

1 IN THE SENATE

BY ZHAROFF

2

SENATE BILL NO. 301

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the Older Alaskans Commission and

7

to services, programs, and grants provided,

8

administered, contracted for, or awarded by the Older

9

Alaskans Commission."

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

11 \* Section 1. FINDINGS, INTENT, AND POLICY. (a) The legislature finds  
12 that despite the concerted efforts of the legislature and the Older  
13 Alaskans Commission to establish a continuum of community-based services  
14 for older Alaskans in accordance with 42 U.S.C. 3001 - 3058d (the Older  
15 Americans Act of 1965), as amended, and despite the commission's signifi-  
16 cant achievements in expanding services to unserved communities in the  
17 state and in establishing adult day care, respite care, case management,  
18 services for victims of Alzheimer's disease, and other necessary services  
19 for frail older Alaskans, the state has not yet achieved the degree of  
20 service development and coordination essential to prevent unnecessary or  
21 premature institutionalization of older Alaskans.

22 (b) The legislature also finds that federal law authorizing federal  
23 financial participation in the programs that provide community-based long-  
24 term care limits the extent to which funding sources and administrative  
25 functions can be integrated. It is, however, within the state's authority  
26 and in the best interest of the citizens of the state to establish a coor-  
27 dinating and administrative entity to facilitate close cooperation between  
28 programs and efficient use of resources without infringing upon state  
29 agency requirements, where they may apply.

1 (c) The legislature finds that the desire of families to remain  
2 intact and to assist their older members in meeting activities of daily  
3 living, the wishes of older Alaskans to remain in their own homes and  
4 communities for as long as possible, and the lower cost of community-based  
5 services, as compared to institutional care, warrant the establishment and  
6 strengthening of community-based services and a new direction for the  
7 state's long-term care policy.

8 (d) The legislature finds that the long-term care delivery system  
9 most likely to reduce premature institutionalization, meet essential client  
10 needs, and be most cost-effective is a system that includes

11 (1) the integration of programs and supportive funding sources;

12 (2) effective professional intervention at all stages in the  
13 care continuum; and

14 (3) expenditure controls through the prior authorization of  
15 services or the targeting of services to persons at risk of institutional-  
16 ization.

17 (e) The intent of the legislature in creating the Older Alaskans Com-  
18 mission was to ensure that older Alaskans' later years are years of good  
19 health, honor, and dignity. The legislature further intended to ensure  
20 that the planning, development, and administration of the state's programs  
21 and services for older Alaskans would be undertaken with the full par-  
22 ticipation, knowledge, advice, and comments of the persons to be served.  
23 The legislature, therefore, designated the Older Alaskans Commission as the  
24 entity responsible for planning, policy, program development, administra-  
25 tion, and coordination of the state's community-based long-term care ser-  
26 vices to older Alaskans. The legislature finds that the commission's  
27 attempts to fully implement this intent have been only partially successful  
28 due to limitations imposed by legislation, bureaucracy, and the fragmenta-  
29 tion of services to older Alaskans among numerous state and federal

1 agencies. The legislature finds that the Older Alaskans Commission has  
2 proven itself to be able and competent to administer complex federal pro-  
3 grams. The legislature reaffirms its commitment to this original intent.

4 (f) It is the intent of the legislature to foster independence and  
5 self-reliance among older Alaskans, to help older Alaskans maintain indi-  
6 vidual dignity, and to allow older Alaskans who require long-term care  
7 services to remain an integral part of family and community life to the  
8 fullest extent possible. To achieve this goal the legislature declares its  
9 intent that the Older Alaskans Commission be the agency through which the  
10 state develops and administers a continuum of community-based long-term  
11 care services for older Alaskans and be responsible for the development of  
12 policy, implementation, and integration of a comprehensive set of noninsti-  
13 tutional long-term care services for older Alaskans. The legislature  
14 further declares its intent that the commission coordinate with state  
15 agencies and providers of institutional-based long-term care services to  
16 develop a care continuum that meets the individual needs of older Alaskans  
17 at all levels of functioning.

18 (g) It is the intent of the legislature that the Older Alaskans  
19 Commission coordinate the effective and efficient provision of community  
20 services to older Alaskans and that

21 (1) the services be readily available to the greatest number  
22 over the widest possible geographic area;

23 (2) information on these services be available in each locality,  
24 using existing information and referral services whenever possible;

25 (3) multipurpose senior centers be designated as focal points  
26 for the delivery of services to older Alaskans in each community where  
27 practicable;

28 (4) older Alaskans retain the right of free choice in planning  
29 and managing their lives by increasing the range of supportive services

1 available;

2 (5) the services enable older Alaskans to help themselves to the  
3 extent of their abilities and strengthen the natural support system of  
4 family, friends, and neighbors to foster self-care and independent living;

5 (6) public and private development of housing designed and  
6 located to meet the special needs of older Alaskans be encouraged and  
7 assisted;

8 (7) the commission ensure that if institutionalisation is neces-  
9 sary, the institution should be of the highest quality and be a place where  
10 an older Alaskan may live in dignity.

11 (h) It is the intent of the legislature to begin the incremental  
12 development of a long-term care delivery system that provides the social  
13 and health support necessary to enable frail or functionally impaired older  
14 Alaskans to remain in their own homes.

15 (i) It is the policy of the state to provide quality services  
16 throughout a continuum of care that considers the wishes of the individual  
17 and family and gives first priority to enabling those individuals to remain  
18 in their own residences for as long as they may be safely and comfortably  
19 maintained. Entry into nursing homes and chronic care facilities should be  
20 an option for care only when individual or family needs cannot be met at  
21 home.

22 \* Sec. 2. AS 44.21.230(a) is amended to read:

23 (a) The commission shall

24 (1) formulate a comprehensive statewide plan that identi-  
25 fies the concerns and needs of older Alaskans and, with reference to  
26 the plan adopted, prepare and submit to the governor and legislature  
27 an annual analysis and evaluation of the services that are provided to  
28 older Alaskans;

29 (2) make recommendations directly to the governor and

1 legislature with respect to legislation, regulations, and appropria-  
2 tions for programs or services that benefit older Alaskans;

3 (3) encourage and aid the development of municipal com-  
4 missions serving older Alaskans and community-oriented programs and  
5 services for the benefit of older Alaskans;

6 (4) employ an executive director who serves at the pleasure  
7 of the commission;

8 (5) help older Alaskans lead dignified, independent, and  
9 useful lives;

10 (6) request and receive reports and audits from state  
11 agencies and local institutions concerned with the conditions and  
12 needs of older Alaskans;

13 (7) administer, with the approval of the commissioner of  
14 administration, federal programs as provided under 42 U.S.C. 3001 -  
15 3058d [42 U.S.C. 3001 - 3045i] (Older Americans Act of 1965), as  
16 amended; [AND]

17 (8) administer, with the approval of the commissioner of  
18 administration, state programs as provided under AS 47.65.010 - 47.-  
19 65.060;

20 (9) administer a training program for older Alaskans as  
21 provided under 29 U.S.C. 1534 with funds provided under 29 U.S.C.  
22 1602(b)(2); and

23 (10) provide or contract for the provision of home health  
24 aid services and homemaker services to older Alaskans and dependent  
25 minors.

26 \* Sec. 3. AS 44.21 is amended by adding new sections to read:

27 Sec. 44.21.231. OLDER ALASKANS HOUSING DEVELOPMENT. (a) There  
28 is created in the commission an older Alaskans housing development  
29 fund. Subject to direct appropriation or through proceeds of a bond

1 issue the commission shall make grants to municipalities or public or  
2 private nonprofit corporations designated as tax exempt under 26  
3 U.S.C. 501(c)(3) and (4) (Internal Revenue Code of 1954) for the pur-  
4 pose of developing older Alaskan housing. A grant from the proceeds  
5 of a bond issue may be made only to a municipality.

6 (b) An application for a grant under (a) of this section must be  
7 in the form prescribed by the commission. The application must demon-  
8 strate the need for older Alaskan housing in the area to be served,  
9 the feasibility of the proposed project, and an adequate management  
10 plan that demonstrates the ability of the eligible recipient to sus-  
11 tain the proposed project.

12 (c) All projects under this section must be in accordance with  
13 facility procurement policies developed under AS 35.10.160 - 35.10.200  
14 and are public facilities under those sections.

15 (d) The commission shall adopt regulations under the Administra-  
16 tive Procedure Act (AS 44.62) to carry out the purposes of this sec-  
17 tion.

18 (e) In this section "older Alaskan housing"

19 (1) means a specific work or improvement undertaken primar-  
20 ily to provide dwelling accommodations for persons 60 years of age or  
21 older, including conventional housing, housing for the frail elderly,  
22 group homes, congregate housing, and other housing that meets special  
23 needs of the elderly;

24 (2) includes the acquisition, construction, or rehabilita-  
25 tion of land, buildings, improvements, and other nonhousing facilities  
26 that are incidental or appurtenant to the housing.

27 **Sec. 44.21.232. REIMBURSEMENT FOR REAL PROPERTY TAX EXEMPTIONS.**

28 The commission shall reimburse a borough or city, as appropriate, for  
29 the real property tax revenue lost to it by the operation of

1 AS 29.45.030(e). However, reimbursement shall be made to a municipal-  
2 ity for revenue lost to it only to the extent that the loss exceeds an  
3 exemption that was granted by the municipality, or that on proper  
4 application by an individual would have been granted under AS 29.45.-  
5 050(e). If appropriations are not sufficient to fully fund reimburse-  
6 ments under this section, the amount available shall be distributed  
7 pro rata among eligible municipalities.

8 Sec. 44.21.233. PROPERTY TAX EQUIVALENCY PAYMENTS. (a) A resi-  
9 dent of the state who rents a permanent place of abode is eligible for  
10 a tax equivalency payment from the state through the commission if the  
11 resident is:

- 12 (1) at least 65 years old;
- 13 (2) a disabled veteran; or
- 14 (3) at least 60 years old and the widow or widower of a  
15 person who was eligible for payment under (1) or (2) of this subsec-  
16 tion.

17 (b) For purposes of determining the amount of a payment to an  
18 eligible person, the commission shall calculate at the rate of one  
19 percent per mill a property tax equivalent percentage for each munic-  
20 ipality that levies a property tax. The property tax equivalent  
21 percentage applied to the annual rent charged to the applicant equals  
22 the property tax equivalency payment payable under this section.

23 (c) To obtain a tax equivalency payment the eligible resident  
24 must apply to the commission for payment for the preceding year by  
25 January 15 of each year on forms and in the manner prescribed by the  
26 commission. The commission for good cause shown may waive an  
27 applicant's failure to make timely application for a tax equivalency  
28 payment and accept the application as if timely filed. Each applicant  
29 shall submit with the application rental receipts or, if rental

1 receipts are not available, other evidence satisfactory to the commis-  
2 sion for determination of the fact of payment of rent and the amount  
3 paid. A disabled veteran shall submit with the application evidence  
4 of the disability rating.

5 (d) If two or more persons occupy a residence as tenants, not  
6 all of whom are eligible for a tax equivalency payment under this  
7 section, the state assessor shall determine equitable partial payments  
8 to be made to the eligible tenants. However, a tax equivalency  
9 payment to an eligible applicant may not be reduced because the spouse  
10 is less than 65 years of age or is not a disabled veteran. If all  
11 occupants in a residence are eligible for a tax equivalency payment  
12 under this section, the occupants shall decide between and among  
13 themselves which shall receive payment.

14 (e) If appropriations are not sufficient to fully fund tax  
15 equivalency payments under this section, the amount available shall be  
16 distributed pro rata among eligible residents.

17 \* Sec. 4. AS 44.21.240 is repealed and reenacted to read:

18 Sec. 44.21.240. DEFINITIONS. In AS 44.21.200 - 44.21.240

19 (1) "commission" means the Older Alaskans Commission;

20 (2) "disabled veteran" means a disabled person separated  
21 from the military service of the United States under a condition that  
22 is not dishonorable who is a resident of the state, whose disability  
23 was incurred or aggravated in the line of duty in the military service  
24 of the United States, and whose disability has been rated as 50 per-  
25 cent or more by the branch of service in which that person served or  
26 by the Veterans' Administration;

27 (3) "home health aide services" means assistance provided  
28 to a client by a registered nurse, a licensed practical nurse, or a  
29 trained home health aide, under the direction of a medical

1 professional; services may include assistance with bathing, adminis-  
2 tering medication, dressing, maintaining personal appearance, feeding,  
3 and the use of toilet facilities;

4 (4) "homemaker services" includes assistance with house  
5 cleaning, laundry, errands, meal preparation, and other tasks essen-  
6 tial to maintain a household;

7 (5) "real property" includes mobile homes, whether  
8 classified as real or personal property for municipal tax purposes.

9 \* Sec. 5. AS 29.45.030(h) is amended to read:

10 (h) Nothing [EXCEPT AS PROVIDED IN (g) OF THIS SECTION, NOTHING]  
11 in (e) - (j) of this section affects similar exemptions from property  
12 taxes granted by a municipality on September 10, 1972, or prevents a  
13 municipality from granting similar exemptions by ordinance as provided  
14 in AS 29.45.050.

15 \* Sec. 6. AS 47.65.020 is amended to read:

16 Sec. 47.65.020. GRANTS FOR COMMUNITY SERVICE PROGRAMS. Not less  
17 than 90 [60] percent of the amount appropriated by the legislature to  
18 the account established in AS 47.65.010 shall be allocated annually by  
19 the commission as community program grants to sponsors of older  
20 Alaskans service programs. Payments shall be made on the basis of  
21 applications submitted to the commission by sponsors of community  
22 programs.

23 \* Sec. 7. AS 47.65.020 is amended by adding new subsections to read:

24 (b) Of the amount allocated by the commission under (a) of this  
25 section, not less than 50 percent shall be awarded for the following  
26 services:

- 27 (1) adult day care;  
28 (2) respite care;  
29 (3) case management;

- 1 (4) homemaker/chore;
- 2 (5) home health;
- 3 (6) personal care;
- 4 (7) preplacement screening;
- 5 (8) assessment;
- 6 (9) in-home services;
- 7 (10) supportive services for families of victims of
- 8 Alzheimer's disease and other related disorders; and
- 9 (11) other services authorized by the commission.

10 (c) An older Alaskan service program sponsor shall determine  
11 eligibility for services under (b) of this section under policies  
12 adopted by the commission.

13 (d) In order to qualify for services from an older Alaskan  
14 service program sponsor under (b) of this section, each client or  
15 recipient must be

- 16 (1) 60 years of age or older;
- 17 (2) assessed to be at risk of entering or requiring insti-  
18 tutional services; or
- 19 (3) diagnosed as having Alzheimer's disease or a related  
20 disorder.

21 (e) Clients eligible for services under (b) of this section  
22 shall receive authorized services in the following order:

- 23 (1) clients already receiving authorized service, as long  
24 as their condition indicates services are needed;
- 25 (2) clients who need to be placed immediately in an insti-  
26 tution;
- 27 (3) clients who are 60 years of age or older and who will  
28 probably be placed in an institution or whose condition is likely to  
29 deteriorate to the point of requiring institutionalisation if needed

1 authorized services are not provided.

2 (f) Services under this section may be provided only if  
3 authorized by the commission. The commission shall adopt standards  
4 for each service before authorization, and may adopt the standards as  
5 regulations under the Administrative Procedure Act (AS 44.62).

6 (g) The commission is authorized to apply for and receive  
7 grants, contracts, awards, bequests, and donations from public and  
8 private sources for the provision of services authorized under this  
9 chapter.

10 \* Sec. 8. AS 47.65.040 is repealed and reenacted to read:

11 Sec. 47.65.040. CONTRIBUTIONS BY SPONSORS AND CLIENTS. (a) A  
12 sponsor receiving a grant under this chapter shall contribute to the  
13 total cost of the program or project. The sponsor's matching contri-  
14 bution may be in cash or in-kind services, except that contributions  
15 made by or on behalf of the recipients of services may not be used to  
16 meet the sponsor's required matching contribution. The amount of the  
17 sponsor's required matching contribution shall be 10 percent of the  
18 total cost of the program or project.

19 (b) A grant or contract awarded by the commission under this  
20 chapter may not exceed the estimated total program or project cost as  
21 determined by the commission, less the matching contribution by the  
22 sponsor.

23 (c) Funds for services authorized under this chapter may be  
24 spent only if support from other sources for the provision of services  
25 is not available. Grants awarded under this chapter may not replace  
26 other state or federal funding sources that may be used to pay for  
27 needed services.

28 (d) Funds for services authorized in this chapter may not sup-  
29 plant funds from local, state, or federal sources that have previously

1 supported authorized services, unless specifically authorized by the  
2 commission under standards adopted by the commission.

3 (e) Each program or project sponsor shall agree, as a condition  
4 of a grant or contract award, that it will

5 (1) not supplant existing local funding support of communi-  
6 ty services for older Alaskans with funds received under AS 47.65.020  
7 or 42 U.S.C. 3001 - 3058d (Older Americans Act of 1965), as amended;  
8 and

9 (2) in any year in which it receives a grant or contract  
10 from the commission, continue local funding support of community  
11 services for older Alaskans at a level that is at least equal to the  
12 local funding support in the previous year.

13 (f) Clients, or persons acting on behalf of clients, who receive  
14 services under this chapter shall be asked to make voluntary contribu-  
15 tions toward the services received. Services may not be denied solely  
16 on the basis of the inability or unwillingness of a client to contrib-  
17 ute toward the cost of the service.

18 (g) The commission may establish fees on a fixed or sliding  
19 scale basis that takes into account the cost of services provided and  
20 the income of the client.

21 (h) Client fees or contributions shall be spent by the program  
22 or project sponsor during the grant period in which they are earned  
23 and may be used only for the purpose of expanding the services that  
24 earned the fees or contributions.

25 \* Sec. 9. AS 47.65.050 is amended to read:

26 Sec. 47.65.050. ADMINISTRATIVE REQUIREMENTS. Payments received  
27 by a sponsor under this chapter may be used only to meet costs of  
28 services that [WHICH] the commission has determined directly benefit  
29 older Alaskans. A payment may not be made by the commission under

1 this section unless the commission determines that

2 (1) the sponsor meets accepted standards of fiscal account-  
3 ability for public funds;

4 (2) the sponsor can demonstrate, when requested, the actual  
5 cost of services that [WHICH] it is providing for the benefit of older  
6 Alaskans; and

7 (3) the sponsor agrees to make available, upon request, all  
8 fiscal information and program and client data relating to services  
9 [SERVICE] for which payments are provided under this chapter.

10 \* Sec. 10. AS 47.65.050 is amended by adding new subsections to read:

11 (b) The commission shall establish standards of ethics applica-  
12 ble to the employees and volunteers of program or project sponsors.

13 (c) For the protection of applicants for and recipients of  
14 services, the commission may not disclose or use the contents of  
15 client records or information for purposes other than those directly  
16 related to the administration of services. The commission shall  
17 establish procedures to ensure that client-specific information or  
18 records maintained by the commission or by project or program sponsors  
19 are not disclosed unless the client or a legal representative of the  
20 client consents in writing to the disclosure, or the disclosure is  
21 required by court order.

22 (d) Unless otherwise prohibited by federal or state law, the  
23 sharing of client information among program or project sponsors or  
24 other health and social services providers for purposes of case man-  
25 agement, consultation, coordination, professional assessment, or  
26 similar purposes is not a breach of confidentiality if all parties  
27 having access to the information are bound by confidentiality require-  
28 ments and have executed formal interagency confidentiality agreements.

29 (e) The commission shall adopt and enforce regulations governing

1 the custody, use, and preservation of records, papers, files, and  
2 communications by program or project sponsors and any agency, depart-  
3 ment, or person to which the records may be furnished. Use shall be  
4 limited to the purposes for which the records are furnished and by the  
5 provisions of the law under which they are furnished.

6 (f) The commission may adopt regulations necessary to implement  
7 this section. The regulations may include standards applicable to  
8 program or project sponsors for personnel, administration, and finan-  
9 cial management.

10 \* Sec. 11. AS 47.65 is amended by adding new sections to read:

11 Sec. 47.65.070. OLDER ALASKANS FACILITIES AND CAPITAL PROJECTS.

12 (a) The older Alaskans facilities and capital projects fund is cre-  
13 ated in the commission, consisting of money appropriated to it by the  
14 legislature. The commission may award grants from the fund to quali-  
15 fied nonprofit entities for

16 (1) planning and constructing multipurpose senior centers,  
17 adult day care centers, senior housing projects, and other specialized  
18 facilities; and

19 (2) acquiring buses, vans, and other capital items that  
20 each cost more than \$5,000.

21 (b) The commission may contract, on behalf of the state, with  
22 the federal government or a housing authority, or both, to provide  
23 financial assistance for housing projects or other facilities for  
24 older Alaskans or families in the form of grants, loans, or bonds by  
25 an authority, or a combination of those forms of aid, in an amount not  
26 to exceed the development and preliminary planning costs of the proj-  
27 ects.

28 (c) The commission may apply for and receive grants from, or  
29 contract with, public and private entities for the acquisition,

1 construction, renovation, or planning of senior facilities and capital  
2 equipment.

3 (d) The commission may adopt regulations to carry out the provi-  
4 sions of this section.

5 Sec. 47.65.080. OLDER ALASKANS OMBUDSMAN PROGRAM. The older  
6 Alaskans ombudsman program is established in the commission. The  
7 commission shall adopt regulations to

8 (1) ensure that the program is a long-term care ombudsman  
9 program that meets the requirements of 42 U.S.C. 3027(a)(12)(A);

10 (2) establish procedures for access by the ombudsman to  
11 long-term care facilities and patient records consistent with 42  
12 U.S.C. 3027(a)(12)(B); and

13 (3) establish procedures for the disclosure of ombudsman  
14 files consistent with 42 U.S.C. 3027(a)(12)(D).

15 \* Sec. 12. AS 29.45.030(g), 29.45.040; AS 44.47.610, and 44.47.620 are  
16 repealed.