

ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 8672

10147 SENATE STATE AFFAIRS



# RECORDS CERTIFICATION



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A handwritten signature in cursive script, appearing to read "P. J. Davis", written over a horizontal line.

Signature of Camera Operator

12/5/2001  
Date

1999-2000

SENATE STATE OF AFFAIRS COMMITTEE

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MICROFICHE #

CONFIRMATION HEARINGS

PIONEER HOME REVIEW, 3/11, 3/25, 4/15/99

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SENATE STATE OF AFFAIRS COMMITTEE

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MICROFICHE #

HB 192

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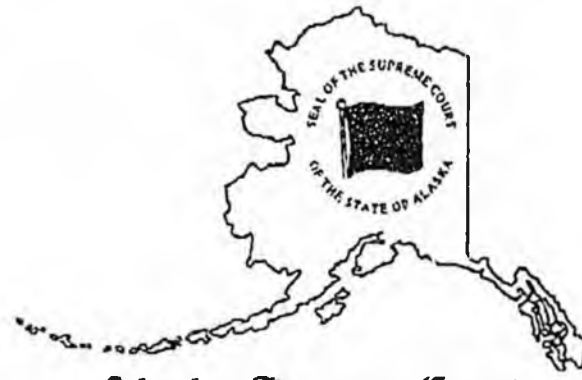
Confirm.

Hearings

1999 -

2000

*For  
Confirmation*



WARREN W. MATTHEWS  
CHIEF JUSTICE

**Alaska Supreme Court**

303 K STREET  
ANCHORAGE, ALASKA  
99501-2083

(907) 264-0618  
FAX (907) 264-0878

November 16, 1999

The Honorable Drue Pearce  
President of the Senate  
716 West Fourth Avenue, Suite 500  
Anchorage, AK 99501-2133

The Honorable Brian Porter  
Speaker of the House  
716 West Fourth Avenue, Suite 360  
Anchorage, AK 99501-2133

Re: Select Committee on Legislative Ethics

Dear President Pearce and Speaker Porter:

I have reappointed Shirley McCoy to serve a full-term as a public member on the Select Committee on Legislative Ethics, commencing January 1, 2000.

Very truly yours,

Warren W. Matthews  
Chief Justice

cc: Shirley McCoy  
Susan Barnett, Staff, Select Committee on Legislative Ethics

## RESUME'

Shirley A. McCoy  
P.O. Box 33475  
Juneau, AK 99803  
(907) 780-6400

Oct. 1979 - Present

Dawson Construction Co.  
P.O. Box 309  
Bellingham, WA 98227  
(206) 734-8130

Office/Credit Manager for Sitka Ready-Mix for 9 yrs. Presently serve as Office Manager in Juneau office. Also Manage Alpha Investments and Delta Mini-Park for Mr. Dawson.

Jan. 1974 - Aug. 1979

Addco Sales & Service  
P.O. Box 824  
Sitka, AK 99835

Bookkeeper/Secretary, Office Manager

Nov. 1967 - Jan. 1974

Sears Roebuck and Co.  
905 Halibut Pt. Rd.  
Sitka, AK 99835

Catalog Sales, Assistant Credit Mgr.  
Started/Headed their Phone Sales Dept.

## Education:

Robert E. Lee High School: Dallas, TX - 1963 (completed Junior Yr.)  
Sitka Community College: Sitka, AK - 1973 (completed GED)  
Islands Community College: Sitka, AK - 1971-74 Classes in Business Administration, Accounting, and Liberal Arts.

Resume' Shirley A. McCoy Cont'

Page 2 of 2

**Civic Involvement:**

Served as Vice Present of the Sitka School Board from 1983 until 1989. Elected 2 terms, did not run for a 3rd as I knew we were moving to Juneau. Helped to organize and run the Miss America Pageant in Sitka and served as Executive Director for 8 yrs.

**Personal References:**

Dan Keck, Mayor of Sitka  
John Newell, Chief of Police, Sitka  
Ernestine Griffin, Former President of the Sitka School Board  
Lloyd James, Former Commissioner  
Jack Dawson, President of Dawson Construction Co.  
John Dapcevich, Former Mayor of Sitka  
Retired Senator Dick Eliason, Sitka  
Rep. Ben Grussendorf, Sitka

# ALASKA STATE LEGISLATURE

Senator Jerry Ward, Chairman  
Senator Lyda Green, Vice Chair  
Senator Jerry Mackie  
Senator Randy Phillips  
Senator Kim Elton



Interim: 716 W. 4<sup>th</sup> Ave., Ste. 450  
Anchorage, AK 99501-2133  
Phone: (907) 269-0106  
Fax: (907) 269-0109

Session: State Capitol - Rm. 125  
Juneau, AK 99801-1182  
Phone: (907) 465-4940  
Fax: (907) 465-3766

## Senate State Affairs

### REPORT ON CONFIRMATION OF APPORINTMENTS

March 2, 2000

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

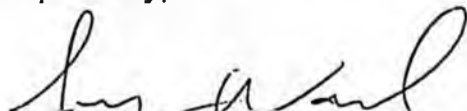
Dear President Pearce:


In accordance with AS 39.05.080, the Senate State Affairs Committee reviewed the following and recommends the appointment be forwarded to a joint session for consideration

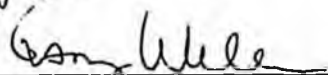
Alaska Public Offices Commission (APOC)  
Andrea Jacobson of Ketchikan

There were no stated objections to the confirmation of the named individual by committee members. This does not reflect an intent by any of the members to vote for or against her during further sessions.

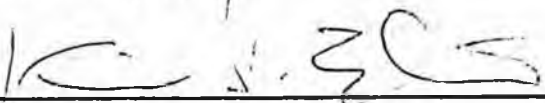
Respectfully,

  
\_\_\_\_\_  
Senator Jerry Ward, Chair

  
\_\_\_\_\_  
Senator Lyda Green, Vice Chair

  
\_\_\_\_\_  
Senator Gary Wilken

  
\_\_\_\_\_  
Senator Randy Phillips

  
\_\_\_\_\_  
Senator Kim Elton



OFFICIAL BUSINESS

**Alaska State Legislature**  
**Senate**  
**Office of the Secretary**

STATE CAPITOL  
JUNEAU, ALASKA 99801-1182  
(907) 465-3701  
FAX: 465-2832

February 10, 2000

**M E M O R A N D U M**

TO: Senator Ward, Chair  
State Affairs Committee

FROM: Heidi Vogel  
Secretary of the Senate

A handwritten signature in black ink, appearing to read "HV", with a long, sweeping flourish extending upwards and to the right.

SUBJECT: Governor's Confirmations

Pursuant to AS 39.05.080, President Pearce has referred the following name for legislative confirmation to your committee for a hearing, recommendation and report:

**Alaska Public Offices Commission (APOC)**

Andrea Jacobson of Ketchikan

Appointed: 05/26/1999 Expires: 02/01/2004

HV/kcw  
Resume attached

ANDREA JACOBSON  
15 WOOD RD.  
KETCHIKAN, ALASKA 99901  
(907) 225-6631 work

### Current Position

I am currently a Corporal in the Investigations Division of the Ketchikan Police Department and have been active in the field of law enforcement for 18 years. I received a Basic Certificate from the Alaska Police Standards Council in 1984, an Intermediate Certificate in 1985, and an advanced certificate in 1989. I have been an Investigator for over 12 years with the predominant caseload being the investigation of child abuse, sexual assault, domestic violence, and white collar crimes.

I have taught classes for various groups including law enforcement which were related to the topics of sexual assault investigation, child abuse investigation, domestic violence, and drug investigation. I have trained staff, volunteers, and board members of the local women's shelter on these topics. I have also been asked to speak to community groups at events such as the Evening of Unity (honoring survivors of domestic violence), the Celebration of Women (sponsored by the Native community), and the Youth Peace Conference. I have also been a participant in sexual assault awareness classes being offered at the middle school and high school levels. I instituted the Officer Friendly program in elementary schools which educates primary students on the role of police officers in the community and about safety issues.

### Educational Background

I attended the University of Dallas for two years including one semester at the campus in Rome, Italy. I then transferred to the San Francisco Art Institute for three years where I received a Bachelors of Fine Arts degree in photography in 1979. I received a Masters of Art in Teaching from the University of Alaska Southeast in 1992. I also hold a teaching certificate for Alaska for Elementary Education.

### Training

I completed the 21st Municipal Police Academy in Sitka in 1982 which included specific training in the investigation of sexual assault and domestic violence. I have over 1200 hours of training in law enforcement topics.

### Memberships

- Alaska Peace Officers Association
- International Association of Women Police
- American Professional Society on the Abuse of Children
- Served 4 years (3 as chair) on the Board of Directors for Women In Safe Homes, a shelter dedicated to help victims of domestic violence, sexual assault, and child abuse.
- Served 5 years (2 as chair) on the Board of Directors for the Ketchikan Area Arts and Humanities Council



OFFICIAL BUSINESS

Alaska State Legislature  
Senate  
Office of the Secretary

STATE CAPITOL  
JUNEAU, ALASKA 99801-1182  
(907) 465-3701  
FAX: 465-2832

March 27, 2000

**MEMORANDUM**

TO: Senator Ward, Chair  
State Affairs Committee

FROM: Heidi Vogel  
Secretary of the Senate

A handwritten signature in black ink, appearing to be "H. Vogel", written over the "FROM" line.

SUBJECT: Governor's Confirmations

Pursuant to AS 39.05.080, President Pearce has referred the following name for legislative confirmation to your committee for a hearing, recommendation and report:

**State Commission for Human Rights**

Lisa M. Fitzpatrick - Anchorage

Appointed: 03/21/00 Expires: 01/31/05

HV/kcw  
Resume attached

Lisa M. Fitzpatrick  
2822 Iliamna Avenue  
Anchorage, Alaska 99517

BOARDS & COMMISSIONS  
FEB 15 2000

## **EDUCATION**

**NORTHEASTERN UNIVERSITY SCHOOL OF LAW - Juris Doctor degree, 1983.**

**UNIVERSITY OF VERMONT - Bachelor of Arts in Political Economic Studies, 1979.**

## **LEGAL EXPERIENCE**

**CRIMINAL JUSTICE ASSESSMENT COMMISSION - CONTRACT ATTORNEY (3/99 - present).**

As staff to Criminal Justice Assessment Commission, provided legal advice and, in conjunction with the Alaska Judicial Council, drafted the Commission's final report.

**HEARING OFFICER (6/92 - 3/99).**

Served as an administrative hearing officer for the Alaska Coastal Policy Council, the Alcoholic Beverage Control Board, the Alaska Police Standards Council, the Professional Teaching Practices Commission, the President of the University of Alaska, the Commissioner of the Department of Health and Human Services, and the Commissioner of the Department of Administration.

**OFFICE OF THE ATTORNEY GENERAL (3/89 - 4/92).**

Assistant Attorney General assigned to provide legal services to the Department of Labor.

**ALASKA PUBLIC DEFENDER AGENCY (9/85 - 3/89).**

Served as an assistant public defender in Anchorage, Juneau and Kotzebue. Responsibilities included trial and appellate work and, while in Kotzebue, supervising staff.

**GILMORE & FELDMAN (6/85 - 9/85 and 3/83 - 6/83).**

Associate in small firm specializing in criminal and civil litigation.

**THE HONORABLE RENE GONZALEZ (1/85 - 6/85).**

Judicial Clerkship.

**THE HONORABLE BRIAN C. SHORTELL (8/83 - 9/84).**

Judicial Clerkship.

Lisa M. Fitzpatrick  
Resume

Page 2

### **OTHER/CURRENT ACTIVITIES**

Member of the Alaska Bar Association since 1984;  
Government Hill Elementary School, PTA President;  
Alaska Bar Association, Law Examiner's Committee, Drafter;  
Municipality of Anchorage, 1% for Arts Committee.

### **REFERENCES**

The Honorable Dana Fabe  
Alaska Supreme Court  
303 K Street  
Anchorage, Alaska 99501  
(907) 264-0622

The Honorable Brian Shortell  
Courtroom K  
303 K Street  
Anchorage, Alaska 99501  
(907) 264-0430

Stephanie Cole  
Administrative Director  
Alaska Court System  
303 K Street  
Anchorage, Alaska 99501  
(907) 264-0547

Teri Carns  
Senior Staff Associate  
Alaska Judicial Council  
1029 W. 3<sup>rd</sup> Avenue, Suite 201  
Anchorage, Alaska 99501  
(907) 279-2526

Pioneer

Home

Review

3/11 - 4/15/99

9/98 APH

Forget regulations.  
 Step out of the box.  
 Remove the box.  
 Develop around Front lines.

Front lines- clear responsibility of ALL the staff for ALL the residents.

'Educare' (educate) means "to lead out"

Compartments: Educate

Inform

Involve

Inspire

See change happen - don't just inform!!

Culture change is an on-going process, a continuing process of growth not a program to be installed for once and for all

Culture change is "not a destination but a journey"

Culture change is always "a work in progress"

Practice self-evaluation, probing and asking questions, always searching for how it can be done better.

Keys to valuing and respecting residents:

- Beginning decision making as close to the resident as is possible
- Putting the "person before the task"
- Accepting risk taking as a normal part of adult life
- Enjoy residents as "unique individuals"
- Seek to respond to spirit as well as mind and body needs

Keys to valuing and promoting potential of residents and staff:

- Building teams so the talents of all staff can be utilized for the benefit of the residents and for their own satisfaction
- Seeking growth and development of residents and staff
- Promoting creativity in staff, residents and families
- Restraint FREE management
- Identifying strengths in staff, residents and families and building on them
- Make the most of individual growth and development

Commonalities in Culture Change:

- It is anchored in identified values, principles and practice
- Certain issues and experiences are common to the process of culture change:
- Leadership: must be a CHANGE-MAKER at the top, as well as some staff members throughout the organization committed to change

## WHERE ARE WE?

Look at the list of things we have accomplished!!!

- Transitioned from Nursing to Assisted Living Model
- Overlapping team structure with members from all disciplines of Home
- Developed Vision: A team committed to creating a caring environment that enriches the lives of our residents and staff, and reaches out to Alaska's ADRD community
- Vision/Mission/Dementia Training -Home Wide
- Re-defined quality of care with focus on "24 hours in the life of the resident"
- On-going emphasis on resident focus as opposed to "task" orientation
- Dismantled IDT and implemented on-going care conferences involving the teams and family
- Changed all PDQs for caregivers with emphasis on team development and resident focus.
- Flattened management changing role to one of mentorship and team support
- Evolving towards self-directed teams
- On-going cross training of team members interdepartmentally (examples rotations in pharmacy, PT and Specialty Services)
- Development of team facilitator positions
- Enhancing professional development of team members by including them in hospital care conferences post hospitalization
- Involvement of team members in new resident interview process
- Networking with Alzheimers' Association. Includes on-going on site trainings plus rotation of care team members through that agency in near future
- Care team member introduction to other out reach agencies by visitation at sites (has already started for some staff members)
- Development of palliative care program/hospice training
- Development of team support group in progress
- Family educational outreach meetings once a month
- Development of "life review" in process of determining individualized quality of care
- Development of Life Stations on Special Care Units
- Introduction of / beginning process of development of Eden Alternative
- Validation Therapy program development within next 6 months as target for entire APH team.
- Increased care team member involvement in outside educational seminars
- Changed role for Licensed Support Staff members
- Enhanced Communications Home-wide with E-mail
- Developed team resource stations
- Development and usage of selection matrix as tool for hiring by teams
- Unscheduled Leave policy re-written by Interdepartmental committee

- Developing clinics with holistic approach vs medical model
- Medication administration by certified nurse aides. Training and implementation
- Development of policy of for medication administration which incorporates QA factors
- Just began on-going classes by pharmacy. First class to include Insulin administration, diabetes, blood sugars, hypoglycemia/care related issues and symptoms. Second class: Coumadin and related care issues. Third class is pain management. On-going classes according to team needs and requests. Will be done by-monthly
- Empowered South Side Team members to cross train with other teams to facilitate team process, self-direction and resident focused care as opposed to task orientation. Began week of 8-10.
- On-going monthly educational calendar. Future goal to have team members teaching classes
- Have developed outreach resources: geriatric psychiatrist, home health, rehab, OT, hospice, skin integrity specialist, OT, hospice, skin integrity specialist
- Beginning stage of environmental re-engineering to include physical factors and environmental factors appropriate for elders and residents with dementia related diagnosis
- Implementation of "Family Nights" on units
- Pet therapy program development
- Development of "Back to Work Program"
- Starting 9-1-98 Implementation of new employee orientation program
- Development of "At a Glance" resource books which reflect P&P for Assisted Living philosophy and statutes.
- Implementation of scheduled quarterly review for individualized resident living plans
- Alzheimers' Association on site trainings to begin 8-26-98. First classes emphasize communications with persons with dementia diagnosis with a focus on socialization, activities and how to create an activity out of a task or ADL
- Development of risk management program and on-going safety committee meetings held monthly
- Team member level of care committee which meets weekly
- Creation of two Special Care Units and currently planning the creation of the third special care unit
- Three team members from South Side to begin training for certification in exercise therapy

When our changes and structure were described it was evident that there was much fear and resistance. Even nurses who said they were very "open" had difficulties with certified nurse aide administration. It was as if they couldn't even contemplate it. They talked about empowerment and restraint free management but in the next breath wanted to control exactly what curriculums etc. were taught.

They were very curious about the overlapping shift structure but stated there would be too many disruptions in peoples' lives to implement this. Once again this is a group that touts "resident focused care".

As far as team structure I'm not sure their definition of team. Non of the facilities described interdepartmental teams such as ours. They were astounded by the flattening of management! I'm sure we would be considered "radical". The interesting thing is that they all wanted to know "how to do it" and had hope that it was possible. One place in Rochester, New York asked Leslie and I to come in as consultants. Many wanted to visit Alaska.

I was amazed when I actually outlined all we have done. We really have come a LONG way. Yes, change is on-going but we've made some big leaps one step at a time.

John, wish you could have been there. Leslie and I both mentioned it several times. You could have experienced just how far we have come! I know I'm repeating myself but I truly was astounded.

These Pioneers have been working on the change in the Nursing home culture since 1976. (or there abouts). The reason there has not been more forward movement is because although change in philosophy has been touted, actual radical structural change has not occurred. If nothing changes- **NO CHANGES!!!!**

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**NEW SUGGESTIONS:**

- Create "neighborhoods" as opposed to Units
- Regularly scheduled community meetings which involves residents and staff on ALL neighborhoods
- Fine tune 24 hours in the life of a resident. Develop QA to track
- Continue to promote resident focused environment. Continue process of UN-learning task orientation
- Strengthen and implement "Life Review" program
- Move towards restraint free environment
- Drop certified nurse aide label (ie Team member)
- Begin Eden Alternative training and program development
- Validation therapy within next six months
- Creation of third Special Care Unit
- Develop restraint free management concept which enhances creativity of teams
- Goal of one team/family care conference per week per neighborhood
- Incorporate "nightengale" philosophy of fresh air, out of doors, sunlight
- On-going staff development by education and diversity in opportunities to stretch professionally
- Unification of APH Home as a solid Team where everybody makes a difference

How do you create a HOME in a bus station? You can't. Reduce the scale of the neighborhoods you are creating. Choice is not meaningful if distance too large, elevators involved etc. There exists a loss of choice and control with larger scale neighborhoods. Continue development of appropriate environmental factors

- Offer regularly scheduled staff support groups. (grief/loss/dementia care issues)
  - Team focus, Team focus, Team focus... we've only just begun
  - Develop employee recognition. A sense of appreciation every day
  - Democratization of decision making with no supervisor model
  - Continue to re-learn and implement evolving new roles of managers as teachers, support and mentors
- 
- Empower team members by establishing P&Ps that incorporate protocols ...  
Example " If this happens... this is what you do.
  - Educate teams on positive problem solving process and communications

We need to recognize that a big piece of empowerment is not only a shared and reinforced vision but having the information they need to do their job.  
Education and POSITIVE mentorship

### Summary of Meeting of Pioneers in Nursing Home Culture Change:

The paradigm has shifted in regards to what "quality of life" is.

Philosophy radically different from traditional nursing model.

#### See Quality of Life Ethos

- Champion the belief that residents can grow, learn and develop as long as they are alive.
- Develop a resident community that empowers our elders in their relationship to the facility and to the world around them.
- Touch the hearts, minds and spirits of residents so together we can forge a positive shared reality which draws them from confusion to orientation.
- Challenge negative stereotypes of age and disability by relating to residents as members of a community of elders with a valuable legacy of wisdom and experience.
- Enrich the resident's environment by infusing daily life with beauty, meaning, learning, joy and pleasure.
- Assist residents to function at their highest possible level despite physical, psychosocial or spiritual disability, loss or needs.
- Protect daily living skills and cognitive function by engaging residents with honesty, respect and encouraging choices in their daily life.
- Teach resident's rights and advocate for these within the facility.
- Nurture residents with warmth and closeness of our friendship.
- Connect residents to their past and future by building a meaningful life in their present.

Written by The Live Oak Group.

All presentations solid in regards to new view of quality of life. Choice, regaining sense of control and purpose, combating loneliness, helplessness and boredom were key issues discussed. The Eden Alternative "restores diversity socially and biologically, brings richness, spontaneity and greater normalcy to daily life".

Decision making starts closest to the resident.

---

Philosophy was powerful and right on, however, groups were barely in the beginning phases of actual culture change. Concepts in care changed, adding enriching programs changed but no significant structural changes evident. I was amazed at how far ahead of the game we are here. Leslie and I were surrounded constantly by people asking us "how do you do change". They wanted a blue print on how to make change happen.

January 11, 1999

Dear Senator Ward

Wilma died Saturday night. She and my mother-in-law Margaret had known each other for 50 years. They met when they both had civil service jobs at Elemndorf sometime in the 40's. I first met Wilma in 1975 She lived in a small house by the airport. To say that Wilma never threw anything away would be an understatement. I looked around her house and knew somewhere in one of the many stacks of newspapers was probably the first one ever delivered to her doorstep. She was going to read them all when she got the chance. What a good-hearted person she always was. When you met her you knew she was a true Alaskan and the first one to come to anyone's aid.

Wilma never had any reason to fear anyone until she was 70 years old and she tried to help someone who wanted to hurt her. She was brutally attacked and had to be hospitalized. A lot of things changed that night Wilma lost her trust. The police officer who worked the case was so disgusted he quit the force after the man was sent to prison. Wilma moved into the Anchorage Pioneer's Home in 1997. It was to be a safe haven where she could live out the remainder of her life secure.

In April my mother-in-law moved to Chugiak. I went to get Wilma from the Pioneer Home to surprise Margaret. I was the one who got the surprise. I was told Wilma now had a public guardian and I had to have her permission to take her out of the home. I called the public guardian she said I could not take Wilma out of the home. Wilma had paid companions to take her where ever she wanted to go. I felt like Wilma had become State property. So I started taking my mother-in-law to Anchorage to see her friend of 50 years.

On the first visit Wilma was up walking around the two of them held hands and strolled around. The second time I took her to see Wilma she was tied to a chair and a man was walking around in her room. I escorted the man out of the room. I left the two old friends alone to talk about whatever an 80 year old and 83 year old talk about. When one is almost blind and both have their own varying degree of dementia.

When I returned Margaret said "Kathy you know I can't see, Wilma was uncomfortable so I put pillows all around her." Will you see if I did it right? I viewed the loving care one old friend had given the other. Wilma was surrounded with small plastic diapers - Margaret thought they were pillows. "Did I do it right she asked apprehensively"? Both of them were looking at me for a reply. "Yes Margaret you did a wonderful job."

I went to see Wilma on Thanksgiving Day. Behind the closed doors of gardenview she sat tied to a reclining chair in her room. She had a wanderguard attached to her ankle, a small device designed to sound an alarm should she get near an exit. For a brief moment it flashed through my mind "are prisoners under house arrest treated in this manner".  
**NO! I think not.**

Christmas days visit found Wilma still tied to the recliner in her room. New Years Day still tied to the recliner but sitting staring at me like a zombie. This frail little old lady was also given tranquilizers.

The holidays were causing a staff shortage even greater then normal. Wilma had been found in her room tied to her recliner with a man lying on top of her. The man was a patient transferred from Harborview. No one knew how many hours he had been there because the door was closed.

There would only be one more episode the same man I had escorted out of her room again was found sitting in her room with the door closed. I know in my heart she had to have felt terror.

I am asking for this 21st legislative session to pass a "Wilma's Law." Legislation that protects all of our Senior Citizens in assisted living homes from physical and chemical restraints. Legislation that does not allow frail elderly persons to be victimized. Intact licensing regulations that are equal to skilled nursing home licensing.

It will only be then that Wilma will truly be free from the ties that bound her.

Respectively submitted,

*Kathleen Emmons R.N.C.*

Kathleen Emmons RN, C.  
P.O. Box 770416  
Eagle River, Alaska 99577

## TESTIMONY FOR THE SENATE STATE AFFAIRS HEARING ON THE ANCHORAGE PIONEERS' HOME

For the Record, Mr. Chairman, I am Lisa Caress-Beu. My mother has been a resident of the Anchorage Pioneer Home since 1994.

I would like to thank you, Senator Ward for calling for this hearing. I have provided your office with documents from the record files of the Anchorage Pioneer Home that show my mother has suffered 52 falls in the last 2 years. I have documents showing a dozen medication errors that occurred in my mother's care in the last year. Fortunately none of these medication errors have resulted in permanent damage to my mother, as far as we know. I was never notified when these errors occurred and neither was her physician. Since I have repeatedly voiced concerns about both CNAs administering medications and staffing shortages, I'd like to read the information from one of these documents - This report references a day that my mother did not receive her 2 o'clock heart medication.

The report asks- "What contributed most to this situation? The response reads: Neither days or evenings shifts gave med- maybe because hall was short-staffed-there was staff on duty at this time. Communication failure among those working day shift".

I have 4 medication error reports for 1998 that show that my mother did not receive her afternoon heart medication until the night shift came on and caught the error. I have reports from three different days that show that she did not receive any of her morning medications at all. I have one that shows that she did not receive an anti-seizure medication at all for 4 continuous days. I have another that shows that she was double dosed on her heart medication. All these errors were the result of CNAs administering my mother's medications. All of the errors were caught by a licensed or registered nurse. I have asked that my mother's medications only be administered by a licensed or registered nurse and have been given reassurances that the CNAs have been properly trained in this task. I now know that my concerns are well justified.

Deputy Director Alison Elgee references the medication administration concerns of families in her March 8, 1999 letter to the Long Term Task Force Chairs about the Public Forum held at the Pioneer Home in January. She says the family concerns are about whether the pharmacy is filling expired prescriptions or whether physicians are prescribing new medications without discontinuing present medication. I assure you that is not the cause for my concern. Perhaps Ms. Elgee needs to do more research with families to find out the real causes for their anxiety. I have provided Commissioner Poe the documents that outline these medication errors and falls, He certainly has my permission to make them available to her.

The Pioneer Homes say they are no longer a medical model-they are focusing on the psychosocial aspect of care-If the medical needs of these residents are not profound, why do they require an in-house pharmacy? These people are frail and many are ill and it is time that the Pioneer Homes Systems wake up to that reality. Provide them with beautiful surroundings if you can afford it - but not at the expense of their very real medical needs

Currently the Dept. of Administration is requesting funds to add at least 60 CNA positions statewide to the Pioneers' Homes, I strongly recommend that some of these funds be dedicated to hire more Registered Nurses rather than exclusively CNA's ! As the documents that I have provided to Senator Ward show, CNAs cannot consistently administer medications safely. These employees should not be put in the position to do things that they are not properly trained for and residents should not be put at risk because the Pioneers' Homes do not allocate funds properly to ensure the resident's needs are being met competently. It is unfair to residents to make promises of appropriate care and then not provide it.

I have provided you Senator Ward, with documents that make reference to the fact that my mother used the call cord, received no response and attempted to move by herself and experienced a fall. She was then reminded that she should WAIT until the staff got there to help her. How long can a resident wait when they have incontinence problems. How long have residents having chest pains waited for help to come. How many residents have died because "help" did not arrive in time? After a CNA responds to a call cord in an emergency, how long does it take to locate one RN on duty at night in a home for 228 residents?

This can not be allowed to continue. AARP has designated 1999 as the National Year of the Older Person - Hopefully Alaska will not look like the "idiot cousin in the attic " to the rest of the nation in our treatment of our elderly! I beseech the Legislature to say "NO MORE DENIAL OF THE PROBLEMS" and see that the Dept of Administration no longer be allowed to run the homes without being fully and competently staffed with trained professionals and their assistants.

*60 E.N.A.s*

March 10, 1999

### Legislative hearing

I am a registered nurse in the State of Alaska I also am certified through the American credential center in Gerontology. I have worked at the Anchorage pioneer's home for 6 years from 1989 to 1996. Contrary to popular belief I was not nor have I ever been a disgruntled employee. As far as I know I have always had excellent evaluations. I resigned from my RN II position at the Anchorage pioneer home in 1996. I resigned because I did not agree with the direction the home was going in and I would not participate in a program where certified nurses aides were giving medications. I did not believe it would be a safe environment for residents of pioneer home.

*as* Registered Nurses ~~w~~e work within our scope of practice. Our first and foremost duty is to be an advocate and protect the people in our care no matter what the setting. Be it Skilled Nursing, facilities Assisted Living homes, clinics, hospitals, Doctors office, schools anywhere there is a person requiring our skills. The Scope of Practice is followed.

Licensed Practical Nurses also have a Scope of Practice they must adhere to. It is recognized when the licensed practical nurse works in a team relationship with the Registered nurse, the licensed practical nurse contributes significantly to each aspect of a process. However, the final responsibility for the process and its application remains with the Registered nurse.

Certified nursing assistants are Unlicensed Assistive personnel (uap's) these are individuals who are not authorized to perform nursing acts or tasks that are regulated by the Board of Nursing except pursuant to legal delegation by a nurse. The Registered Nurse is responsible for the management and provision of all care that a Resident receives under the RN's supervision or direction. The scope of nursing practice permits an RN to assign tasks to UAP's. UAP's refers to health care workers who are NOT licensed to perform nursing tasks through they may be certified or trained.

Certified Nursing Assistants are continually placed in peccary's positions by the administration of the anchorage pioneers home. They are forced to administer medications with only 8 hours of training. Many Certified nurse aides do not want this responsibility.

*Medical Needs  
60 E.N.A.s*

Certified Nursing assistants are illegally giving medications at the Anchorage pioneer. Registered nurses at the home are not delegating this duty. The administration is. Three Licensed practical nurses have just been promoted with raises to assisted living coordinator position. These positions were pervasively held by Registered nurses. Licensed practical nurses have been placed in position of authority over Registered Nurses. A license dictates authority not a position or promotion.

Registered Nurses have been subject to harassment and degradation when they have spoken out on issues related to the safety of persons in trusted in their care. When medication error reports are made out by Registered nurses they are counseled by the administration. The Pioneer Home administration does not have the right to dictate to a Registered nurse not follow the guidelines of the Board of Nursing.

Registered nurses were given letters of instruction. Leslie Brundridge (who has also gotten a promotion and raise) presented them. Two licensed Practical Nurses. Registered nurses were told "They make out to many medication errors". "They have written up medication errors while there was still time to fix the problem". "Documenting fixable errors and letting them slide is not helpful behavior".

We are the nurses that voted for you and Fran Ulmer because we were assured you would not allow this to continue. The Certified nurses aides in Anchorage stood up and spoke out to Lt. Governor Fran Ulmer while she campaigned. Lt. Governor Ulmer told certified nurse aides she had no knowledge of what was going on at the Pioneer Home. Nothing could be done until after the election.

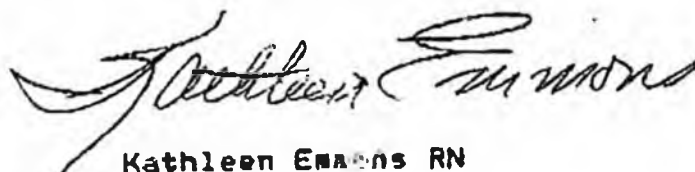
It is beyond my comprehension. Why Registered Nurses are continual treat with disrespect pressured to not follow their scope of practice

March 24, 1998

To Nancy Bourne DNS  
From Kathleen Emmons

Nancy

As you know I do not approve of the Assisted Living changes. I do not want to be held legally responsible for CNA medication administration. Nor do I want to be the only RN in the building for 240 residents. My concern is for the welfare of residents. I have accepted a position at Providence Medical Center. So it is with deep regret that I am submitting my resignation to you. It will be effective on April 6, 1996 at 2300 hours.



Kathleen Emmons RN

## DEPARTMENT OF ADMINISTRATION REQUEST FOR PERSONNEL ACTION

EMPLOYEE'S FULL NAME: <b>Kathleen Emmons</b>		SOCIAL SECURITY NUMBER: <b>565-70-7598</b>	EFFECTIVE DATE: <b>4/6/96</b>
EMPLOYEE'S DIVISION: <b>Senior Services</b>		SUPERVISOR'S SIGNATURE:	SUPERVISOR'S NAME: <b>Nancy Bourne</b>
FROM: <b>Nurse 11</b>		TO/OR NEW:	
POSITION TITLE		POSITION CONTROL NUMBER	
<b>02-7579</b>		<b>15</b>	
RANGE/STEP		LOCATION/DUTY STATION <b>Anchorage Pioneers' Home</b>	
<b>02740410</b>		ACCOUNT(S) CHARGED <b>02740410</b>	
CC	LC (if used)	CC	LC (if used)

See the Department of Administration Supervisor's Manual for list of attachments to be included with this Request for Personnel Action.

- | TYPE OF ACTION  |  |
|---|--|
| <input type="checkbox"/> Probationary Full-time Appointment   | <input checked="" type="checkbox"/> Separation         |
| <input type="checkbox"/> Probationary Part-time Appointment   | <input type="checkbox"/> Dismissal                     |
| <input type="checkbox"/> Partially Exempt/Exempt Appointment  | <input type="checkbox"/> Transfer to _____             |
| <input type="checkbox"/> Nonpermanent Appointment   | <input type="checkbox"/> Retirement                    |
| <input type="checkbox"/> Separation/Appointment (Part-time to Full-time or Nonpermanent to Permanent or vice versa) | <input type="checkbox"/> To Leave Without Pay          |
| <input type="checkbox"/> Promotion  | <input type="checkbox"/> Return from Leave Without Pay |
| <input type="checkbox"/> Demotion   | <input type="checkbox"/> Layoff                        |
| <input type="checkbox"/> Salary Increase  | <input type="checkbox"/> Return from Layoff            |
|   | <input type="checkbox"/> Change in Accounts Charged    |
|   | <input type="checkbox"/> Other                         |
- EEO: H #*

**COMPLETE BOTTOM HALF OF THIS FORM UPON LAYOFF, LEAVE WITHOUT PAY, OR SEPARATION FROM STATE SERVICE**

REASON FOR RESIGNATION: PLEASE SEE RESIGNATION LETTER  
ATTACHED. Letter not attached 04/10/96

Is the employee leaving in good standing?  Yes  No

**ALL EMPLOYEES:**

- All personnel evaluation reports on all staff for whom I have evaluation responsibility are prepared.
- I (will) (have) surrendered; all equipment, keys, identification badges or cards, elevator pass cards, corporate charge cards, notary commission, parking stickers, etc., which were entrusted to me during my employment.
- I (will) (have) clear(ed) all matters pertaining to petty cash funds and travel expenditures (TR books, travel advances, field warrants, relocation expenses) with appropriate personnel.
- I have completed the SBS annuity refund and tax forms.

**FOR PERMANENT, PROBATIONARY, PARTIALLY EXEMPT, EXEMPT, AND EXCLUDED EMPLOYEES:**

- I have been informed of health and/or life insurance continuation rights.
- I have completed the Division of Retirement and Benefits form 02-1808, PEHS Notification of Termination, if applicable.
- I have contacted the Deferred Compensation office, if applicable.

MAIL FINAL PAYCHECK TO:	PERMANENT MAILING ADDRESS (TO BE USED FOR SBS, RETIREMENT, W-2 AND DEFERRED COMPENSATION INFORMATION)
<i>OK</i>	<i>chad</i>
ADDRESS OR P.O. BOX <b>16617 DAVIS ST</b>	ADDRESS OR P.O. BOX <b>Carol Keenan P.O. Box 770916</b>
CITY STATE ZIP <b>EAGLE RIVER AK 99577</b>	CITY STATE ZIP <b>Eagle River AK 99577</b>
EMPLOYEE'S SIGNATURE <i>Kathleen A Emmons</i>	DATE <b>4-11-96</b>
SUPERVISOR'S SIGNATURE <i>Nancy Bourne</i>	DATE <b>4-12-96</b>

REMARKS:

**SB**

**8**



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

**MEMORANDUM**

**TO:** Senator Jerry Ward  
Chair, Senate State Affairs Committee

**FROM:** Senator Dave Donley *DD*

**DATE:** February 10, 1999

**RE:** Hearing request for SB 8

---

I request that you schedule Senate Bill 8 "An Act relating to the minimum plumbing fixtures required for females in the state plumbing code." I do have a sponsor substitute I will be submitting for adoption when SB8 is scheduled to be heard.

Senate Bill 8 will modify existing plumbing code statutes to more closely reflect the most current version of the national uniform plumbing code and increase the number of facilities provided for women in buildings that qualify as "assembly places", such as auditoriums, convention halls, stadiums, etc....

Current Alaska State Statute adopts the 1997 edition of the Uniform Plumbing Code, excluding table 4.1, "Minimum Plumbing Fixtures." Table 4.1, which is the only page of the 1997 code that was not adopted, contains higher requirements for women's facilities than the version that was adopted. Instead, table A29A from chapter 29 of the Uniform Building Code was adopted to serve as the guide for minimum plumbing fixtures within the state. It is this table that Senate Bill 8 will amend to increase the number of facilities for women.

Senate Bill 8 will allow women to attend large public events without enduring the line they will inevitably have to face, thus unfairly impacting the enjoyment of the event they are attending. With this bill, the ratio of women's to men's facilities will be increased to a 3:1 ratio and will attempt to add parity to the situation.

Thank you in advance for your consideration of this request. If you or your staff should have any questions, please contact myself or Simone Sanders of my staff at 465-3892.

DD/srs January-May: STATE CAPITOL • JUNEAU, AK • 99801-1182 • (907) 465-3892 • FAX: (907) 465-6595  
June-December: 716 W. 4TH AVE. • STE. 430 • ANCHORAGE, AK • 99501 • (907) 269-0234 • FAX: (907) 269-0238

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Vice-Chair, Senate Finance Committee • Chairman, Capitol Budget Subcommittee •  
MEMBER: Senate Judiciary Committee • Senate Labor & Commerce Committee • Legislative Council



**SENATOR DAVE DONLEY**  
ALASKA STATE LEGISLATURE

**SPONSOR STATEMENT  
FOR SENATE BILL 8  
"AN ACT RELATING TO THE MINIMUM REQUIRED PLUMBING  
FACILITIES AND FIXTURES IN THE STATE PLUMBING CODE"**

Senate Bill 8 will amend the existing plumbing code in AS 18.60.705 to increase the minimum number of women's facilities in assembly places.

Senate Bill 8 will allow women to attend large public events in buildings constructed after January 1, 2000 without enduring the line they have inevitably had to face, thus unfairly impacting their enjoyment of the event they are attending. With this bill, the ratio of women's to men's facilities will be increased to a 3:1 ratio and bring fairness to the situation.

The current statute adopts the entire most recent Uniform Building Code except table A-29-A which is an older version of the code that provides fewer plumbing facilities for women. Senate Bill 8 will correct this oversight.

Senate Bill 8 amends current statute and specifically addresses the number of facilities provided for women in "assembly places." The current table in statute does provide a slightly elevated number of facilities for women in comparison to those provided for men, but the ratio does not meet the demand. SB 8 will amend table A-29-A currently in statute and mandate a 3:1 ratio for women's to men's facilities.

Senate Bill 8 will improve an unfortunate situation women face at every large event they attend. The lines for the bathroom are a reality for every woman who attends functions in "assembly" places such as auditoriums, convention halls, stadiums, etc.... Senate Bill 8 will increase the ratio and afford women the same benefits offered to men at these large events.

Senate Bill 8 will correct a situation that has plagued women since indoor events have been held in the State of Alaska. It is a step in the right direction and will give women the opportunity to enjoy the event they are attending rather than spending the majority of their time in line for the bathroom.

DD/srs

January-May: STATE CAPITOL • JUNEAU, AK • 99801-1182 • (907) 465-3892 • FAX: (907) 465-6595  
June-December: 716 W. 4TH AVE. • STE. 430 • ANCHORAGE, AK • 99501 • (907) 269-0234 • FAX: (907) 269-0238

Vice-Chair, Senate Finance Committee • Chair, Capital Budget Subcommittee •  
MEMBER: Senate Judiciary Committee • Senate Labor & Commerce Committee • Legislative Council

**SENATE BILL 8 COMPARISON  
CURRENT TABLE in AS 18.60.705 vs. UBC TABLE vs. PROPOSED TABLE  
ASSEMBLY PLACES**

**Table A-29-A (currently in AS 18.60.705)**

<u>MEN</u>	<u>WOMEN</u>
1 - 50 men = 1 toilet	1 - 50 women = 3 toilets
51 - 100 men = 1 toilet/1 urinal	51 - 100 women = 4 toilets
101 - 150 men = 2 toilets/1 urinal	101 - 200 women = 6 toilets
151 - 300 men = 2 toilets/2 urinals	201 - 400 women = 8 toilets
301 - 500 men = 3 toilets/2 urinals	401 - 525 women = 9 toilets
501 - 700 men = 3 toilets/3 urinals	526 - 650 women = 10 toilets
701 - 900 men = 4 toilets/3 urinals	651 - 775 women = 11 toilets
**After 400 men, each additional 200 men adds one toilet/urinal to the equation	776 - 900 women = 12 toilets
	**After 400 women, each additional 125 women adds one toilet to the equation

**Uniform Building Code Table 4.1**

<u>MEN</u>	<u>WOMEN</u>
1 - 100 men = 1 toilet/1 urinal	1-50 women = 3 toilets
101 - 200 men = 2 toilets/2 urinals	51 - 100 women = 4 toilets
201 - 400 men = 3 toilets/3 urinals	101 - 200 women = 8 toilets
401 - 900 men = 4 toilets/5 urinals	201 - 400 women = 11 toilets
**After 400 men, each additional 500 men adds one toilet to the equation	401 - 525 women = 12 toilets
***After 600 men, each additional 300 men adds one urinal to the equation	526 - 650 women = 13 toilets
	651 - 775 women = 14 toilets
	776 - 900 women = 15 toilets
	**After 400 women, each additional 125 women adds one toilet to the equation

**Proposed changes to Table A-29-A (SB 8)**

<u>MEN</u>	<u>WOMEN</u>
Same table as A-29-A	1 - 50 women = 8 toilets
	51 - 100 women = 10 toilets
	101 - 200 women = 12 toilets
	201 - 400 women = 14 toilets
	401 - 525 women = 16 toilets
	526 - 650 women = 18 toilets
	651 - 775 women = 20 toilets
	776 - 900 women = 22 toilets
	**After 400 women, each additional 125 women adds two toilets to the equation



Fueller A. Cowell  
Publisher

Patrick Dougherty  
Editor

Michael Carey, Editorial Page Editor

Gerald E. Gray, Publisher, 1984-1993  
Katherine Fanning, Editor and Publisher, 1971-1983  
Lawrence Fanning, Editor and Publisher, 1967-1971  
Founded in 1945 by Norman C. Brown

## Housekeeping

*A few of the early bills make sense*

Alaska's lawmakers likely will burn midnight oil and many hours and spend much ink and computer memory on the state's budget deficit. If they lead well, they'll also devote a fair share of time to longer-range budget planning and decisions about what we want from state government and what and how we're willing to pay for it.

But they have smaller issues to tend as well.

Sen.-elect Kim Elton has a bill to reverse legislation that denies Alaska Permanent Fund dividend checks to Peace Corps and VISTA volunteers who are living outside the state. This is just common decency. Like soldiers and diplomats, these volunteers serve the United States and Alaska by trying to make life better for people. Like soldiers and diplomats, they're employees of the federal government. Like soldiers and diplomats, they deserve the same check that goes to other Alaskans.

Rep. Fred Dyson wants to require bounty hunters to notify police or Alaska State Troopers before they try to apprehend a fugitive. Professionals already do. But last fall on the Kenai, according to state troopers, three not-so-professional bounty hunters burst into a home and abducted a Washington man on the lam. This dimwitted raid could have resulted in trouble for all concerned and it wasn't necessary at all. Leave the maverick bounty hunter scenes to Hollywood. Leave the arrests to law enforcement officers.

Sen. Dave Donley wants to shorten lines for women at restrooms. His proposal requires 50 percent more toilets in women's restrooms than in men's restrooms for new public buildings that handle more than 100 people. This is about as basic as housekeeping gets. It may not be the sort of issue we think of when talk about representative government, but it is looking out for the people's best interests. There shouldn't be any objections.

This is all common-sense legislation.

Thornier issues are in the works already, too. Rep. Ramona Barnes wants to put all of the excess earnings of the Alaska Permanent Fund back into the principal, or corpus, of the fund. That could become part of the wider debate about the future of state government and how to pay for it.

Rep. Norman Rokeburg has a plan to split tobacco settlement money between medical assistance for needy Alaskans and anti-smoking programs. The latter will particularly appeal to anti-smoking activists, who argue with some logic that a tobacco settlement should go toward the fight against tobacco addiction. But the Knowles administration wants to use some of the money for child protection programs, and budget woes may prompt other lawmakers to mark the tobacco money for something else.

Lawmakers will bear the burden of the old curse — may you live in interesting times. May they be blessed with good judgment, senses of humor and generosity of spirit.

## Good season

*Hockey lights it up in Anchorage*

Canada's favorite sport has long been a hit in Anchorage, where hockey is a natural. But this season so far has been particularly bright.

More ice in the works. Hockey players, along with oth-



## Public radio helps Bush de

Let me state right up front that I have a vested interest in what I'm about to say. I am a member of the board of directors, a volunteer on-air announcer and a committed listener to our local public radio station in Barrow.

Actually, now that I think about it, I really don't have a vested interest in the radio station, since none of the above positions provide me with money or other personal gain. For the privilege of being a volunteer, I get to spend my Saturday mornings, summer evenings and New Year's Eve broadcasting shows. I get to spend my lunch hour at board meetings, and, despite my financial contributions during the annual membership drive, I'm not eligible for any prizes because of my affiliation with the station. I do all this because I firmly believe in the concept of public radio and its role in the life of our democracy.

When former Anchorage Mayor Tom Fink wrote about the state's current fiscal situation (Opinion, Dec. 21), he stated that the state should get out of the public radio business as part of its cost-cutting measures. That's a statement that can only be made by someone who does not live in Bush Alaska. It seems a logical extension of the negative attitude the Legislature has shown to the Bush over the past few years.

In order for a democracy to function well on all levels, it must have an informed



**ELISE PATKOTAK**

electorate. I don't know what it's like in other Bush areas of the state, but I do know that here on the North Slope, people are very interested in issues that affect them. It is not at all unusual to hear animated conversations going on at the store or the post office about the borough budget, whaling issues or the latest land-use regulations.

Without public radio in the Bush, these types of discussions will be sharply curtailed because the ability to get information to a wide audience in a cost-efficient manner will be gone. Our public radio station covers over 90,000 square miles. It receives \$150,000 from the state to provide this service. The people of the North Slope pledge over \$100,000 each year to help keep the station on the air. I'd say we are doing what we can to support our local station and let the world know how important it

*Our public radio sta  
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is to our lives.

I know the North Slope has an economy that many parts of Bush Alaska don't have. This means that people in other areas may not be able to support their station to the level that people here do. But that does not mean that they have any less right to be kept informed about the activities of their local, state and federal government. I firmly believe it is the responsibility of those governments to see that every citizen has access to information about government activities. Keeping the electorate in the dark is against everything a democracy stands for.

Public radio is the cheapest and most efficient method of disseminating information that we have available today. Here on the North Slope, KBRW broadcasts everything from Assembly meetings to school board budget hearings to MMS discussions

## Clinton's 'signature' plan is c

TFT

**Subject:** Women's restrooms

**Date:** Sun, 10 Jan 1999 14:58:47 -0900

**From:** Pamela Rogers <progers@alaska.net>

**To:** Senator\_Dave\_Donley@legis.state.ak.us

Thank God someone is finally taking the issue of toilets for women seriously. Senator Donley, are you aware that the Bank of America building, purchased by the legislature for state offices, has only two toilets in the women's bathroom on each floor? As opposed to the men's bathroom on each floor, which has two urinals and two toilet stalls.

I work for DNR, Division of Oil & Gas. We are slated to move there at the end of this month. When several of us (women) expressed concern about the lack of toilets, our male bosses and co-workers laughed at us. They think it's a real hoot. We don't.

According to Saturday's Daily News article, your bill will only apply to new public buildings. I am begging you to consider our plight, and to figure out a way to force the Dept. of Administration to provide adequate toilet facilities for its women employees in the BOA building.

The state is going to try to cram as many people as possible onto each floor, and half of those people are going to be women. For the the women to have only two toilets while the men have four is really unfair.

You're going to get a lot of derision and chiding over this issue. Don't let them. I can't begin to tell you how much I appreciate your recognition of this problem.

Pam Rogers  
10501 Stroganof Dr.  
Anchorage, AK 99516-7218

Non-Con  
18-357 R

**SB**

**69**

# Alaska State Legislature

## Senate

**JERRY WARD**

State Capitol  
Juneau, AK 99801-1182  
Phone (907) 465-4940  
Fax (907) 465-3766

716 W. 4th Ave., Ste. 450  
Anchorage, AK 99501-2133  
Phone (907) 258-8183  
Fax (907) 258-0820

145 Main Street Loop  
Kenai, AK 99611  
Phone (907) 283-7996  
Fax (907) 283-3075



### SB 69

Advisory vote of the people to elect the Attorney General.

SB 69 allows an advisory vote of the people to begin the process of electing the State's Attorney General. Most states elect their Attorney General, there are currently five states where the governor appoints the AG; Alaska, Hawaii, New Hampshire, New Jersey, and Wyoming. One state, Maine, where the legislature elects the AG; and Tennessee, where the judges of the state supreme court appoint the AG.

Many times in the history of the state of Alaska, the "appointed" attorney general has followed political whims of the Governor instead of working for the Alaskan people. Under the present governor appointee system, the governor has his own personal lawyer, who very clearly enforces laws as the governor directs, instead of the way it should be, with the Attorney General owing his allegiance and loyalty to the Constitution and the people of the State of Alaska.

The advantages are many for Alaskans with an elected attorney general:

- A Department of Law that serves only the people of Alaska.
- That stands up for Alaskans.
- Answers only to the Alaskan people.
- Interprets the Constitution, instead of the Governor.
- Works directly for Alaskans.

Past experience shows us that appointed attorney generals do not have Alaskan's Rights at heart. We have had attorney generals drop very important actions at the insistence of the Governor:

- Statehood Compact
- Subsistence Lawsuit
- State's Rights issues
- 90/10 Royalty NPRA

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

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

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

**MEMORANDUM**

February 15, 1999

**SUBJECT:** Attorney General

**TO:** Senator Jerry Ward  
Attn: Mark Hodgins

**FROM:** Tamara Brandt Cook  
Director

TBC

You have asked a number of questions regarding the office of the attorney general.

(1) Who is the attorney general legally required to represent and provide advice to?

Although there are many other specific provisions that apply to the attorney general and the Department of Law, AS 44.23.020 sets out the general duties and powers of the attorney general. Subsection (a) makes the attorney general "the legal advisor of the governor and other state officers." Note that the attorney general is specifically authorized to give legal advice and furnish written legal opinions to members of the legislature, as well as to other state officers. (AS 44.23.020(b)(4))

With respect to representation, the attorney general is charged with bringing and defending actions for the collection of revenue (AS 44.23.020(b)(1)); representing "the state in all civil actions in which the state is a party" (AS 44.23.020(b)(2)); and prosecuting "all cases involving violation of state law" (AS 44.23.020(b)(3)). Additionally, the attorney general has the powers ascribed at common law, including the power to bring any action he or she thinks necessary to protect the public interest. The attorney general has discretionary control of the legal business of the state, both civil and criminal, and the exercise of that discretion is not subject to control or review of the courts on separation of powers grounds. (Public Defender Agency v. Superior Court, 534 P.2d 947 (Alaska 1975))

(2) Does the attorney general have the power to enforce constitutional mandates (or overlook constitutional violations) even when directed otherwise by the governor?

Under the reasoning of the Public Defender Agency case the attorney general does have discretion to initiate, prosecute, or dispose of cases (or to fail to initiate cases). However, as the head of a principal department, the attorney general serves at the pleasure of the governor. (Art. III, sec. 25, Constitution of the State of Alaska) The governor has the power to control the discretion of the attorney general by removal from office.

Senator Jerry Ward  
February 15, 1999  
Page 2

(3) If the attorney general has a clear mandate, such as a statute put in place by the people or the legislature, may he or she ignore it if directed to do so by the governor?

Art. III, sec. 16 of the state constitution makes the governor "responsible for the faithful execution of the laws." There are many cases involving the executive's misapplying a statute, but few cases deal with situations where the executive simply fails to implement a statutory scheme that has been funded. However, in National Treasury Employees Union v. Nixon, 492 F.2d 587 (D.C.Cir. 1974), the court stated that it could issue an order requiring the president to perform a ministerial duty that was clearly required by law (in that case the granting of a pay raise), although the court, in fact, simply declared that the president should do so.

As previously pointed out, the attorney general has the discretion in a particular situation to take action or not to enforce a law, regardless of the role the governor may have played in the decision. Nonetheless, there are certainly situations when an action may be brought to challenge a decision of the executive branch that a law is unconstitutional and unenforceable on that ground. (O'Callaghan v. State of Alaska, 914 P.2d 1250 (Alaska 1996) cert. denied 177 S.Ct 1690, 137 L.Ed.2d 818 (1997)), holding the state's blanket primary statute constitutional) Also, following the reasoning in the National Treasury Employees Union case, the court does have authority in some situations to order an agency to comply with a statute or perform a statutory duty. (Ellis v. city of Valdez, 686 P.2d 700 (Alaska 1984; AS 22.10.020(c); AS 22.10.050) However, whether the court would actually order the performance of a duty in any particular case is unknown. The court in the Ellis case specifically reserved its decision regarding the legal effect of a failure of an agency to carry out a mandate. *Supra*, footnote 8, page 706) Mandamus is not available to require the performance of a discretionary act.

(4) What is the difference between an elected attorney general and an appointed one?

Presumably, an elected attorney general would not necessarily be chosen by the governor and could not be removed from office at the will of the governor. This would, I think, change the relationship between the attorney general and the governor.

(5) May the legislature remove the attorney general from office?

The attorney general, along with all other civil officers, is subject to impeachment under Art. II, sec. 20 of the state constitution.

(6) How would I describe the duties of the attorney general to an audience who wonders what the duties are and what role the attorney general plays in protecting the rights of citizens?

I would point out the provisions of AS 44.23.010 and discuss the fact that the governor has the power to remove an attorney general from office.

TBC:lmb:  
99-010.lmb

**SB**

**119**

April 15<sup>th</sup> 1999

Good afternoon Mr Chairman, members of the committee.

This is an honor for me to be testifying before you this morning.

My name is Harold Holten and I am the representative for the Seafarers International Union. Although I would like it clear that I'm here on behalf of all Merchant Seaman, who are denied their permanent fund dividend.

I was born in Ketchikan, raised in Ketchikan, Petersburg, and Juneau, upon my completion of 6 years in the Marine Corps, I came back to Alaska and became a state trooper for a short period of time. I was a Salmon tender captain for 15 years, before becoming a union rep.

The Seafarers opened an office in Anchorage, almost 2 years ago to the day. Our objective is to recruit Alaskans to go to our unlicensed apprenticeship program in Piney Point, Maryland, and give them an opportunity to obtain good paying jobs with good benefits when they complete the program.

I first became alerted to the fact that Merchant Seaman were being denied their permanent fund, by a Merchant Seaman from a different union. His name is Ross Perrine from Palmer, and he owns a home, has an Alaska drivers license, voter reg card, etc. he has been denied the fund since the inception. I went to one of our ships, and found that a boatswain on the Tote ship Northern Lights has also experienced the same problems. His name is John Glenn and he will be testifying this afternoon.

My recruiting effort has taken me around a lot of the state, and in my interviews with young people, I seem to have their interest in the program until the question of the Permanent Fund dividend comes up, then I am told they are no longer interested. I thought to myself and have shared this view, that these people seemed awfully shortsighted, until I really thought about it, this is probably the only steady money

they have ever seen, and are reluctant to let it go under any circumstance.

One of our recent graduates (Jessie Sharp) who will testify this afternoon, that already this year he has been denied the Permanent Fund dividend

These merchant seaman being denied, do not have a choice when they sail, as to whether they can sail in Alaska or not. Sailing is based on a seniority system, and believe it or not, our Alaska routes, are in high demand. The ones that have the Alaska routes Ross and John are denied because they are not physically in state a minimum of 180 days.

All of our Alaskans have been accepted to Piney Point because they are Alaska residents. I would hate to discourage good young people, (short sighted as they may be) from enjoying such a career opportunity.

Right now we have 18 Alaskans who have graduated from Piney Point, and we presently have 2 in school.

Besides the 18 graduates, we have created a Riding Maintenance gang. These merchant seaman go on oil tankers and do preventative maintenance. We hired 10 Riding gang a year ago, and all have done an outstanding job. When they have a year of sea time, they will be sent back to Piney Point and upgraded to Able bodied seaman. We will start training and working a new crew. This crew averages \$3,200.00 per month, with full benefits. Two of these Merchant Seaman have recently put money down on homes in the Wasilla arear. They also will be denied their Permanent Fund dividend.

An article in the Anch news last Monday the 12<sup>th</sup> did an article on our first native Alaskan. This has generated such a positive response it is hard for me to keep up with it. The first day generated about 20 phone calls, and yesterday I received 71 inquires. This has resulted in 6 tests being given yesterday, and 6 more scheduled on Friday. Plus 2 in Soldotna, 1 in Anchor Point, 2 in Kodiak, 2 in Ketchikan, and several from Willow. These numbers are candidates that are qualified.

In my estimation, we are not talking about any more than 200 Merchant Seaman over a ten year Period. (Although I hope for many more than that).

This concludes my statement, I urge you to support the SB 119

I thank the committee for their time.

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR ELTON

TO: SB 119

1 Page 1, line 2, following "marine":

2 Insert "or while serving as a volunteer in the Peace Corps"

3 Page 2, following line 21:

4 Insert a new paragraph to read:

5 "(13) serving as a volunteer in the Peace Corps;"

6 Page 2, line 22:

7 Delete "(13)"

8 Insert "(14)"

9 Page 2, line 23:

10 Delete "(14)"

11 Insert "(15)"

12 Page 2, line 25:

13 Delete "(14)"

14 Insert "(15)"

15 Page 2, line 28:

16 Delete "(1) - (13)"

17 Insert "(1) - (14)"

18 Page 2, line 31:

19 Delete "(3) - (13)"

- 1           Insert "(3) - (14)"
  
- 2   Page 3, line 2:
- 3           Delete "(1) - (13)"
- 4           Insert "(1) - (14)"
  
- 5   Page 3, line 3:
- 6           Delete "(a)(1) - (13)"
- 7           Insert "(a)(1) - (14)"
  
- 8   Page 3, line 11:
- 9           Delete "(a)(13)"
- 10          Insert "(a)(14)"

**SB**

**120**

**LEGISLATIVE RACES WON WITHOUT MAJORITY VOTE**

<p><b>1998</b>  <b>State Representative District 35</b>  <i>Tom VanBrocklin</i> 49.72%  <i>John Harris</i> 49.91%                      Write-in Votes (18) 0.37%</p>	<p><b>1994</b>  <b>State Senate District J</b>  <i>Larry Baker</i> 49.7%  <i>Dave Donley</i> 50.0%                      Write-in Votes (29) 0.3%</p>
<p><b>State Representative District 36</b>  <i>Irene Nicholia</i> 49.92%  <i>Carl Morgan</i> 49.92%*                      Write-in Votes (7) 0.15%                      * Winner</p>	<p><b>State Representative District 1</b>  <i>Darin Hargraves</i> 32.2%  <i>Bill Williams</i> 43.3%  <i>Cheri Davis</i> 24.3%                      Write-in Votes (9) 0.2%</p>
<p><b>1996</b>  <b>State Representative District 21</b>  <i>Joe Ryan</i> 47.8%  <i>Ann Spohnholz</i> 47.6%  <i>Barbara Morgan</i> 4.4%                      Write-in Votes (12) 0.2%</p>	<p><b>State Representative District 7</b>  <i>Cathy Godfrey</i> 39.5%  <i>Gail Phillips</i> 48.7%                      Richard Olson 4.7%                      Dale Wunderlich 7.0%                      Write-in Votes (6) 0.1%</p>
	<p><b>State Representative District 9</b>  <i>Mark Hodgins</i> 43.5%  <i>Mike Navarre</i> 46.1%                      Gary Superman 10.3%                      Write-in Votes (5) 0.1%</p>
	<p><b>State Representative District 19</b>  <i>Mike Miller</i> 41.9%  <i>Jerry Sanders</i> 46.7%                      Thomas Pitzke 6.0%                      Frederick Polsky 5.3%                      Write-in Votes (3) 0.1%</p>
	<p><b>State Representative District 27</b>  <i>Ron Larson</i> 45.1%  <i>Scott Ogan</i> 47.1%                      Gary Pearson 7.6%                      Write-in Votes (15) 0.2%</p>
	<p><b>State Representative District 28</b>  <i>Beverly Masek</i> 45.6%  <i>Ted Smith</i> 26.2%                      Paul Bratton 11.3%                      Lloyd Rudd 16.9%                      Write-in Votes (6) 0.1%</p>
	<p><b>State Representative District 31</b>  <i>Pete Kelly</i> 49.9%  <i>Joe Sitton</i> 39.0%                      Walt Johnson 11.0%                      Write-in Votes (7) 0.2%</p>

## Certification Timeline

<b>1998 General Election</b>		<b>2000 General Election</b>	
Election Day	11/3	Election Day	11/7
State Review Begins	11/13	State Review Board	11/17
15 <sup>th</sup> Day (last day to receive overseas ballots)	11/18	15 <sup>th</sup> Day (last day to receive overseas ballots)	11/22
HD35 Recount	11/23*	Target Certification Date	12/4
HD35 certified	11/23	30 <sup>th</sup> day after general election	12/6
HD36 Recount	11/24*		
HD 36 certified	11/24		
Certification Date for remaining races	12/1		
30 <sup>th</sup> day after general election	12/3		

\*A house district recount takes 1-2 days to complete. Even with close house races being certified early so a recount can take place, there still is not enough time to conduct a runoff election.

In the 1994 general election, there were 26,721 absentee ballots and 13,566 questioned ballots. In the 1996 general election, there were 35,675 absentee ballots and 16,664 questioned ballots. In the 1998 general election, there were 27,914 absentee ballots and 16,177 questioned ballots.

The last day to receive absentee by-mail ballots that are postmarked from outside the United States is the 15th day after the election. The regional absentee review boards have up to 15 days to complete the review of absentee ballots. The election cannot be certified until after this date. This means that based on an election date of 11/3, the earliest date certification could take place for a house district race would be 11/19.

For house district and senate district races, recounts can be requested up to 5 days after certification. Based on an 11/19 certification date, the deadline would be 11/24. If a recount is requested, it must be conducted within 5 days of receipt of the recount application. If the recount application was received on the last day, 11/24, the recount must take place by 11/29.

Election contests may be filed up to 10 days after the certification of election. If a request has been requested, then the 10 day period starts after the recount is complete and certified.

The 1999 statewide special election cost \$750,000. Based on this figure, a house district runoff election would cost \$18,750. A senate district runoff election would cost \$37,500.

### **Proposed Amendment:**

The division has already started printing forms and training materials for the primary and general election. Section 51, Early Voting and Section 52, Special Needs Voting would require form and procedural changes. Therefore, we request to change the effective date of Sections 51 and 52 to January 1, 2001.

Re: Fiscal note for SB 120

**Subject: Re: Fiscal note for SB 120**  
**Date:** Fri, 31 Mar 2000 09:27:54 -0900  
**From:** Shari Kochman <shari\_kochman@gov.state.ak.us>  
**Organization:** Alaska Office of the Governor  
**To:** Loretta Brown <Loretta\_Brown@legis.state.ak.us>

okey dokey

Loretta Brown wrote:

> *Shari:*  
> *I need a new fiscal note for SB 120. Short title is "Division of*  
> *elections." Bill is scheduled for hearing in Senate State Affairs*  
> *Thursday, April 6, 2000.*  
>  
> *Thanks, Loretta/*  
> *Senator Ward*

2029

APR 12 1999

**MEMORANDUM**

**STATE OF ALASKA**

**Office of the Governor  
Division of Elections  
Directors Office**

**TO:** Tom Moffatt  
Legislative Aide  
Senator Tim Kelly

**DATE:** April 7, 1999

**FROM:** Gail Fenumiai *G. Fenumiai*  
Election Programs Specialist  
**E-MAIL:** gail\_fenumiai@gov.state.ak.us

**TELEPHONE:** 465-3935  
**FAX:** 907-465-3203

**SUBJECT:** Recommendations for CS for SB120

Here are the recommended changes, as per our meeting on Thursday, for the CS for SB120.

1. Section 7, line 26, delete the following after: "no later than 120 days"
2. Section 29, line 13, delete the following: ", the election official shall remove the numbered stub from the ballot,"
3. Section 40, page 15, line 11, add the following: "A vote for a write-in candidate will be counted if the oval is filled in for that candidate and if the full name, as it appears on the write-in declaration of candidacy, of the candidate or last name of the candidate is written in the space provided. If the write-in vote is for governor and lieutenant governor, the vote will be counted if the oval is filled in and if the full name, as it appears on the write-in declaration of candidacy, of the gubernatorial and lieutenant governor candidate or the last name, as it appears on the write-in declaration of candidacy, of the gubernatorial and lieutenant governor candidate or the last name, as it appears on the write-in declaration of candidacy, of the gubernatorial candidate is written in the space provided."

I polled other states concerning write-in candidates. Of the states that require a declaration to be filed, there is a filing deadline ranging from 4 to 60 days prior to the election. If candidates don't file the required papers, then votes are not counted.

We propose to add a requirement that write-in candidates must file by the 21<sup>st</sup> day prior to the general election. If a declaration is not received by that date, votes will not be counted.

4. Section 48, line 28, add what use to be (5) back in. This is needed because we have had to rely on absentee voting officials in communities when a board decides not to show up on election day.

5. Section 50, line 23, add, per Senator Kelly's request: "The tabulation of early voting ballots may not begin until 8:00 p.m. on election day."
6. Section 76, page 30, line 8, add: "controlled substance <sup>several offenses</sup>, unlawful exploitation of minor, criminal negligent homicide, permitting an escape, gambling, possession and <sup>offenses</sup> distribution of child pornography."

NOTE: I could not read my notes what follows controlled substance. This can be found in your memo from legislative legal.

7. Can we shorten the title without inadvertently getting anything dealing with campaign finance attached and without losing anything in the bill?
8. We would like to see time referenced as "prevailing time" throughout Title 15.

MEMORANDUM

# 2029

STATE OF ALASKA

Office of the Governor  
Division of Elections  
Directors Office

TO: Tom Moffatt  
Legislative Aide  
Senator Tim Kelly

DATE: April 16, 1999

FROM: Gail Fenumiai *Gail*  
Election Program Specialist  
E-MAIL: Gail\_Fenumiai@gov.state.ak.us

TELEPHONE: 3935  
FAX: 3203

SUBJECT: Changes to work draft CS for SB120

These are the changes we discussed for the work draft CS for SB120.

Section 31 Delete: "or other form of identification as prescribed by regulation."  
Add: "military identification card, senior citizen identification card or Indian health service identification card."

Section 34 Line 8, delete: "needing assistance in voting"  
Add: "with a disability"

Section 63 Page 25, Line 1, delete: "desires to appear on the general election ballot,"  
Add: "wishes to be a candidate in the general election"

Line 2, add before "A write-in...": "In order to have votes counted as a write-in candidate, a write-in..."

Line 18, delete: "appear on the ballot."  
Replace with: "be written by the voter;"

Please notify me when the next committee substitute work draft is available and I will make the appropriate changes to the sectional. Thank you.

Section 86 page 33 line 2 <sup>said forms</sup> and shall be placed after all <sup>application</sup> forms in the permanent fund dividend application packet.

KATHRYN  
Please MAKE Appropriate CHANGES -

Mick H. *[Signature]*  
4522

SEN. WARD'S OFFICE

MEMBER

TENTH ALASKA LEGISLATURE  
ELEVENTH ALASKA LEGISLATURE  
TWELFTH ALASKA LEGISLATURE  
THIRTEENTH ALASKA LEGISLATURE  
FOURTEENTH ALASKA LEGISLATURE  
FIFTEENTH ALASKA LEGISLATURE  
SIXTEENTH ALASKA LEGISLATURE  
EIGHTEENTH ALASKA LEGISLATURE  
NINETEENTH ALASKA LEGISLATURE  
TWENTIETH ALASKA LEGISLATURE  
TWENTY-FIRST ALASKA LEGISLATURE

ALASKA STATE SENATE



SENATOR TIM KELLY

STATE CAPITOL  
JUNEAU, ALASKA 99801-1182  
(907) 465-3822  
FAX (907) 465-3756  
1-800-770-3822  
(JANUARY - MAY)  
INTERNET: //http://www.state.ak.us/

716 WEST 4TH, SUITE 400  
ANCHORAGE, ALASKA 99501  
(907) 258-8100  
FAX (907) 258-4524

MEMORANDUM

TO: Senator Jerry Ward, Chair  
Senate State Affairs Committee

FROM: Senator Tim Kelly *TJK*

DATE: February 10, 2000

RE: Hearing request for SB 120

I am requesting that SB 120 be scheduled for a hearing by the Senate State Affairs Committee at your earliest convenience. I anticipate that some changes will be made to the bill.

Thank you in advance for your assistance in this matter.

# LEGAL SERVICES

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

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

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

April 6, 2000

**SUBJECT:** Comparison of DRAFT SCS CSHB 163 (Work Order No. 21-LS0769\K) with DRAFT CSSB 120 (Work Order No. 21-LS0638\G)

**TO:** Senator Jerry Ward  
Attn: Loretta Brown

**FROM:** Kathryn L. Kurtz *KK*  
Legislative Counsel

The purpose of this memo is to highlight the major differences between the two above-noted bills. Section numbers refer to the sections in SB 120 ("G" version) unless otherwise noted. Please note that this memo does not discuss every difference in wording or style between the versions, it simply identifies sections where the content of the two versions seems significantly different.

Section 1. The senate version uses the phrase "month in which a primary or general election is held" instead of "30 days preceding a primary or general election".

Section 7. The house version requires that a list of registered voters be provided to each party 120 days before any general election; the senate version requires provision of the list but does not specify when.

Section 31. The house version adds "or other form of identification as prescribed by regulation" to the list of forms of identification that a voter may present to an election judge. The senate version instead specifies three additional types of identification: a military identification card, senior citizen identification card, or Indian Health Service identification card.

Please note that there is no other reference in the Alaska statutes to "senior citizen identification card." This term appears to be drawn from 6 AAC 25.027, which does not define it. This phrase in the statute could be interpreted to mean a government issued identification, such as a City and Borough of Juneau senior citizen sales tax exemption card, or a membership card from a private organization such as AARP. There is an official state identification card, which is like a drivers license, *see* AS 18.65.310, but it is not limited to seniors. You may wish to either clarify the meaning of this term or follow the house language.

Senator Jerry Ward  
April 6, 2000  
Page 2

Section 34. The senate version refers to a qualified voter "with a disability"; the house version uses "a qualified voter needing assistance in voting." The senate version provides that if a person from whom assistance is requested refuses to take an oath, the voter requesting assistance will be required to vote a questioned ballot.

Section 39. The senate version changes several references from "local time" or "Alaska time" to "prevailing time." *See also* sections 52, 55, 58.

Section 40. The senate version removes language permitting the use of stickers to be used in place of hand-writing the name of a write-in candidate on the ballot. The house leaves the existing statutory language permitting the use of stickers intact.

Section 41. The senate version adds a new section explicitly prohibiting the use of stickers to vote for a write-in candidate.

House version Section 77. The house version removes the 30 day grace period for filing a statement of income sources and business interests in AS 39.50.020(a).

Section 86. The senate version requires that the voter registration forms be set out following the permanent fund dividend application forms in the PFD application packet.

Section 87. The senate version repeals one section, AS 15.20.071, on absentee voting by personal representative, that the house version does not. The house version repeals AS 15.45.110(b), the identification requirement for initiative petition circulators, which is clearly unconstitutional in light of the United States Supreme Court's recent decision in Buckley v. American Constitutional Law Foundation, 525 U.S. 182 (1999). The senate version does not. Because AS 15.45.110(b) is clearly unconstitutional, I would recommend adding it to the repealer in the senate version.

If I may be of further assistance, please advise.

KLK:glc:jr  
00-161.glc

# LEGAL SERVICES

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

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

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

## MEMORANDUM

April 1, 2000

**SUBJECT:** Draft CSSB 120(STA) (Work Order No. 21-LS0638\H)

**TO:** Senator Jerry Ward, Chair  
Senate State Affairs Committee  
Attn: Loretta Brown

**FROM:** Kathryn L. Kurtz *KK*  
Legislative Counsel

Enclosed is the draft committee substitute you requested. As you requested, I have based this draft on the 21-LS0638\G draft of CSSB 120, and incorporated HB 155, your amendments H.3, K.2<sup>1/</sup>, and K.3 (with changes) to HB 163, as well as the changes you requested in the /I version of HB 163.<sup>2/</sup> I did not incorporate the G.1 amendment to CSSB 120 concerning lobbying that you requested last spring. If you would like me to incorporate that amendment into the CS as well, let me know. Also, please note that there are a number of differences between the /G version of CSSB 120 and the /K version of SCS CSHB 163(STA). If you would like a comparison of the two versions, let me know.

I removed all references to the state flag in the K.3 amendment, and replaced them with the word "emblem." The word "emblem" is not defined in statute, and I am not sure how a court or a candidate would interpret it in this context. Barring the use of state seals or emblems in campaign ads could give rise to a first amendment challenge, since "[t]he constitutional guarantee [of free speech] has its fullest and most urgent application precisely to the conduct of campaigns for political office." Buckley v. Valeo, 424 U.S. 1, 15 (1976), quoting Monitor Patriot Co. v. Roy, 401 U.S. 265, 272 (1971). I do not know how a court would decide such a challenge. Federal law prohibits federal employees from engaging in political activity "while wearing a uniform or official insignia identifying the office or position of the

---

<sup>1/</sup> Note that the constitutional problem mentioned in my March 28 memo on HB 163 is imported into SB 120 with this change. Article II, sec. 1 of the federal constitution gives congress the power to determine the date on which presidential electors are to be appointed in each state. Requiring a runoff 30 days after the election for these offices may be unconstitutional under the federal constitution.

<sup>2/</sup> Those changes included the deletion of seven sections relating to initiatives, which were not included in CSSB 120\G anyway, and a wording change to AS 09.20.035.

Senator Jerry Ward, Chair  
Senate State Affairs Committee  
April 1, 2009  
Page 2

employee." 5 U.S.C. 7324(a)(3) (the "Hatch Act"). I am not aware of any case law concerning first amendment challenges to the federal statute, but the federal statute is more narrowly drawn than the enclosed CS.

KLK:glc  
00-147.glc

Enclosure

AMENDMENT

OFFERED IN THE SENATE STATE AFFAIRS COMMITTEE

TO: CS SB 120 (STA)

**Amend Title:**

DELETE:

Page 1, line 10, and;

DELETE:

Section 86, page 33, line 23 – page 34, line 7

Section 87, page 34, lines 8-22

Section 88, page 34, lines 23-30

Section 89, page 34, line 31 – page 35, line 9

Renumber accordingly

# STATE OF ALASKA

OFFICE OF THE LT. GOVERNOR

Division of Elections  
P.O. Box 110017  
Juneau, Alaska 99811-0017  
PHONE (907) 465-4611

April 14, 2000

The Honorable Jerry Ward  
Chair, Senate State Affairs Committee  
Alaska State Legislature  
State Capitol, Room 423  
Juneau AK 99801

Dear Senator Ward:

Your office has asked the Division of Elections to provide you with the earliest date a legislative runoff election could take place following a general election, as is being proposed in a committee substitute for SB 120.

The timeline below shows that 60 days must pass before a runoff election could be held. The timeline assumes there would be no recounts or pending litigation related to the legislative race. The certification date of the legislative race is the key date for starting a runoff election process. The timeline follows existing state law.

General election day	Tuesday, November 7
State Review Board begins certification process for general election	Monday, November 20
15 <sup>th</sup> day (last day to receive overseas ballots from general election)	Wednesday, November 22
<b>Earliest date a legislative race for general election can be certified</b>	<b>Wednesday, November 22</b>
Special advance ballots mailed to military and overseas voters (60 days before a proposed runoff election)	Friday, November 24
Ballot layout for runoff election to printer	Friday, November 24
Ballots back from printer	Friday, December 1
Mail absentee by-mail ballots	Monday, December 4
Absentee in-person voting begins (15 days before election)	Sunday, January 7
<b>Runoff election day (60<sup>th</sup> day after mailing military ballots)</b>	<b>Monday, January 22</b>

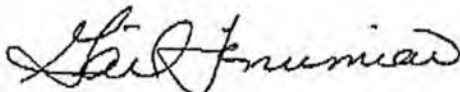
The Honorable Jerry Ward  
April 14, 2000  
Page 2

As I have stated, the timeline assumes there would be no recounts or litigation. If recount requests and litigation were filed, an extra 3-20 days need to be added to the timeline. How long the court would need to review the case cannot be determined and would also need to be added to the timeline.

If the legislature chooses not to follow existing election laws for runoff elections, a runoff election could be conducted 30 days following certification of the legislative race. However, the runoff provision in the proposed committee substitute for SB 120 does not eliminate any of the current statutory requirements for conducting an election.

Unless otherwise directed by the legislature, the Division of Elections would be required to follow the current election laws and cannot conduct a runoff election any earlier than 60 days following certification of the legislative race where no majority vote was achieved.

Sincerely,



Gail Fenumiai  
Legislative Liaison



# FISCAL NOTE

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

BILL NO. SB120

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected Office of the Governor  
 Title An Act relating to voters and elections BRU Elective Operations  
 Component Elections  
 Sponsor Rules by Request  
 Requester Senate State Affairs Committee Component No. 21

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual	(12.5)					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>(12.5)</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	(12.5)					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>(12.5)</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2000) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

The division will no longer be required to pay for the printing of the voter registration form in the annual permanent fund dividend booklet.

Prepared by: Gail Fenuniar *Gail Fenuniar*  
 Division Division of Elections  
 Approved by C. Lt. Governor Fran Ulmer *Fran Ulmer*  
 Agency Office of the Lieutenant Governor

Phone 465-3935  
 Date/Time 3/31/00 2:47 PM  
 Date 03/31/2000

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**SB**

**155**



# ALASKA STATE LEGISLATURE LEGISLATIVE COUNCIL

**SENATOR MIKE MILLER, CHAIR**

State Capitol Juneau, AK 99801-1182 (907) 465-4920

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*Senator Loren Leman*

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*Representative John Cowdery*

*Representative Scott Ogan*

*Representative Gail Phillips*

*Representative Brian Porter*

*Representative Norman Rokeberg*

*Representative Ethan Berkowitz*

To: Senator Jerry Ward, Chair  
State Affairs

From: Senator Mike Miller, Chair  
Legislative Council

Re: Bill Hearing Request

Date: April 26, 1999

Attached is a Sponsor Statement for Senate Bill 155, "An Act relating to methods of payments of and reports concerning certain state salaries and business expenses."

The bill would require the Administration, the court system and executive heads of public corporations to follow the same annual reporting requirements for travel and compensation that the legislature is subjected to.

The bill is a priority of the Legislative Council for passage this year. If you have any questions, please contact Mary Gore in my office.



# ALASKA STATE LEGISLATURE LEGISLATIVE COUNCIL

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## Sponsor Statement Senate Bill 155

**"An Act relating to methods of payments of and reports concerning certain state salaries and business expenses."**

This bill would expand the number of state entities, in addition to the legislature, required to report travel and compensation annually. Detailed information for the previous calendar year of the salaries, per diem, travel expenses, relocation expenses and any additional allowances received would be the required from the following people:

- governor;
- lt. governor;
- chiefs of staff of the governor and lieutenant governor;
- supreme court justices;
- court of appeals judges;
- administrative director of the court;
- legislative affairs executive director;
- president and vice president of the University and the chancellors of the individual campuses of the university;
- commissioners and deputy commissioners and division directors;
- and the executive heads of public corporations created by law.

The reports will be sent to the legislature by January 31 each year for the previous calendar year coinciding with the date the legislative fiscal officer is required to file an annual travel and compensation report on members of the legislature.

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**Suggested changes to SB 155**

AS 37.05.210 is amended to read:

**(a)** The Department of Administration shall

(1) file with the governor and with the legislative auditor before December 16 a report of the financial transactions of the preceding fiscal year and of the financial condition of the state as of the end of that year, prepared in accordance with generally accepted accounting principles and audited by the legislative auditor in accordance with generally accepted audit standards, with comments and supplementary data that the Department of Administration considers necessary; this report shall be printed for the information of the legislature and the public;

(2) compile statistics necessary for the budget and other statistics required by the governor;

**(3) file a travel and compensation report with the legislature by January 31 of each year containing detailed information for the previous calendar year of the salaries, per diem, travel expenses, relocation expenses, and any additional allowances for**

**(A) the governor, the lieutenant governor, and the chiefs of staff of the governor and lieutenant governor; and**

**(B) the commissioners or other executive heads of the principal departments in the executive branch of state government, and the deputy commissioners and division directors in those departments.**

**(b) The University of Alaska shall file a travel and compensation report with the legislature by January 31 of each year containing detailed information for the previous calendar year of the salaries, per diem, travel expenses, relocation expenses, and any additional allowances for the president and vice-president of the University of Alaska and the chancellors of the individual campuses of the university.**

**(c) Each public corporation created by law shall file a travel and compensation report with the legislature by January 31 of each year containing detailed information for the previous calendar year of the salaries, per diem, travel expenses, relocation expenses, and any additional allowances for the executive head of the public corporation.**

**SB**

**221**

# STATE OF ALASKA

## DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

**TONY KNOWLES, GOVERNOR**

P.O. BOX 110200  
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February 2, 2000

The Honorable Jerry Ward  
Alaska State Senator  
State Capitol, Room 423  
Juneau, AK 99801

Dear Senator Ward:

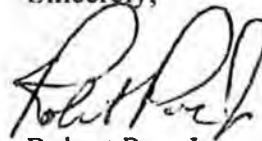
I respectfully request that you schedule Senate Bill 221, an act relating to recruitment, selection, appointment, and promotion of state employees, for a hearing in the Senate State Affairs Committee.

This bill amends various sections of the State Personnel Act to integrate Workplace Alaska as an on-line recruitment, application, and hiring process for positions in the classified service. The bill also establishes a system to continue honoring preference for veterans, prisoners of war and members of the Alaska National Guard.

If you have any questions or need additional information, please feel free to contact me or my legislative liaison, David Koivunemi.

Thank you in advance for your cooperation.

Sincerely,



Robert Poe, Jr.  
Commissioner

RP/DMD/jd

cc: Pat Pourchot, Legislative Director, Office of the Governor



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<b>PHONE MEMO</b>	TO	Loretta.	DATE	2/11/00	TIME	9:40	(AM) PM
	FROM	Dave Koivuniemi	AREA CODE		NO.	5669	
	OF		EXT.	ext.			
<b>MESSAGE</b>	Dept. of Admin.						
	SB 221 - state employee hire						
	SB 232 - personal info in DMW						
	cleaning up statistics records						
	DOA request for hearing						
PHONED <input type="checkbox"/>		CALL BACK <input type="checkbox"/>		RETURNED CALL <input type="checkbox"/>		WANTS TO SEE YOU <input type="checkbox"/>	
						WILL CALL AGAIN <input type="checkbox"/>	
						WAS IN <input type="checkbox"/>	
						URGENT <input type="checkbox"/>	



**DAVE STEWART**  
PERSONNEL MANAGER

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Recruitment and selection of employees is one of the basic purposes of a personnel function. To do so quickly and effectively is ideal.

WorkPlace Alaska provides needed changes in accessibility and speed to recruitment efforts. Developed in response to requests for speedier review of their applications and to speedier lists of applicants, job seekers and hiring managers have both responded positively to WorkPlace Alaska.

WorkPlace Alaska is available 24 hours per day, seven days per week, 52 weeks per year, except for an hour or two per week for scheduled maintenance. What took months to complete can now be accomplished in minutes.

Testing on the WorkPlace Alaska system began in March 1997 as a two-department pilot project. In November 1998 it was expanded for use by all state agencies. As the pilots and expanded use provided more feedback and refinements were made, WorkPlace Alaska has replaced the paper-intensive register system completely.

The legislation before you is intended to refresh the language of the law to reflect the use of WorkPlace Alaska instead of the paper-based register system.

Mr. Chair, I have prepared a sectional analysis of this legislation for your <sup>CONSIDERATION</sup> analysis. I would be pleased to walk the committee through that analysis, or I can provide a synopsis of the changes, or I can answer general or specific questions you might have.

**Chart of Statutory Revisions to Implement Workplace Alaska – 3/15/00**  
 (This summary is based upon the CS for HB317 adopted by MLV)

Section, page, line	Current Statute	Proposed Revision	Reason or Necessity
Section 1 Page 1 Line 8	<b>AS 39.25.080(a)</b> State personnel records, including employment applications and examination materials, are confidential and are not open to public inspection except as provided in this section.	Add the words “and other assessment” between “examination” and materials;”	There is an assessment with WPA, not an examination; reference is corrected for practice.
Section 2 Page 1 Line 12	<b>AS 39.25.120(b)</b> A person holding a position in the partially exempt service is not required to take an examination or qualify or earn a place on a register, and is not eligible for a hearing by the personnel board in case of dismissal, demotion, or suspension. ...	A person holding a position in the partially exempt service is not required to <u>complete an assessment</u> , and is not eligible for a hearing by the personnel board in case of dismissal, demotion, or suspension....	Delete reference to register system; no longer is use. Partially Exempt staff can be appointed without competitive process.
Section 3 Page 2 Line 12	<b>AS 39.25.130(a)(3)</b> Involves responsibilities and duties of a type not susceptible to the ordinary recruiting and examining procedures.	Change word “examining to “assessment;”	Reflects current practice.
Section 4 Page 3 Lines 4-6	<b>AS 39.25.150(3)</b> the use of employee selection methods, including open competitive	the use of employee selection methods, including open	Delete reference to examination;

	examinations, when appropriate, that will fairly test the capacity and fitness of the person examined to discharge the duties of the class in which employment is sought;	competitive <b>assessment devices</b> , when appropriate, that will fairly evaluate the capacity and fitness of the person assessed to discharge the duties of the <b>position</b> in which employment is sought;	Reflects vacancy-based position orientation of WPA instead of class based register system.
Section 4 Page 3 Lines 7-8	AS 39.25.150(4) the establishment and maintenance of eligible lists for appointment and promotion providing the names of eligible candidates in order of their relative performance in the examinations;	the formulation of a list for appointment or promotion to a position;	Reference to the development of a vacancy-based list of applicants rather than the maintenance of an eligible list or register; requires the adoption of WPA-oriented regulations.
Section 4 Page 3 Line 11	AS 39.25.150(5) the procedure for certifying eligible candidates; the rule adopted under this paragraph may include procedures providing a preference for certifying local residents when appropriate;	the procedure for filling positions; the rule adopted under this paragraph may include procedures providing a preference for local residents when appropriate;	References the requirement for regulation governing the use of WPA for filling vacancies rather than for <b>certifying</b> eligible candidates, and for providing for local resident preferences, when appropriate; removes the reference to "certifying."
Section 4 Page 3 Line 17	AS 39.25.150(6) promotions from within the state service when there are qualified candidates in the state service; vacancies shall be filled by promotion	Change word "examination" to word "assessment;"	Reference to current practice; assessment rather than examination.

	whenever practicable and in the best interest of the state service and promotion shall be by competitive examination whenever possible; in considering promotions, the applicants' qualifications, performance records, seniority, and conduct shall be evaluated;		
Section 4 Page 3 Lines 28-30	AS 39.25.150(9) provisional appointment without competitive examination when appropriate eligible lists are not available;	<b>Provisional appointment without competitive assessment</b> when the recruitment and <b>assessment procedures</b> have not identified qualified candidates in sufficient number;	Corrects reference from examination to assessment, and provides for continuing use of alternative appointment methods when recruitment fails to provide a sufficient pool of candidates.
Section 4 Page 4 Line 18	AS 39.25.150(19) Granting of employment preference rights to...prisoner of war	Adds "former" before "prisoner of war."	
Section 4 Page 4 Line 23-end	AS 39.25.150(21) The granting of employment preference to severely handicapped persons; this includes the right to provisional appointment without competitive examination for period up to four months and the granting of eligibility to a severely handicapped person provisionally appointed under the rules who demonstrates ability to perform the job for	Change the word "examination" to "assessment in the two places this term appears; <b>insert the word "of" between "periods" and "up;"</b> change the phrase "severely handicapped person" to "individual with a severe disability" throughout this subsection.	References <b>assessment</b> rather than <b>examination</b> in language; provides for the use of "individual with disability" rather than "handicapped person" in keeping with social consciousness.

	<p>permanent appointment without competitive examination; provisional employment under this paragraph may not exceed four months during a 12-month period; “severely handicapped” as used in this paragraph means persons certified by the director of the division of vocational rehabilitation to be severely handicapped;</p>		
<p><b>Section 5</b> <b>Page 5</b> <b>Line 17</b></p>	<p><b>AS 39.25.155(c)</b> Applicants shall be placed on <b>eligible</b> lists for the vocational classification indicated in the applications submitted to the <b>Division of Personnel in the order of their relative ranking</b> based on an assessment of their <b>vocational <del>technical</del> ability, and place of residence, and without written examination.</b> Aptitude or occupational tests may be given if a position requires a specific ability.</p>		<p>There are amendments proposed for this section that focus on moving the concept “examination” to “assessment.”</p>

<p><b>Section 6</b> <b>Page 5</b> <b>Line 21</b></p>	<p><b>AS 39.25.155(e)</b> The director of personnel shall embody a concept combined of <u>technical</u> ability, place of residence local hire and area unemployment in the personnel rules to accomplish the intent of this section.</p>	<p>Substitute “vocational” for “technical.”</p>	<p>Changes language to reflect the use of vocational ability rather than attempting to determine the meaning of “technical.”</p>
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<p>Section 7 Page 5 Line 25 – end of section</p>	<p><b>AS 39.25.159(a) Veteran's Preference</b></p> <p>A veteran or prisoner of war who possesses the necessary qualification for a job classification applied for under this chapter is entitled to a preference under this subsection. In an examination to determine the qualification of applicants for the classified service under merit system examination, five points shall be added to the passing grade of a veteran, 10 points shall be added to the passing grade of a disabled veteran, or 10 points shall be added to the passing grade of a prisoner of war. A person may receive preference points under only one of the categories described in this subsection of in (c) of this section. A person may use the preference without limitation when being considered for a position for which persons who are not currently state employees are being considered. If consideration of applicants is limited to state employees, preference points under this subsection may not be counted. If a position in the classified service is eliminated, employees shall be released in accordance with rules that give due effect to all factors. If all</p>	<p><b>A veteran or former prisoner of war who possesses the necessary qualifications for a position or job classification applied for under this chapter is entitled to a preference under this subsection. In an assessment using numerical ratings, points equal to five percent of the points available from the assessment device or devices shall be added to the passing score of a veteran, and 10 percent of the points available from the assessment device or devices shall be added to the passing score of a disabled veteran or former POW. In an assessment not using numerical ratings, consideration shall be afforded to a veteran; additionally, an opportunity to interview for the position shall be afforded to a disabled veteran or a former POW. A person may receive preference under only one of the categories described in this subsection or in (c) of this section. ...If the scope of recruitment for a position is limited to state employees, preference under this subsection may</b></p>	<p>The reference to "former" prisoner of war is more realistic.</p> <p>New language continues changing references from "examination" to "assessment;"</p> <p>Changes requirement to meet practice of considering all veterans for advertised vacancies, and adds a requirement to interview a disabled veteran or former POW;</p> <p>Continues changing references to recruitments;</p> <p>Maintains current layoff practices.</p>
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	<p>job qualifications are equal, a veteran or prisoner of war shall be given preference over a person who was not a veteran or prisoner of war, and the veteran or prisoner of war shall be kept on the job. This subsection may not be interpreted to amend the terms of a collective bargaining agreement.</p>	<p>not be counted. If a position in the classified service is eliminated, employees shall be released in accordance with rules adopted under AS 39.25.150(13). In the case of a comparison of employees with equal qualifications on the factors adopted under AS 39.25.150(13), a veteran or former POW shall be given preference over a person who was not a veteran or former POW, and the veteran or former POW shall be kept on the job.</p>	<p>If collective bargaining agreements allow it, veterans or former POWs should be given "super seniority," and layed off after non-veterans.</p>
<p><b>Section 8</b> <b>Page 6</b> <b>Line 24 –</b> <b>end of</b> <b>section</b></p>	<p><b>AS 39.25.159(c)</b> Similar to veterans and POW preference in AS 39.25.159(a), except applies to a member of the national guard.</p>	<p>Similar revisions to those set out above re: AS 39.25.159(a).</p>	<p>Applies the protections granted in the previous section to members and former members of the National Guard.</p>
<p><b>Section 9</b> <b>Page 7</b> <b>Line 17</b></p>	<p><b>AS 39.25.159(d)</b></p>	<p>Add a new paragraph (4) to read: "consideration" means reviewing a person's entire application in order to determine whether the person should be selected, rejected, or admitted to further steps in the assessment or selection process.</p>	<p>New paragraph that defines the word "consideration" in the context of WPA.</p>

<p><b>Section 10</b> <b>Page 7</b> <b>Line 23</b></p>	<p><b>AS 39.25.160(h)</b> A person may not knowingly make a false statement, certificate, mark, rating or report with regard to a test, certification, or appointment made under this chapter or in any manner commit a fraud preventing the impartial execution of this chapter and the personnel rules adopted under this chapter.</p>	<p>A person may not knowingly make a false statement, mark, rating or report with regard to an assessment . . . (remainder unchanged).</p>	<p>Replaces “test” with “assessment”;</p>
<p><b>Section 11</b> <b>Page 7</b> <b>Line 27</b></p>	<p><b>AS 39.25.160(i)</b> A person may not obstruct the right of another person to examination, eligibility, certification, appointment, or promotion under this chapter.</p>	<p>A person may not obstruct the right of another person to assessment...</p>	<p>Replaces “examination” with “assessment.”</p>
<p><b>Section 12</b> <b>Page 8</b> <b>Line 1</b></p>	<p><b>AS 39.25.195(b)</b> An appointment to state service, except an emergency appointment, shall be made from an <b>applicable eligible list or dispatching register</b> unless in appropriate circumstances the director has waived this requirement.</p>	<p>An appointment to state service, except an emergency appointment, shall be made from the list of applicants qualified for the position unless in appropriate circumstances the director has waived this requirement.</p>	<p>Dispenses with use of “eligible list” and substitutes “list of applicants qualified...”</p>
<p><b>Section 13</b> <b>Page 8</b> <b>Line 13 to end of section</b></p>	<p><b>As 39.25.195(c)(2)-(4)</b> The hiring department or agency has certified that there is an immediate need to fill an authorized permanent position and it is</p>	<p>Change “make certification” to “conduct recruitment;”</p>	<p>References the process for filling a vacancy by nonpermanent appointment; changes</p>