116  
Anchorage, AK 99504-4387  
(907)337-1979 FAX:(907)337-1753

Senator Tim Kelly  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

April 16, 1997

Dear Senator Kelly:

It is my understanding that Senator Duncan is going to offer two more amendments to Senate Bill 150 today.

The first amendment will pull seasonal workers from the overtime exemption for calculation of retirement.

The second amendment will place a salary cap of \$81,000 for overtime exemption indexed for inflation (Anchorage CPI).

The Public Safety Employees Association fully supports both amendments

Although most of our members are full-time state law enforcement officers there are some real concerns about seasonal employees who, just like construction workers, make their years wages in about four or five months. It is unfair to penalize them for working overtime.

Our state and municipal police officers and firefighters normally work some overtime on weekends, holidays and nights and when called in for duty. Most of us do not necessarily like working overtime. Having us gone on holidays and weekends is hard on our families and presents problems most nine to fivers never dreamed of. Cuts in state and municipal budgets have exacerbated the problem, with present employees working more overtime to cover the staffing shortages. I repeat we do not want the overtime!! We have no choice but to work it, as our fire halls and police stations have to be staffed. Now with SB150 you are penalizing police officers and firefighters across the state by not counting overtime in retirement calculations.

We are asking for your support for these amendments.

Sincerely,

Craig Persson  
PSEA Vice President

\*\*\*END\*\*\*

A M E N D M E N T #1

OFFERED IN THE SENATE

BY SENATOR PEARCE

TO: CSSB 150(FIN)

1 Page 3, line 15, following "i":

2 Insert a new subparagraph to read:

3 "(B) includes, for noncertificated employees of municipal  
4 school districts and regional educational attendance areas, overtime pay;"

5 Reletter the following subparagraph accordingly.

6 Page 3, line 18, following "pay":

7 Insert "except as provided in (B) of this paragraph"

*This was incorporated  
into the RLS C.S.  
4-15-97. SB126 was  
not merged with the  
above.*

*Proposed RLS  
 C.S. not taken  
 up by committee  
 (would have merged  
 with SB150) plus  
 SB126 the PEARCE  
 amendment).*

0-LS0688\B  
 Cramer  
 4/14/97

CS FOR SENATE BILL NO. 150(RLS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE

Offered:

Referred:

Sponsor(s): SENATE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to moving expenses of state employees, to compensatory time for  
 2 state employees, to the retirement incentive program for state employees, and to  
 3 calculation of compensation for the public employees' retirement system; and  
 4 providing for an effective date."

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

6 \* Section 1. AS 23.40.075, as amended by sec. 10, ch. 107, SLA 1996, is amended to  
 7 read:

8 Sec. 23.40.075. Items not subject to bargaining. The parties may not  
 9 negotiate terms contrary to the

10 (1) reemployment rights for injured state employees under

11 AS 39.25.158;

12 (2) reemployment rights of the organized militia under AS 26.05.075;

13 (3) limitations on payment of a state employee's moving expenses

14 under AS 39.20.450;

1                                    (4) requirements concerning compensatory time under  
2                                    AS 39.20.460:

3                                    (5) authority of the Department of Health and Social Services under  
4 AS 47.27.035 to assign Alaska temporary assistance program participants to a work  
5 activity considered appropriate by the Department of Health and Social Services; or

6                                    (6) [(4)] authority for agencies to create temporary positions under  
7 AS 47.27.055(c).

8 \* Sec. 2. AS 39.20 is amended by adding new sections to read:

9                                    **Article 5. Moving Expenses and Compensatory Time Restriction.**

10                                    **Sec. 39.20.450. Restriction on payment of moving expenses for certain**  
11 **state employees.** (a) The state may not pay the moving expenses of a state employee  
12 in the classified service who transfers voluntarily from one location to another unless  
13 the payment complies with this section.

14                                    (b) The state may pay the moving expenses of a state employee in the  
15 classified service who transfers voluntarily from one location to another if the  
16 employee intends to stay in the location to which the employee is moving for at least  
17 five years and if the employee signs an agreement to repay the state for the entire  
18 moving expenses, plus interest as required by regulation, if the employee moves or  
19 leaves state service before the end of five years. In the case of certified peace officers  
20 employed by the Department of Public Safety, the commissioner of public safety may  
21 waive a moving expense repayment required by this subsection if the commissioner  
22 makes a written finding that the employee's relocation is in the best interest of the  
23 state. This subsection does not require repayment if the employee moves or leaves  
24 state service before the end of five years because

25                                    (1) of a certified medical necessity of the employee or the spouse or  
26 a dependent of the employee;

27                                    (2) the state involuntarily transfers the employee; or

28                                    (3) the employee accepts a promotion offered by the department or  
29 agency that paid the employee's initial moving expenses.

30                                    (c) The Department of Administration shall adopt regulations to implement this  
31 section.

1           **Sec. 39.20.460. Restrictions on compensatory time.** A state employee who  
2 is eligible to be paid overtime may not receive compensatory time for overtime hours  
3 worked unless receipt of the compensatory time is in accordance with the terms of a  
4 written agreement, approved by the employee's appointing authority, and, for an  
5 employee who is covered by a collective bargaining agreement under AS 23.40, the  
6 terms for receipt of the compensatory time are consistent with the terms of the  
7 agreement.

8 \* Sec. 3. AS 39.35.680(8) is amended to read:

9           (8) "compensation"

10            (A) means the total remuneration earned by an employee for  
11 personal services rendered to an employer, including employee contributions  
12 under AS 39.35.160, cost-of-living differentials only as provided in  
13 AS 39.35.675, payments for leave that is actually used by the employee, the  
14 amount by which the employee's wages are reduced under AS 39.30.150(c),  
15 and any amount deferred under an employer-sponsored deferred compensation  
16 plan; [,] but

17            (B) includes, for noncertificated employees of municipal  
18 school districts and regional educational attendance areas, overtime pay;

19            (C) does not include retirement benefits, severance pay or other  
20 separation bonuses, welfare benefits, per diem, expense allowances, workers'  
21 compensation payments, overtime pay except as provided in (B) of this  
22 paragraph, or payments for leave not used by the employee whether those  
23 leave payments are scheduled payments, lump-sum payments, donations, or  
24 cash-ins;

25 \* Sec. 4. Section 23(a), ch. 4, FSSLA 1996, is amended to read:

26           (a) A state agency may adopt, and file with the commissioner of administration  
27 for approval, a proposed discretionary retirement incentive plan for its employees as  
28 part of a permanent reduction in the personal services costs in that section of the state  
29 agency. In addition, a state agency shall permit eligible employees to apply to the  
30 retirement incentive program as provided in (f) of this section during fixed  
31 windows, from July 1, 1997, through August 31, 1997, from May 1, 1998, through

1           **June 30, 1998, and from May 1, 1999, through June 30, 1999.**

2           \* **Sec. 5.** Section 23(b), ch. 4, FSSLA 1996, is amended to read:

3                   (b) Upon the request of a state agency, the commissioner of administration  
4                   shall establish one or more periods during which the employees of that state agency  
5                   who are eligible under sec. 22(b) of this Act to participate in a retirement incentive  
6                   plan may apply to the commissioner of administration to participate in the state  
7                   agency's approved discretionary plan. The periods shall begin no earlier than June 30,  
8                   1996, and end no later than June 30, 1999. The periods shall be no less than 30 days  
9                   and no more than 60 days in duration, and may not begin less than 30 days after their  
10                  establishment. A state agency is not required to request an application period for a  
11                  discretionary plan and may request more than one application period.

12          \* **Sec. 6.** Section 23(e), ch. 4, FSSLA 1996, is amended to read:

13                  (e) The commissioner of administration may not accept the application of an  
14                  employee to participate in an approved retirement incentive plan adopted under this  
15                  section unless the employee will be appointed to retirement not later than the first day  
16                  of the month that is six months after the last day of the application period established  
17                  by the commissioner under (a) or (b) of this section. A state agency, in a plan  
18                  adopted under this section, may set an earlier date by which an employee must be  
19                  appointed to retirement in order to participate in the plan.

20          \* **Sec. 7.** Section 23, ch. 4, FSSLA 1996, is amended by adding a new subsection to read:

21                  (f) Beginning on the effective date of this Act, a classified state employee who  
22                  meets the eligibility requirements of sec. 22(b) of this Act and (c) and (d) of this  
23                  section and who will be qualified for a normal retirement under AS 14.25.110(a) or  
24                  AS 39.35.370(a) after application of the retirement incentive under sec. 22(i)(1) of this  
25                  Act may only apply to participate in the retirement incentive program during the first  
26                  application period that opens immediately after, or is open when, the classified  
27                  employee reaches the age or earns the credited service to so qualify. A state agency  
28                  may not decline to include a classified employee qualified to participate in the  
29                  retirement incentive program under this subsection in the state's retirement incentive  
30                  plan.

31          \* **Sec. 8.** The amendment to AS 39.35.680(8), made by sec. 3 of this Act, applies to

1 persons who first joined the Public Employees' Retirement System on or after the effective  
2 date of that bill section.

3 \* Sec. 9. Sections 4 - 7 of this Act take effect immediately under AS 01.10.070(c).

A M E N D M E N T # /

OFFERED IN THE SENATE  
TO: CSSB 150(FIN)

BY SENATOR PEARCE

1 Page 3, line 15, following "i":

2 Insert a new subparagraph to read:

3 "(B) includes, for noncertificated employees of municipal  
4 school districts and regional educational attendance areas, overtime pay;"

5 Reletter the following subparagraph accordingly.

6 Page 3, line 18, following "pay":

7 Insert "except as provided in (B) of this paragraph"

**SB**

**151**

# FISCAL NOTE

No. 6

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

Bill Version: CSSB 151(FIN)  
(S) Publish Date: 4-17-97

Revision Date: \_\_\_\_\_  
Title: Public Employment Labor Relations

Dept. Affected: Alaska Court System  
BRU: Trial Courts  
Component: \_\_\_\_\_

Sponsor: Senate Finance  
Requestor: \_\_\_\_\_

COMPONENT SERIAL NO. 768

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	14.7	14.7	14.7	14.7	14.7	14.7
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	14.7	14.7	14.7	14.7	14.7	14.7

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

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

**Fund Source**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	14.7	14.7	14.7	14.7	14.7	14.7
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	14.7	14.7	14.7	14.7	14.7	14.7

Estimate of any current year (FY 97) cost: None

**Positions**

Full-Time						
Part-Time	2.0	2.0	2.0	2.0	2.0	2.0
Temporary						

ANALYSIS: (Attach a separate page if necessary)

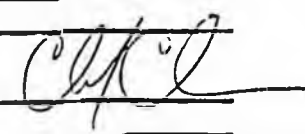
See attached fiscal analysis.

Prepared by: C. S. Christensen III, Staff Counsel  
Agency: Alaska Court System



Phone: 264-8228  
Date: 04/10/97

Approved by: Stephanie J. Cole, Acting Administrative Director 157  
Agency: Alaska Court System



Date: 04/10/97

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**Alaska Court System**  
**Fiscal Analysis**  
**SB 151** x4

SB 151 makes numerous changes to AS 23.40, the Public Employment Relations Act (PERA). These changes include an expansion of the rights of public employees who are subject to collective bargaining, an expansion of the duties of public sector labor organizations, and the creation of criminal penalties and civil remedies enforceable against public sector labor organizations by the state and/or by individual public employees.

The impact of most of these new penalties and remedies on the courts is highly speculative, and accordingly this note does not reflect costs for these matters. Should actual experience with these new criminal and civil actions result in significant costs to the court system, we may need to return to the legislature for funding at a later date. Proposed statutes with potential impact include the following: AS 23.40.450, which makes certain violations of AS 23.40.400 - 23.40.470 a class A misdemeanor; AS 23.40.460, which authorizes the commissioner of the Department of Labor to bring a civil action alleging violations of AS 23.40.400 - 23.40.470; AS 23.40.500, which creates a new class A misdemeanor; AS 23.40.520, which makes certain violations of AS 23.40.500 - 23.40.540 a class A misdemeanor, and which also authorizes a labor organization member to bring a civil action alleging violations under those sections; AS 23.40.650, which authorizes the Labor Relations Agency to bring a civil action against a labor organization following a complaint from a member of the organization alleging a violation of AS 23.40.600 - 23.40.660; AS 23.40.710, which authorizes a member of a labor organization to bring a civil action alleging violation of duties declared in AS 23.400.700(a); AS 23.40.730, which creates a new class A misdemeanor; and AS 23.40.740, which creates a new class A misdemeanor.

The Department of Law has estimated the need for two additional attorneys to handle cases generated by section 27 of SB 151, which amends AS 23.40.210. Currently, an arbitrator's decision in both compulsory and voluntary grievance arbitration procedures is reviewable by the superior court only under very limited circumstances; the standard for review is "gross error" by the arbitrator. PSEA v. State, 902 P.2d 1335 (Alaska 1995). Partly as a result, very few grievance arbitration decisions are appealed to court. Section 27 makes grievance arbitration decisions appealable under standards set by AS 44.62.560 - 44.62.570 (the "arbitrary and capricious" standard). This lesser standard of review gives the court more latitude to reject or modify an arbitrator's decision. As a result, Law anticipates that public employees will appeal unfavorable rulings from arbitrators far more frequently.

Administrative appeals are heard by a superior court judge sitting without a jury. The judge may decide the case on the existing record, may augment the existing record, or may consider the issues de novo. This note assumes that most cases will be decided on the record, limiting the amount of judicial time and in-court clerk time spent on a typical case.

**Alaska Court System**

**Fiscal Analysis**

**SB 151** \*6

**Personal Services**

<u>Position</u>	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Pro Tem Superior Court Judge, Anchorage, permanent part-time, 1 1/2 months	\$7,313	\$4,450	\$11,763
In-Court Clerk, 12A, Anchorage, permanent part-time, 1 month	2,375	612	<u>2,987</u>
<b>Total Estimated Costs</b>			<b><u>\$14,750</u></b>

# Alaska State Legislature

Co-Chair Resources Committee  
Special Committee on Oil & Gas  
Legislative Council  
Community and Regional Affairs  
Fisheries



State Capitol, Rm 128  
Juneau, Alaska 99801  
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Fax: 907-465-3265  
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## Representative Scott Ogan

House District 27

### SPONSOR STATEMENT - SCSCSHB 151(RES)

This bill is a good faith effort to cleanup a statute that was passed last year in the form of the Big Game Guide Bill HB 335. Since the passage of HB 335 last year, several oversights and issues have become apparent. HB 151 is aimed at correcting these issues.

HB 151 Accomplishes the following:

- Makes it illegal for registered guides to knowingly personally take big game while accompanying a client in the field, or a species of big game if the registered guide is under contract with a client to provide a guided hunt for that species of big game and the client is in the field.
- Makes it illegal for class-A assistant guides and assistant guides to hunt while a client of the registered guide is in the field, unless they are not at that time providing or participating in hunting services.
- Makes it illegal for transporters to knowingly accompany or remain in the field with a big game hunter who is a client.
- Closes a loophole that had allowed felons to apply for a new class of license under a grandfather clause. A person is still protected by the grandfather clause so that they may maintain their current license. However, they would no longer be able to apply for a new class license.

- Creates the ability for guides to register for one more guide use area if the federal lands requested would otherwise not be used and are adjacent to the existing guide use area. This is subject to approval by the Department of Commerce.
- Provides for the administration, by the department, of an oral exam for a registered guide license or for a management unit certification if an applicant experiences a specific language disability.

# Alaska State Legislature

Co-Chair Resources Committee  
Special Committee on Oil & Gas  
Legislative Council  
Community and Regional Affairs  
Fisheries



State Capitol, Rm 128  
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## Representative Scott Ogan

House District 27

### SECTIONAL ANALYSIS SCSCSHB 151(RES)

**BILL SECTION 1:** AS 08.54.600 is amended by adding a new subsection that would require the department to provide for the administration of an oral examination for a registered guide license if the applicant suffers from a specific language disability.

**BILL SECTION 2:** AS 08.54.605(b) is amended by adding language that closes a loophole that had allowed felons to apply for and receive a new class license even if there was warranted concern for public safety. This is simply an alteration of a grandfather clause that protected those who possessed a certain class license prior to the passage of the existing statute.

**BILL SECTION 3:** AS 08.54.605 is amended by adding a subsection that codifies that a person may not receive a certification for a game management unit if the person is prohibited from receiving or renewing a registered guide license or a master guide license.

**BILL SECTION 4:** AS 08.54.610 is amended by adding a subsection that would allow a person applying for a guide license to substitute evidence of 25 years of experience as a class-A assistant guide or class-A assistant guide-outfitter in place of passing the qualification examination administered by the department.

**BILL SECTION 5:** AS 08.54.720(a) is amended by adding subsections (17), (18), (19) which makes it an illegal act for class-A assistant guides or assistant guides to take big game while clients are in the field or for transporters to accompany clients into the field. Also, registered guides cannot personally take big game while accompanying a client into the field, or a species of big game if the guide is under contract with a client to provide a guided hunt for that species and the client is in the field.

**BILL SECTION 6:** AS 08.54.720(b) is amended by adding subsections (17), (18), & (19) which makes it a misdemeanor for violating the crimes set forth in Bill Section 2. Violation is punishable by a fine of not more than \$10,000 or by imprisonment of up to one year, or both.

**BILL SECTION 7:** AS 08.54.720(f) is amended by adding subsections (17), (18), & (19) which allows the court to order the department to suspend the guide or transporter license of a person who commits a misdemeanor offense.

**BILL SECTION 8:** AS 08.54.750 is amended by adding a new subsection (e). This section allows guides to register for one more guide use area if the federal lands requested would otherwise not be used and are adjacent to the existing guide use area. The request is subject to approval by the Department of Commerce.

# FISCAL NOTE

**STATE OF ALASKA**  
**1997 LEGISLATIVE SESSION**

**BILL NO.** CSSB 151(STA)

Revision Date: \_\_\_\_\_

Department Affected: Labor

Title: Public Employment Labor Relations

CRU: Office of the Commissioner

Sponsor: Senate Finance

Component: Commissioner's Office

Requestor: Senate State Affairs

COMPONENT SERIAL NO. 340

**EXPENDITURES/REVENUES:**

(Thousands of Dollars)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	108.4	94.9	94.9	94.9	94.9	94.9
TRAVEL	8.9	3.4	3.4	3.4	3.4	3.4
CONTRACTUAL	77.5	68.9	68.9	68.9	68.9	68.9
SUPPLIES	2.0	1.4	1.4	1.4	1.4	1.4
EQUIPMENT	7.0	0.5	0.5	0.5	0.5	0.5
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>203.8</b>	<b>169.1</b>	<b>169.1</b>	<b>169.1</b>	<b>169.1</b>	<b>169.1</b>

<b>CAPITAL</b>						
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<b>CHANGE IN REVENUE</b>						
<b>FUND SOURCE #</b>						

**FUNDING:**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	203.8	169.1	169.1	169.1	169.1	169.1
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other						
<b>TOTAL.</b>	<b>203.8</b>	<b>169.1</b>	<b>169.1</b>	<b>169.1</b>	<b>169.1</b>	<b>169.1</b>

**POSITIONS:**

FULL-TIME	2.00	1.75	1.75	1.75	1.75	1.75
PART-TIME						
TEMPORARY						

Estimate of current year (FY97) impact: \$ None

**ANALYSIS:** (Attach a separate page if necessary)

(see attached)

Prepared by: Ed Flanagan, Deputy Commissioner Phone: 465-2700

Division: Commissioner's Office Date: 4/18/97

Approved by Commissioner: Tom Cashen, Commissioner

Agency: Department of Labor Date: 4/18/97

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ALASKA DEPARTMENT OF LABOR  
FISCAL NOTE

CSSB 151(FIN) Analysis

This Fiscal Note corrects an error in the original note relating to the personal services costs shown in FY 99 through FY 03. The costs in these years were inadvertently understated. One other change is to reduce the needed positions after the first year.

In addition, two amendments to Article 4 partially mitigate the impact of the incorporation of the federal LMRDA reporting provisions in SB 151. A labor organization which establishes its service fee for non-members through an impartial arbitration or court decision is exempted from some but not all of the reporting requirements of new AS 23.40.400. This would, at this time, apply only to the National Education Association.

Another amendment reduces the number of officers who must file disclosure forms to the department by excluding those paid less than \$250.00 in the preceding year, which will exempt most job stewards. Officers and employees of a union which establishes its service fee through arbitration or court decision would also be exempted from individual reporting.

One other amendment exempts political contributions under \$100.00 from reporting.

The original Fiscal Note analysis follows:

The bill's proposed reporting and disclosure requirements are substantial. Some of the sections are modeled after the federal reporting requirements in the Labor Management Reporting and Disclosure Act. See, e.g., 29 U.S.C. § 431(a).

The bill would necessitate the need for increased funding to the Alaska Department of Labor to monitor and enforce the bill's reporting and disclosure requirements. Additional funding for legal representation would also be required to file actions in superior court to enforce Article 4.

Proposed AS 23.40.400(a) requires a labor organization to adopt a constitution and bylaws and to file copies of them with the Commissioner of Labor. In addition, a report must be signed by an officer of the labor organization and filed with the commissioner that contains: (1) the addresses of the organization; (2) names and titles of the union officers; (3) the amount of an initiation fee or fees; (4) the amount of regular dues and service fees; and (5) detailed statement concerning the organization's qualifications for membership, levying of assessments, participation in insurance or other benefit plans, authorization for disbursement of funds, regular and special meeting procedures, election procedures, discipline procedures, authorization for bargaining demands, ratification of contract terms, authorization for strike, and the issuance of work dispatches.

Under AS 23.40.200(b), the labor organization is required to report any changes to the information required by section (a) in its annual financial report to the commissioner.

\* Subsection (c) requires the filing of annual financial reports with the commissioner. The reports must contain detailed statements relating to the unions' (1) assets and liabilities; (2) receipts; (3) salary, allowances and disbursements to each officer, employee, consultant and contractor of more than \$1,000 annually; (4) loans to members, employers and officers; (5) loans to businesses; (6) "any payment of money or other things of value and any expenditures; and (7) other disbursements and the purpose of those disbursements.

Subsection (d) requires labor organizations subject to the reporting requirements to maintain the information in this state and make it available to all its members and fee payers without cost.

Section 23.40.410 imposes reporting requirements for officers and employees of labor organizations. All income or other benefits with monetary value to the officer or employee of a labor organization including an individual's spouse, spousal equivalent, or minor child derived directly or indirectly from a public employer, must be reported except permanent fund dividends. Included are grants, contracts or loans from a public employer whose employees are represented by the labor organization or whose employees the labor organization is actively seeking to represent. Payments made by the individual or the individual's spouse, spousal equivalent or child to an elected or appointed official of a public employer or a candidate for public officer must also be reported.

Subsection (b) and (c) list the exceptions to the reporting requirements. An officer or an employee does not have to report investment income from securities.

Section 23.40.420 requires public officers of a public employer to report payments, loans, or other benefits made to employees and agents of a labor organization and to the labor organization itself.

Section 23.40.440 makes the reports and documents filed with the commissioner "public records" and requires them to be maintained for a period of five years.

Section 23.40.450 contains criminal provisions for persons who intentionally violate the reporting requirements by making false statements or destroying or withholding the reports. An individual who signs the report is personally responsible for filing the information and for any false statements contained in the report.

Section 23.40.460 provides for civil enforcement and injunctive relief by the commissioner for violations of AS 23.40.400-470.

Section 23.40.470 requires auditing companies or accounting services that prepare reports to file annual reports with the commissioner listing the company's experience, credentials, payments, and expenses.

POSITION INFORMATION HAS BEEN UPDATED

04/03/97

Position Information Inquiry/Update

Prior

09:59:15

Yr Actual

Budgeted

Position: ██████████	Project: 0_____	Salary:	59,052	38,976.00
Comp: 07-06-07-01-05-00	Region: _____	Benefits:	17,461	15,240.41
Scenario: 2	FY: 98	COLA %: 1.500	Total:	76,513
				54,216.41

-----  
Actuals from Payroll (Status: FILLED ) FLSA: Y | Retirement Code: A  
-----

F		Step: C for 12.0 months & Step: D for _0.0 months (total: 12.00 )
97/05/16		Merit Date; use merit defaults? N ( 0.0 @ & 0.0 @ )
0		Class/Sched Prefix: 0 Schedule: AA (actual: AA )
EE		Bargaining Unit: EE Range: 16 (actual: 21 )
EBA ?		Location Code: AWA Place: JUNEAU
P1925 ?		Job Class Code: P7767 Title: INVESTIGATOR II_____
F		Seasonal Indic.: F Type: FACL - FULL TIME / OMB AUTH

-----  
Optional Override Salary Rates:

Monthly Rate: 0.00\_\_\_\_\_ for \_0.0 months & rate of 0.00\_\_\_\_\_ for \_0.0 months  
 Hourly Rate: 0.00\_\_\_\_\_ for \_0.0 months Frozen at this rate? (Y/N): N

Press ENTER to update record; enter # or use PF key to go to another screen:

1=Premium pay info	2=Funding info	4=Code Translations	6=Calculations
8=Detail Report	12=Exit w/o update	Selection: 0_	



ANCHORAGE SCHOOL DISTRICT  
ANCHORAGE, ALASKA



Lawrence A. Wiget, Ed.D.  
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## IMPACT OF SB 151

APRIL 14, 1997

We have reviewed this bill and it contains numerous problem areas. Rather than go through each, let me draw your attention to what is most problematic for us:

AS 23.40.215: Sub-section C currently excludes school district collective bargaining agreements from legislative review, at the state level. What the new proposed "E" would do is enable the Municipal Assembly to review and approve (or disapprove) collective bargaining agreements between the School Board and its employees. This provision would fundamentally negate the authority of the Board to manage its revenues and meet its statutory obligations under Title 23, to bargain terms and conditions of employment with its employees. The School Board has had no opportunity to discuss this proposal.

The Municipal Assembly now approves the upper limit of the School District's Budget. It also determines how much tax revenue it will collect to support that budget. The Assembly is not otherwise involved in management of the School District's budget and has, in fact, exempted itself from participation in Title 23 for its own employees.

The proposed subsection "D" would also intrude seriously into the labor relations between the School Board and its employees by making the payment of awards following statutorily prescribed arbitration procedures to be subject to review by the Municipal Assembly.

If you need to have prepared a more complete analysis, please let me know. We can prepare one over the few days to more fully address our concerns. In essence, however, CSSB 151 (State Affairs) if enacted as currently written, will make changes in the powers of schools boards, diminishing them immensely and shifting powers to the legislature and local assemblies.

**SB**

**152**

# FISCAL NOTE

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

No. 1  
Bill Version: SB152  
(S) Publish Date: 4/16/97

Revision Date: \_\_\_\_\_  
Title: An Act relating to certified nurse aides.

Department: Commerce and Economic Development  
BRU: Occupational Licensing  
Component: Operations

Sponsor: Senator Leman  
Requestor: Senate Labor & Commerce

COMPONENT SERIAL NO. 1844

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	59.6	59.6	59.6	59.6	59.6	59.6
TRAVEL	2.0	2.0	2.0	2.0	2.0	2.0
CONTRACTUAL	15.7	15.7	15.7	15.7	15.7	15.7
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	8.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>86.3</b>	<b>78.3</b>	<b>78.3</b>	<b>78.3</b>	<b>78.3</b>	<b>78.3</b>

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

CHANGE IN REVENUES	86.3	78.3	78.3	78.3	78.3	78.3
--------------------	------	------	------	------	------	------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other 1091 Designated PR	86.3	78.3	78.3	78.3	78.3	78.3
<b>TOTAL</b>	<b>86.3</b>	<b>78.3</b>	<b>78.3</b>	<b>78.3</b>	<b>78.3</b>	<b>78.3</b>

Estimate of any current year (FY 97) cost: \$ 0.0

**POSITIONS**

FULL-TIME	1	1	1	1	1	1
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

The bill places certification of nurse aides under the Board of Nursing and grants disciplinary authority of certified nurse aides to the board. Certification of nurse aides is currently administered by the Department of Commerce and Economic Development under Administrative Order #115 signed on 8/4/89. However, current administration of the program does not include enforcement of unacceptable or inappropriate conduct. Since the bill assigns enforcement responsibility to the Board of Nursing, this fiscal note provides a full-time investigator to work certified nurse aide cases and provides funding for legal services. See attached for further explanation.

Prepared by: Jennifer Strickler, Administrative Officer  
Division: Occupational Licensing  
Approved by Commissioner: William L. Hensley  
Agency: Commerce and Economic Development

Phone: 465-2144  
Date: 4/3/97  
Date: 4-3-97

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# FISCAL NOTE

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

BILL NO.: SB 152 # 1

ANALYSIS: (Continued)

## DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT FISCAL NOTE CALCULATIONS

PERSONAL SERVICES 59.6

1 - Permanent Full-Time Investigator III, Range 18, GGU

TRAVEL 2.0

- Travel and Per Diem for the Investigator III to conduct field work throughout the State: \$2.0

CONTRACTUAL 15.7

- Contractual-related costs for the Investigator III position, such as communications (phones, postage, etc.), misc. case related costs (copies of records), expert witnesses, depositions, etc.: \$3.0
- Office space costs for the Investigator III position: \$2.5
- Legal services in preparing cases for litigation. The funding provides 120 hours of legal services (10 hours per month x 12) at \$85 per hour. There are 1,929 certified nurse aides. At the rate of \$85 per hour, each individual would be responsible to contribute \$5.29 of their licensing fees toward enforcement, for a total of: \$10.2

SUPPLIES 1.0

Provides daily operating desk top supplies for the Investigator III.

EQUIPMENT (One-time costs only) 8.0

Workstation	3.0
Phone/Install	2.0
Computer	2.0
File Cabinet	1.0

TOTAL FY 98 Costs: \$ 86.3

### REVENUE:

Certified Nurse Aides currently pay biennial fees of \$30 (\$15 per year). Fees will be adjusted to cover its program costs.

# FISCAL NOTE

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

Jo. 2  
Bill Version: SB 152  
(S) Publish Date: 4/16/97

Revision Date: \_\_\_\_\_  
Title: "An Act relating to certified nurse aides;  
and providing for an effective date."  
Sponsor: Senator Leman by request  
Requestor: \_\_\_\_\_

Dept. Affected: Health and Social Services  
BRU: Medical Assistance Admin  
Component: Certification & Licensing  
COMPONENT SERIAL NO. 245  
See also (SN#): \_\_\_\_\_

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ( )						
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**FUND SOURCE**

(Thousands of Dollars)

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

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY97) cost: \$0.0

**ANALYSIS:** (Attach a separate page if necessary)

Federal monies are already provided to fund this program, and no additional funding needs are anticipated.

Prepared by: Ronald A. Cowan  
Division: Medical Assistance  
Approved by Commissioner: Karen Perdue, Commissioner  
Agency: Department of Health & Social Services

Phone: 561-8081  
Date: 04/02/97  
Date: 4-3-97

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**SB**

**153**

# FISCAL NOTE

**STATE OF ALASKA**  
**1997 LEGISLATIVE SESSION**

**BILL NO:** No. 1  
 Bill Version: SB153  
 (S) Publish Date: 4/16/97

Revision Date: \_\_\_\_\_ Dept. Affected: Administration  
 Title: An Act relating to issuance of special license BRU: Motor Vehicles  
plates to commemorate the arts. Component: Field Services  
 Sponsor: Senate Finance  
 Requestor: (S) TRAN COMPONENT SERIAL NO. 0502

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

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	2.2					
TRAVEL						
CONTRACTUAL	17.7					
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>19.9</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES (1005)</b>	<b>135.0</b>	*	*	*	*	*
Revenue Code						

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	19.9	0	0	0	0	0
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>19.9</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimate of current year (FY 97) impact: \$ \_\_\_\_\_

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

See Attached.

Prepared By: Juanita Hensley Phone: 465-2650  
 Division: Motor Vehicles Date: 04/01/97  
 Approved by Commissioner: Mark Boyer Date: 4/5/97  
 Agency: Administration

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STATE OF ALASKA  
1997 LEGISLATIVE SESSION

BILL NO: SB 153 \* \

Revision Date: \_\_\_\_\_ Dept. Affected: Administration

ANALYSIS CONTINUED:

This bill establishes a special license plate commemorating the arts. Under this proposed legislation the fee for purchasing the special plate is \$150 per set of plates. The license plate manufacturer requires a minimum of 900 sets of plates for the purchase of a new design plate. This bill requires the Commissioner of Administration, after consulting with the Alaska State Council on the Arts, determine the design and color of plates commemorating the arts. It will require a new design for the license plate.

The fiscal analysis assumes that all 900 sets of plates will be sold at \$150. The projected revenue is estimated at \$135.0. The personal services estimates the cost associated with reissue of the existing license plate for the new license plate depicting the arts. At this time we are not able to project future revenues.

SUMMARY OF EXPENSES

FY98

TRANSACTION COSTS

Personal Services cost associated with reissue of new plate 900 sets of plates at \$2.43 per set of plates =	2.2
Overhead cost associated with program and includes; forms, license tabs, DP chargeback, shipping/freight, etc. 900 sets of plates at \$3.05 per transaction =	2.7

NEW DESIGN COSTS

Set-up cost for new sheeting	10.0
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Design cost for design of new plate	5.0
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TOTAL	\$19.9
-------	--------

**SB**

**154**

**DEPARTMENT OF HEALTH AND SOCIAL SERVICES**  
**Division of Public Assistance**

**IMPACT OF FAILURE TO PASS SB 154**  
**CHILD SUPPORT ENFORCEMENT LEGISLATION**

This legislation brings Alaska statutes into compliance with the child support provisions of PL 104-193. If enacted and adequately funded to insure effective implementation, it should increase child support collections. Presuming that the increase in collections includes additional support payments for dependent children receiving assistance from the Alaska Temporary Assistance Program (ATAP), the Division of Public Assistance should see an increase in designated general fund program receipts.

If it is not passed, the Child Support Enforcement Division (CSED) will be out of compliance with provisions of federal law (PL104-193). Failure to comply with federal law would result in CSED being unable to develop an approved State Plan which results in the following penalties:

1. Immediate suspension of all federal payments for Alaska's child support program with payment withheld until the State's IV-D plan is approved.
2. Penalty of up to 5% of the federal Temporary Assistance to Needy Families (TANF) block grant. The block grant payable to the state would be reduced following this schedule:
  - For the first quarter and each subsequent quarter that ends before the first quarter that the state is found to be in compliance, not less than 1% and not more than 2%.
  - For the second consecutive finding that the state is out of compliance not less than 2% and no more than 3%;
  - For the third and subsequent findings of non-compliance not less than 3% and not more than 5%.

**The penalty for non-compliance could be as much as \$3,150,000 in the first year.**

3. Federal law also requires that in the year following a reduction in the TANF grant due to a penalty, the state must increase its spending by an amount equal to the penalty.
4. The federal Administration for Children and Families indicated that, under the general penalty provisions of PL104-193 (Sec. 409. Penalties.), state would be penalized for not increasing state funding to make up for losses due to penalties levied for substantial non-compliance with child support provisions. This penalty could be up to an additional 5 percent of the block grant.

Federal Office of Child Support Enforcement (OCSE) indicates they are closely monitoring the state's enactment of mandatory laws. Alaska must have conforming legislation in place by the first calendar quarter following the closure current legislative session.. If conforming legislation is enacted and the CSED State Plan approved, OCSE will audit compliance with the plan. The penalties mentioned in 2 above would be imposed for failure to meet CSED requirements such as not meeting paternity determination targets.

**CSSB154 (FIN)**  
**FEDERAL CHILD SUPPORT REQUIREMENTS**  
**Child Support Enforcement Bill**

Background

Congress and President Clinton have stressed the correlation between strong child support efforts and a successful welfare reform program. This bipartisan effort to strengthen child support laws recognizes the responsibility of ALL parents to support their children.

The new Federal Welfare Reform Law (PRWORA Act) makes substantial changes to child support mandates for all states and requires a major overhaul of Alaska child support operations. Many of these changes require only operational or regulatory changes. Listed below are the changes requiring statutory revisions.

Penalties

Without passage of the bill this year, Alaska can lose ALL federal funds for the child support program. The Public Assistance Division will lose \$8+ million in state reimbursements collected by CSED. Additionally, Alaska can lose a portion of their TANF block grant — possibly up to \$3.2 million.

Federal Mandates

- All employers must report new hires or rehires within 20 days (presently employers with 20 or more employees must report within a month). CSED must send data to feds within 7 days of receiving information.
- Employer must send withheld money to CSED in 7 days (presently 10 days)
- No prior notice of withholding order to obligors (presently prior notice given)
- Financial institutions and other entities must match data quarterly with CSED (reduces need for subpoenas to get financial information)
- Existing licensing statutes amended to:
  - make revocable for noncompliance with subpoena or warrant
  - add: hunting (for non-personal use); fishing (non-subsistence) and commercial fishing (crew members only - not limited entry) licenses
- Payments disbursed according to federal law - past AFDC recipients must receive all child support payments before state can collect to reimburse itself
- Social security numbers required on state licenses, permits and other documents, such as divorce decrees and death certificates. SSN must be shared with all state child support agencies.
- Various state agencies must provide information to all child support agencies - for child support purposes only
- Entities providing information or honoring CSED actions are immune from prosecution if acting in good faith
- Expanded paternity establishment requirements
  - after a 60-day period, a signed acknowledgment of paternity can't be rescinded - except in a court and based on fraud, duress, or material mistake of fact

## Federal Child Support Requirements

### Child Support Enforcement Bill

Page 2

- parents must be informed of rights and consequences of signing an acknowledgment of paternity
- acceptance of paternity establishments from other states
- putative father can request blood tests and establishment of paternity
- DHSS to decide "good cause" exceptions to required genetic testing and CSED decides noncompliance
- parties to paternity establishment must provide employer information - so that the support order can be established and a withholding order can be sent quickly
- Location of custodial parent or children to be withheld if risk to health, safety or liberty (presently in interstate law, but not domestic law)
- Conformance with ALL provisions of Uniform Interstate Family Support Act
- Authority to contract out child support disbursement functions
- State authority to require delinquent obligors to participate in appropriate work activities
- Fraudulent transfers voided when used to evade child support collections
- Recognizing liens from other states
- Legal service by first class mail if diligent efforts made for in-person delivery
- No "statute of limitations" on reporting arrears to credit bureaus



DEPARTMENT OF HEALTH & HUMAN SERVICES

Administration for  
Children and Families

2201 Sixth Avenue, Suite 600  
Seattle, WA 98121-1827

97 MAR 20 AM 9:15

RECEIVED  
MAR 20 1997

MAR 12 1997

Glenda Straube  
Director  
Child Support Enforcement Division  
550 West 7th, 4th Floor  
Anchorage, Alaska 99501-3556

CSED-DIRECTOR

Dear Ms. Straube:

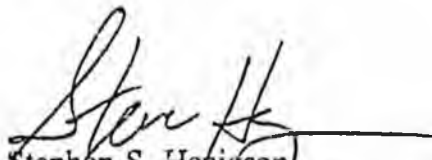
Thank you for your inquiry concerning the child support enforcement provisions of the recently enacted Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193), often referred to as Federal welfare reform.

As you know, PL 104-193 introduced several new child support enforcement requirements which, pursuant to Sections 454 and 466 of the Social Security Act, must be reflected in State law in order for a State to maintain an approved Title IV-D State Plan. If a State fails to enact any of the required State laws or procedures under section 466, or otherwise fails to comply with any State plan requirement under section 454, they are at risk of having their State plan disapproved and of losing all Federal IV-D funding.

Alaska received approximately \$11.2 million in Title IV-D funding for the administration of its child support program in FY 1996, as well as nearly \$3 million in Title IV-D performance-related child support incentives. Furthermore, under section 409(a)(8) of the Social Security Act a State failing to comply with the requirements of title IV-D of the Act could also lose a portion of its Federal funding under the Title IV-A (Temporary Assistance to Needy Families) program. Alaska's Federal funding for IV-A for FY 1997 will be about \$63 million dollars.

As always, we in the Regional Office are available to review and discuss issues concerning the implementation of Federal welfare reform requirements with you or with any other representatives of the state. Please let me know if we can be of any assistance.

Sincerely,

  
Stephen S. Henigson  
Regional Administrator

State Plan Disapproval

PROGRAM INSTRUCTION

ACTION TRANSMITTAL

OCSE-AT-97-05

April 28, 1997

TO: STATE AGENCIES ADMINISTERING CHILD SUPPORT ENFORCEMENT PLANS APPROVED UNDER TITLE IV-D OF THE SOCIAL SECURITY ACT AND OTHER INTERESTED INDIVIDUALS

SUBJECT: Procedures for Determining That a State IV-D Plan is Disapproved

BACKGROUND: Title III of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), P.L. 104-193, made a number of amendments to sections 454 and 466 of the Social Security Act (the Act), requiring States to either establish new, or modify existing, procedures effective either October 1, 1996, March 1, 1997 or October 1, 1997. For States which require legislation in order to conform their State IV-D plans to the revised statute, section 395(b)(2) of PRWORA provides a grace period until not later than the 1st day of the 1st calendar quarter beginning after the close of the 1st regular session of the State legislature that begins after the date of enactment of PRWORA (August 22, 1996). In cases which require that the State constitution be amended, section 395(c) of PRWORA provides a grace period until one year after the effective date of the State constitutional amendment, but no later than five years after the date of enactment of PRWORA.

CSE is tracking the progress of each of the States in enacting the new State plan requirements and mandatory laws, and is noting the date when each State's 1997 legislative session ends in order to ascertain when these laws are required to be in effect and when the State must submit new or amended State plan material for approval by OCSE in order to operate a Child Support Enforcement program according to the requirements of title IV-D of the Act. If a State fails to submit the necessary State plan amendments, OCSE will have to determine that the State does not have an approvable State plan. A determination that a State IV-D plan is disapproved will result in immediate suspension of all Federal payments for the State's child support enforcement program, and such payments will continue to be withheld until the State IV-D plan can be approved by OCSE.

STATUTORY

**AUTHORITY:** Section 455(a)(1)(A) of the Act specifies that funds appropriated under title IV-D shall be paid to States with approved State IV-D plans. There is no authority to expend Federal funds under title IV-D of the Act for the operation of a Child Support Enforcement program unless such State has an approved State IV-D plan.

Section 466 of the Act requires that all States, as a condition for approval of their State IV-D plan, must have in effect laws requiring the use of mandatory procedures to increase the effectiveness of their Child Support Enforcement programs. As a condition for State plan approval, section 454(20) of the Act provides that, to the extent required by section 466, States must have laws in effect and implement the procedures prescribed in or pursuant to such laws.

Section 454 of the Act sets the statutory requisites for the State IV-D plan. In addition, regulations at 45 CFR 301.10 define the State IV-D plan as a comprehensive statement submitted by the IV-D agency describing the nature and scope of its program. The State IV-D plan contains all the information necessary for the Office of Child Support Enforcement (OCSE) to determine whether the plan can be approved, as a basis for Federal financial participation in the State IV-D program.

Section 452(a)(3) of the Act requires that OCSE review and approve State plans for Child Support Enforcement programs under title IV-D of the Act. The authority to approve State plans is delegated to the Regional Office, but OCSE retains authority for determining that a State IV-D plan is not approvable.

As stated above, a determination that a State IV-D plan is disapproved will result in immediate suspension of all Federal payments for the State's child support enforcement program, and such payments will continue to be withheld until the State IV-D plan can be approved by OCSE. If a State is dissatisfied with OCSE's decision, reconsideration may be requested pursuant to 45 CFR 301.14. Withholding of Federal payments cannot be stayed pending reconsideration.

Section 402(a)(2) of the Act (as amended by PRWORA) provides that the chief executive officer of a State must certify that it will operate a child support enforcement program under an approved IV-D plan as a condition of eligibility for a TANF block grant under title IV-A of the Act. Therefore, States should be aware that TANF funds may also be at risk.

Although it is not required under Title IV-D of the Act, OCSE will give States an advance notice of "Intent to Disapprove" a previously approved State IV-D plan. The State will then be permitted the opportunity to waive reconsideration of the OCSE's final decision and to exercise, prior to the State plan approval/disapproval decision, the right to a hearing under the procedures set forth a 45 CFR Part 213. If the State elects to pursue its hearing rights prior to issuance of OCSE's decision, no further administrative appeal will be allowed.

**ATTACHMENT:** Instructions for State Plan Disapproval  
Timetable of Effective Dates 1997 Legislative Calendar

**SUPERSEDED**

**MATERIAL:** OCSE-AT-86-21

**INQUIRIES:** ACF Regional Administrators

/ S /

Anne F. Donovan  
Acting Deputy Director  
Office of Child Support

Enforcement

April 25, 1997

The Honorable Gary Wilken  
Alaska State Legislature  
State Capitol, Room 510

Dear Senator Wilken:

SB 154 brings Alaska statutes into compliance with the child support provisions of PL 104-193. Passage and implementation of this conforming legislation is needed to avoid fiscal penalties imposed against the state's TANF block grant. The following provides additional information on the penalties that will be imposed if the state is not in compliance with the federally mandated child support provisions of PL 104-193.

Under federal law, failure to comply with paternity establishment and child support enforcement requirements under part D of PL104-193 results in a penalty of up to 5% of the federal TANF block-grant. The block grant payable to the state would be reduced following this schedule:

- For the first quarter and each subsequent quarter that ends before the first quarter that the state is found to be in compliance, not less than 1% and not more than 2%.
- For the second consecutive finding that the state is out of compliance not less than 2% and no more than 3%;
- For the third and subsequent findings of non-compliance not less than 3% and not more than 5%.

Federal law also stipulates that in the fiscal year following a reduction in the TANF grant due to a penalty, states must increase their state spending by an amount equal to the penalty.

If this legislation is not enacted and implemented and the federal penalties are applied, the state would have to voluntarily replace lost federal funds in the first year of the penalty in order to maintain ATAP funding at adequate levels. Federal law, however, mandates that the state must replace these funds in subsequent years. Under a worse case scenario, the maximum penalty that could be levied for non-compliance would be approximately \$3.2 million and the state would be required to offset the loss dollar for dollar in the fiscal year following the year the penalty was imposed.

The net affect of not complying with child support provisions of PL104-193 is a substantial increase in GF spending. However, passage and implementation of this legislation would likely increase child support collections for ATAP children and generate additional general fund program receipts for ATAP.

If you have any questions or need additional information, please contact me or my assistant, Ron Kreher, at 465-3349.

Sincerely,

Jim Nordlund  
Director of Public Assistance

Cc: Glenda Straube, Director  
Child Support Enforcement Division

**SB**


**157**



**SENATOR DAVE DONLEY**  
**ALASKA STATE LEGISLATURE**

**MEMORANDUM**

To: Senator Tim Kelly  
Senate Rules Committee

From: Senator Dave Donley 

Date: January 21, 1998

RE: SB 157 - Children's Trust License Plates

I respectfully request that you calendar SB 157 for floor action at your earliest convenience. SB 157 establishes a motor vehicle registration plate that the department may design and issue to represent the Alaska Children's Trust. It allows the legislature to appropriate funds received from the sale of these registration plates into the principal of the Alaska Children's Trust.

The primary purpose of the Alaska Children's Trust is to work in partnership with communities, private business, and government to reduce and prevent child abuse, neglect, and family violence. The Children's Trust will improve the status of children in Alaska by generating funds and committing resources to promote healthy families and by assisting in developing healthy communities.

DD/ljh

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• Senate Community & Regional Affairs Committee

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